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

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

TELEPHONIC VIDEO CONFERENCE MEETING

Beverly Hills Liaison Meeting
https://www.gotomeet.me/BHLiaison
No password needed
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United States (Toll Free): 1-866-899-4679 or United States: +1 646-749-3117
Access Code: 660-810-077

Monday, January 25, 2021
10:00 AM

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. Legislative Platform
      Comment: This item provides the Legislative/Lobby Liaisons an opportunity to review the 2020 Legislative Platform.

   2. Senate Bill 6 (Caballero) - Local planning: housing: commercial zones.
      Comment: This item seeks direction on SB 6 which would deem a housing development project, as defined, an allowable use on a neighborhood lot, which is defined as a parcel within an office or retail commercial zone that is not adjacent to an industrial use. The bill would require the density for a housing development under these provisions to meet or exceed the density deemed appropriate to accommodate housing for lower income households according to the type of local jurisdiction, including a density of at least 20 units per acre for a suburban jurisdiction.

      Comment: This item seeks direction on SB 7. This bill would require a lead agency to prepare a master environmental impact report (EIR) for a general plan, plan amendment, plan element,
or specific plan for housing projects where the state has provided funding for the preparation of the master EIR.

4. Senate Bill 8 (Skinner) - Density Bonus Law.

Comment: This item seeks direction on SB 8 which would make a nonsubstantive change to the definition of “development standard” for purposes of the Density Bonus Law.


Comment: This item seeks direction on SB 9 which would require a proposed housing development containing two residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25 percent of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.


Comment: This item seeks direction on SB 10 which would, notwithstanding any local restrictions on adopting zoning ordinances, authorize a local government to pass an ordinance to zone any parcel for up to ten units of residential density per parcel, at a height specified in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site, as those terms are defined. In this regard, the bill would require the Department of Housing and Community Development, in consultation with the Office of Planning and Research, to determine jobs-rich areas and publish a map of those areas every five years, commencing January 1, 2022, based on specified criteria. The bill would specify that an ordinance adopted under these provisions is not a project for purposes of the California Environmental Quality Act. The bill would prohibit a residential or mixed-use residential project consisting of ten or more units that is located on a parcel rezoned pursuant to these provisions from being approved ministerially or by right.


Comment: This item seeks direction on AB 15 which would extend the definition of “COVID-19 rental debt” as unpaid rent or any other unpaid financial obligation of a tenant that came due between March 1, 2020, and December 31, 2021. The bill would also extend the repeal date of the act to January 1, 2026. The bill would make other conforming changes to align with these extended dates. By extending the repeal date of the act, the bill would expand the crime of perjury and create a state-mandated local program.


Comment: This item seeks direction on AB 16, which would establish the Tenant, Small Landlord, and Affordable Housing Provider Stabilization Program. The bill would establish in the State Treasury the COVID-19 Tenant, Small Landlord, and Affordable Housing Provider Stabilization Fund, and, upon appropriation by the Legislature, distribute all moneys in the fund to the department to carry out the purposes of the program.
9. Establishment of Regional Housing Trust Funds and Creating a Regional Affordable Housing Funding Program

Comment: This item will provide an overview of the California Contract Cities Association proposal to introduce legislation which would establish regional housing trust funds and create a regional affordable housing funding program.

10. Update on Actions taken to Correct Senate Bill 970 (Umberg)

Comment: This item will provide an update on the efforts undertaken by City staff and the City’s state lobbyist to have legislation introduced to correct Senate Bill 970 which moved elections in even-numbered non-Presidential primary years from March to June. SB 970 was signed into law and will affect Beverly Hills in 2022.

11. Letter to the League of California Cities Regarding Engagement with the State Legislature and Administration on Housing-Related Issues

Comment: This item is a request by Councilmember Mirisch for the City to consider sending a letter to the League of California Cities (Cal Cities) similar to the letter sent by Cupertino.


Comment: This item is a request by Councilmember Mirisch for the City to consider working with other jurisdictions to hire a Public Relations firm to provide messaging regarding housing legislation to the community.

13. State and Federal Legislative Updates

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

14. Racial Inequities in Real Estate Appraisals

Comment: At the request of Councilmember Mirisch, this item will provide an overview of racial inequality in real estate appraisals and the regulation of appraisals in California.

C. Adjournment

Huma Ahmed
City Clerk

Posted: January 21, 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
INTRODUCTION
Each year, the City establishes a Legislative Platform, which embodies key legislative themes and priorities for the upcoming year. The legislative platform provides direction for our legislative advocates and City staff as they work to secure clear and strategic initiatives locally as well as in Sacramento and Washington, D.C.

DISCUSSION
The objective of the legislative platform is to outline the City’s position on legislative matters and serve as the foundation for the City to support or oppose various local, state and federal legislation. This platform seeks to not only secure critical resources for our City, but also outlines policy statements that will allow City staff and our legislative lobbyists to more effectively respond to and influence legislation at the local, state and federal level. This platform is meant to be an evolving document that will be amended from year to year by City Council.

The legislative priorities were established to encompass the objectives of the City Council and the interests of the City of Beverly Hills.

The Legislative Platform priorities are arranged by category and significance as listed below:

1. Local Control
2. Pension Reform
3. Fiscal and Administrative Initiatives
4. Electoral Process
5. Public Safety
7. Housing and Land Use
8. Mental Health Funding, Homelessness, and At-Risk Youth
9. Transportation
10. Environmental Sustainability
11. Community Services
12. General Government
13. Public Works – Solid Waste
14. Public Works – Stormwater
15. Public Works – Water & Utilities

A few of the additions and/or modifications to the 2021 Legislative Platform include:
- Removal of the Keeping California Safe Act as a primary legislative focus as the initiative failed to pass on the November 2020 ballot
- Oppose the Governor’s 2021/2022 budget proposal to create a new Housing Accountability Unit within the Department of Housing and Community Development (HCD), to provide technical assistance to local governments. The Housing Accountability Unit would be responsible, among other things, for monitoring city council meetings and
meetings of board of supervisors and planning commissions. The Housing Accountability Unit would also enhance the Administration’s enforcement of those obligations.

- Support legislation that provides funding to local government for COVID-19.
- Support COVID-19 funding for infrastructure projects.
- Support legislation which strengthens and clarifies the current state Election Code in order to provide better protection for elections workers and election sites.
- Support legislation which will amend the state Election Code to allow any term of office set to expire in March or April 2022 to be extended to expire in June 2022 following the certification of election results and administration of oath of office to the newly elected office holder, notwithstanding subdivision (b) of Elections Code section 10403.5.
- Support legislation for funding opportunities to expand local infrastructure, such as EV charging stations, to support Governor Executive Order N-79-20 on the phase-out of gasoline powered vehicles by Year 2035.
- Support legislation to combat climate change and improve air quality that results in turning back the warming of the globe to minimize drought and wildland fires.
- Support legislation and funding aimed at strengthening cyber security and preventing cyber security threats to critical infrastructure, including water utilities.

RECOMMENDATION

Staff recommends that the Legislative/Lobby Liaison Committee provide direction on proceeding with the Legislative Platform. Staff is also requesting the Legislative/Lobby Liaison Committee confirm the following items will remain as the primary legislative focus for the City:

- Supporting legislation in regards to local control with community self determination
- Supporting legislation which focuses on resolving mental health issues
- Supporting sustainability in the community including:
  - Reduce, reuse, recycle;
  - Minimizing food waste; and
  - Supporting state funding for the development of solar power, a solar grid, and solar batteries.

Staff can make modifications to the Legislative Platform as directed by the Liaisons and place it on the City Council agenda for the February 16, 2021 Study Session followed by adoption at either the Tuesday, March 2, 2021 or Tuesday, March 16, 2020, Formal Session Meeting.
Attachment 1
CITY OF BEVERLY HILLS
LEGISLATIVE ADVOCACY PLATFORM

2020 LEGISLATIVE SESSION
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City of Beverly Hills
STATE AND FEDERAL LEGISLATIVE PLATFORM

Platform Overview
The purpose of the legislative platform is to provide a means for summarizing the City’s core legislative principles for the purpose of advocacy efforts at the regional, state and federal level. The Legislative Platform contains broad policy statements pertaining to a variety of issues that impact the City of Beverly Hills.

The legislative platform sets forth the City’s legislative objectives for the 2021 legislative session and provides direction for our legislative advocates as they work to secure clear and strategic initiatives in Sacramento and Washington, D.C. Approval of the legislative platform also streamlines the City’s process and allows the City’s Executive team to effectively respond and take immediate action on pressing legislation under City Council direction.

The policies established within the platform do not preclude City Council consideration of additional legislative matters arising throughout the year that may be brought forward for City Council action as presented to the City Council Legislative/Lobby Liaison Committee.

| The City’s primary legislative focus includes:
| • Supporting the Keeping California Safe Act
| • Supporting legislation in regards to local control with community self determination
| • Supporting legislation which focuses on resolving mental health issues
| • Supporting sustainability in the community including:
  o Reduce, reuse, recycle;
  o Minimizing food waste; and
  o Supporting state funding for the development of solar power, a solar grid, and solar batteries |

Local Control
• Support legislation that preserves local control.
• Support legislation that protects local control over urban planning.
• Oppose state legislation that supersedes a jurisdiction’s adopted zoning ordinances.
• Support a state constitutional amendment to protect local discretionary authority whereby legislative oversight remains at the lowest level of the appropriate governing body while encouraging regional cooperation. For example, zoning authority would remain with a city whereas air quality, etc. would remain at the regional or state level.

Commented [CO1]: Do the Legislative/Lobby Liaisons wish to update the City’s primary legislative focus?
• Support legislation that enhances local control of resources and that allows the City of Beverly Hills to address the needs of local constituents within a framework of regional cooperation.
• Support legislation that encourages the use of federal and state incentives for local government action rather than mandates.
• Oppose preemption of the City of Beverly Hills’ local authority whether by state or federal legislation or ballot propositions.
• 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.
• Support measures increasing local autonomy, protecting privacy and maintaining local authority over public records. This includes measures that provide for the recovery of costs with regard to public records requests.
• Support transparent government and the purpose of the California Public Records Act while simultaneously observing and protecting the current Rule of Law in California including better legislation in regards to protecting the privacy of public records and enhancing laws related to digital records.
• Support legislation that preserves local control of short term rentals and online hotel intermediaries such as Airbnb.
• Oppose state legislation and state guidelines issued by the Bureau of Cannabis Control that override the intent of Proposition 64 to preserve local control over the sale and distribution of cannabis.
• Oppose the Governor’s 2021/2022 budget proposal to create a new Housing Accountability Unit within the Department of Housing and Community Development (HCD), to provide technical assistance to local governments. The Housing Accountability Unit would be responsible, among other things, for monitoring city council meetings and meetings of board of supervisors and planning commissions. The Housing Accountability Unit would also enhance the Administration’s enforcement of those obligations.

Pension Reform
• Monitor, encourage, and lobby for legislative initiatives designed to achieve public employee pension reform.
• Inform the City Council of future legislative bills, statewide initiatives or other options as they emerge in regards to pension reform.
• Continue to support, where necessary and applicable, any future efforts that may impact the City of Beverly Hills ability to achieve and/or maintain sustainable pensions.
• Support the California League of Cities (“League”) efforts on pension reform based on the report provided at the League’s City Manager’s Department Meeting February 2018 meeting.

Fiscal and Administrative Initiatives
• Support fiscal sustainability and “best practices” administrative initiatives to ensure the delivery of superlative city services.
Monitor initiatives which seek changes in fiscal relationships at the local, state and federal level.

Support legislation that guarantees ongoing revenue sources for local government.

Pursue funding opportunities for public facilities and services including capital improvement projects, public works projects, homeland security, library, parks and social service facilities.

Oppose any legislation that would undermine voter-approved initiatives to guarantee ongoing revenue sources for the City of Beverly Hills.

Oppose legislation that would preempt the City’s authority over local taxes and fees.

Protect the City’s right to levy and collect Transient Occupancy Taxes from hotels, including online hotel intermediaries.

Oppose any federal or state legislation that would provide immunity to online hotel intermediaries and/or prohibit the City from collecting (retroactively or otherwise) Transient Occupancy Taxes.

Support continued or expanded funding for the Community Development Block Grant (CDBG) program.

Oppose the reduction to Department of Homeland Security, Federal Emergency Grants.

Oppose any attempt to eliminate or limit the traditional tax exemption for municipal bonds.

Engage in and advocate for legislation or ballot measures to prevent the state from borrowing, raiding or otherwise redirecting local government funds (local taxes, property taxes, etc.).

Continue to promote increased flexibility for the utilization of municipally generated revenues.

Support California League of Cities legislative efforts for pension reform and other post-employment benefits (OPEB) unfunded liability.

Oppose legislation that triggers cost implications pertaining to “public works” projects.

Support legislation for long-term funding solutions for Peace Officer Standards and Training (POST).

Support legislation which offers financial opportunities for reimbursement to local jurisdictions in order to supplement increased custodial and supervision costs resulting from prison realignment.

Oppose legislation with mandates for local agency adherence to operations and programs that may not be reimbursable by State budget funds (e.g. unfunded state mandates).

Support legislation, which authorizes tax incremental financing for affordable housing projects.

Support legislation that provides funding to local government for COVID-19

Support COVID-19 funding for infrastructure projects
Electoral Process
- Monitor legislative or other initiatives which may address the integrity of the electoral process.
- Encourage safeguards ensuring that all eligible voters are provided with the mechanisms to exercise the right to vote.
- Support initiatives which promote government transparency regarding the election process.
- Support legislation that provides a mechanism to ensure non-eligible voters are unable to vote in an election.
- Support legislation which ensures the voting process is fair and equitable to both the voters and the candidates on the ballot.
- Support legislation which strengthens and clarifies the current state Election Code in order to provide better protection for elections workers and election sites.
- Support legislation which will amend the state Election Code to allow any term of office set to expire in March or April 2022 to be extended to expire in June 2022 following the certification of election results and administration of oath of office to the newly elected office holder, notwithstanding subdivision (b) of Elections Code section 10403.5.

Public Safety
- Support the development and use of new firefighting technology in order to produce higher levels of health and safety for the Beverly Hills Fire Department.
- Support legislation that aids paramedics and other emergency medical service practitioners in their ability to be responsive to community needs.
- Support legislation that amends the Centers for Medicare & Medicaid Services (CMS) regulation 42 CFR 410.40 Coverage of Ambulance Services (e) to allow Medicare reimbursement for beneficiaries not transported to the emergency department by the Beverly Hills Fire Department. This would include:
  - Allowing CMS to provide a benefit to local jurisdictions for ‘dry runs’
  - Allowing CMS to provide a benefit for treatment in the field apart from transport, including reimbursement for mid-level practitioners, such as nurse practitioners, as many jurisdictions are moving towards a model of staffing Emergency Medical Services with a higher level of medical care.
- Support legislation, which prioritizes fighting hate crimes and domestic terrorism.
- Oppose legislation or other administrative actions, which seek to limit the Beverly Hills Police Department’s ability to collect and utilize asset forfeiture funds for a wide variety of police services.
- Support legislation, which provides frontline funding to the Beverly Hills Police Department for costs associated with the early release of state prisoners as a result of state-mandated criminal justice realignment provisions.
  - Identify opportunities for reimbursements to Beverly Hills for increased custodial and supervision costs resulting from prison realignment.
- Support legislation to increase funding to ensure responsible supervision by parole agents and for local agencies that provide post-release community supervision.
• Advocate for legislation and/or funding to take advantage of current technology to prevent crime in Beverly Hills (e.g. the ability to use surveillance cameras and automatic license plate recognition technology).
• Support the deployment of new and emerging investigation technology, including unmanned aircraft, and the development of local policies that provides the tools to save abducted children; collect DNA, prevent the exploitation of children and vulnerable adults; and prosecute those who violate the rights of any person.
• Support the deployment and research of new and emerging technologies, which will provide the Beverly Hills Police Department with tools to provide the highest level of service including:
  – Next Generation 911
  – Mobile and Body Worn Cameras
  – New Generation Investigative Technology - including unmanned aircraft
  – Digital Evidence - support funding for local jurisdictions to collect, store and retain digital evidence.
• Support the development and deployment of enhanced 911 services to allow first responders the ability to respond quickly to the needs of the people of California.
• Support legislation and seek funding to assist in preventing and reducing crimes in Beverly Hills, primarily related to property crimes, cyber-crime, drugs, gang violence, mental illness, and pedestrian safety.
• Support evidence-based studies that seek to improve law enforcement tactics and non-lethal force options that ensure both the safety of the public and peace officers.
• Support efforts to work collectively with the Office of the California Attorney General to maintain transparency concerning lethal force encounters while concurrently retaining local control of investigations of such incidents.
• Oppose legislation that would challenge the use of force standards which are enshrined by federal and state statute and Case Law (e.g. Graham v. Connor, Tennessee v. Garner, etc.).
• Oppose any efforts to further decriminalize existing crimes in California or lessen the sentences of any offenses that would result in the release of serious criminals who would further harm the safety of the public and law enforcement personnel.
• Oppose legislation that would expand the definition of early release, non-serious crimes, and non-violent crimes.
• Oppose legislation to expand “early release” for low-risk, serious and violent offenders.
• Support the Reducing Crime and Keeping California Safe Act 2020 and continue to raise awareness regarding the deficiencies of Proposition 47 and Proposition 57 as well as work to gain support for the fixes contained within November 2020 initiative.
• Support efforts to reverse all legislation, including AB 109, that created “early release” for low-risk, serious and violent offenders.
• Oppose legislation that decriminalizes repeated substance use as well as inform and engage the Legislature and Governor on the public safety impacts of medicinal and recreational cannabis legalization in California.
• Oppose legislation that would expunge or otherwise reduce sentences for the most dangerous cannabis crimes, including sales to minors, commercial drug trafficking and driving under the influence of drugs (DUID).
• Support rehabilitation, housing, and employment programs for local and state prisoners.
• Support legislation, which combats the growing crime of human trafficking and provide to the legislature details and figures to further understand the scope of human trafficking in California.
• Support funding initiatives for Peace Officers Standards and Training (POST) and other law enforcement support organizations.
• Support and encourage legislation and budget negotiations, which retain funding for the Beverly Hills Police Department when the legislation and/or budget negotiations includes behavioral health treatment; drug and trafficking taskforces; crisis intervention teams; and adequate patrol staffing.
• Support funding for the increased demand placed on Beverly Hills to respond to societal issues including homelessness; substance abuse and dependency; and unpredictable and potentially harmful behavior towards the public and peace officers.
• Support effective and relevant reporting of local agency data and ensure that any disclosed data be fair as well as balanced and protects the safety of officers and the public they serve.
• Support efforts to engage with the Legislature and Governor on the extreme need for local funding to collect, store, and retain large amounts of digital evidence.
• Support legislation that allows local control on the deployment of body cameras and using facial recognition software.
• Support efforts for cannabis enforcement that encourages state licensing entities to streamline enforcement relationships between the state and local jurisdictions. This includes improving existing systems in order to share information, providing additional funding for local law enforcement, and strengthening enforcement capabilities within the Bureau of Cannabis Control.
• Support common sense gun safety regulations, including legislation that addresses issues caused by firearms made by an individual without a serial number or other identifying markings (known as “ghost guns”).
• Urge the state legislature to redefine recidivism to its original definition as the current definition only considers a person to be a recidivist if there is an arrest resulting in a charge within three years of the individual’s release from incarceration.
Emergency Management and Homeland Security

- Support strategies, legislation and funding that promotes emergency preparedness, resiliency and recovery efforts.
- Support efforts to continue regional interoperability advocacy and expansion efforts through ongoing participation with the ICI System Authority.
- Support legislation that enhances and further develops the regional ICI System Authority’s interoperable communications platform through the continued funding of strategic technical and operational improvements.
- Support interoperable communication solutions that meet radio spectrum needs of first responders.
- Support funding opportunities for local homeland security, public safety and emergency management programs including new technology and equipment (e.g., closed circuit television) that does not supplant other City funding, services or operations.
- Seek grants and pilot project/demonstration project funding for City homeland security, public safety and emergency management priorities.
- Support federal funding for the deployment and long-term sustainment of the BioWatch and other monitoring programs in Beverly Hills.
- Support funding for a cost effective public seismic early warning system and other emergency notification systems.
- Support legislation that ensures funding for disaster relief for all types of natural and manmade disasters.
- Support federal or state legislation and funding that improves building resiliency and recovery efforts after a seismic event.

Housing and Land Use

- Pursue incentive-based housing legislation to encourage expanding the housing supply in our area including more flexibility for local jurisdictions to work together to provide housing that counts toward Regional Housing Needs Assessment (RHNA) requirements.
- Support federal and state funding for affordable senior housing opportunities and projects.
- Monitor land use issues and support legislative and administrative efforts to maintain the integrity of local government’s control over land use, planning and zoning matters.
- Emphasize local control related to land use planning.
- Support and pursue the repeal of state laws that affect local control on housing and land use.
- Continue to support new initiatives regarding rent control legislation at the state level.

Mental Health Funding, Homelessness, and At-Risk Youth

- Support additional funding for homeless and mental health outreach teams, as well as for programs targeting at-risk youth.
• Support legislation that expands the treatment of and response to mentally ill persons and inform the Legislature and Governor on the effective mental and behavioral health practices currently being used by law enforcement in California.
• Promote legislation that provides for increased services to or funding for at-risk populations such as the frail elderly, homeless, disabled and other challenged populations.
• Support funding and policy initiatives that support mental health care (e.g., access to psychiatric facilities, behavioral health care treatment, and street-based services).
• Support legislation that addresses the need for housing and supportive services, (e.g. health, mental health and social services) for the City’s homeless population.

**Transportation**

• Support legislation, which would repeal or modify existing law regarding how a local jurisdiction makes findings on setting a speed limit for a street. Specifically, modify the requirement that mandates City set an enforceable speed limit at the 85th percentile of a surveyed street speed.
• Support legislation, which would allow local jurisdictions to install speed enforcement cameras.
• Support legislation, which would allow local jurisdictions to install cameras at stop sign intersections for enforcement of vehicle code violations when a vehicle does not come to a complete stop.
• Support state and federal legislation that enhances the safety of the City’s streets for automobile and pedestrian traffic, including issues related to, traffic congestion reduction programs and regional transportation improvements.
• Promote funding, policy goals and visibility for the development of autonomous vehicles.
• Support regional, state and federal efforts for the development of compatible autonomous vehicle infrastructure.
• Support measures and discretionary grant programs that provide funding for critical transportation infrastructure projects that improve mobility for residents and visitors in and around Beverly Hills.
• Support legislation that expands transportation planning, funding, and voluntary incentives to include an increasingly multi-modal perspective focusing on transit, alternative fuel vehicles and fleets, pedestrian ways, bikeways, multi-use trails and parking.
• Support measures which provide the City’s fair share of funding from the State’s cap and trade funding sources.
• Support legislation to provide more tools to both the California Department of Motor Vehicles and local law enforcement to reduce disabled parking placard fraud and abuse.
• Work with other agencies in the region to support current state and federal funding levels and encourage increased funding and flexibility in both operating and capital funding for mass transit.
• In conjunction with the Westside Cities Council of Governments (WSCOG) and other agencies, support legislation that provides incentives for the development of local transportation corridors.
• Support local, regional, state and federal legislative, administrative, and regulatory efforts that will expand and/or supplement funding for maintaining and upgrading major thoroughfares in Beverly Hills to improve the safety for all forms of modality.
• Support increased state and federal resources to mitigate traffic congestion on the City of Beverly Hills’ streets and rebuild and maintain roads.

Environmental Sustainability

• Advocate for cost-effective, sustainable, and responsible environmental policy and programs in the areas of energy efficiency, greenhouse gases, climate change, potable water, wastewater, solid waste removal and storm water, among others.
• Support state funding opportunities to assist agencies in meeting sustainability objectives including energy and water efficiencies, active transportation enhancements, connectivity and mobility improvements and carbon sequestration through natural landscape management and protection.
• Support legislation for funding opportunities to expand local infrastructure, such as EV charging stations, to support Governor Executive Order N-79-20 on the phase-out of gasoline powered vehicles by Year 2035.
• Support legislation protecting, preserving and restoring the natural environment where it does not conflict with local control and land use designations.
• Support efforts to create partnerships among the City, Beverly Hills Unified School District, businesses, residents, and all other community stakeholders as necessary to achieve a sustainable community.
• Support legislation to combat climate change and improve air quality that results in turning back the warming of the globe to minimize drought and wildland fires.
• Support funding to foster an environmentally sustainable city as well as a walkable community that provides ample goods, services and benefits to all residents while respecting the local environment.
• Support legislation and funding for the Metropolitan Transportation Agency (MTA) and other regional transit authorities to continue to create multi-modal transportation systems that minimizes pollution and reduces motor vehicle congestion while ensuring access and mobility for all.
• Oppose legislation that will expand or create new opportunities for off shore oil drilling.
• Support legislation and funding for solar power infrastructure, including solar batteries, as a renewable energy resource.
Community Services

- Support legislation related to the Internet and filtering in public facilities.
- Support funding for literacy and English-as-a-second language programs.
- Support protection against censorship and oppose restriction of free speech.
- Support funding for ADA facility and park upgrades.
- Support legislation that provides opportunities for healthy “aging in place” (aging in one’s own home) options.
- Where reasonable, support public investment in parks, open space and recreation.
- In general, support efforts to provide funding for the rehabilitation, development and capital improvements for local park improvements.

Public Health

- Continue to promote legislation that enhances the health and safety of the general population, with an emphasis on programs that focus on youth, the elderly and at-risk populations.
- Monitor opportunities to expand the City’s ordinances to regulate smoking to other communities or through state legislation.
- Support legislation that will increase funding for mental health at the local level in order to address mental health issues and the impact those with mental health issues have on Beverly Hills.
- Support legislation that provides funding to expand the treatment of, and response to, mentally ill persons and the growing issues associated with the mentally ill.
- Support legislation that would provide direct funding and alternative avenues of healthcare to local first response agencies to adequately address behavioral and mental health issues.
- Support legislation to maintain or increase funding for the provision of mental health services and to establish programs to assist jurisdictions with helping those individuals who may have mental health issues.
- Support legislative efforts to regulate the smoking of any substance at multi-family complexes.
- Oppose legislation that would reduce or eliminate funding allocations for the Prevention and Public Health Fund.
- Support the Personal Health Investment Today Act (PHIT) introduced in March 2017 in Congress.
- Support access opportunities for all Californians for physical activity, proper nutrition and healthy lifestyle options through the promotion of active transportation, complete street implementation, healthy foods, youth programming and maximizing the usage of green space.
- Support legislation that will actively support and provide funding for vaccinations.

General Government

- Support legislation that reinstates net neutrality.
• Support legislation that preserves the ability of local governments to provide broadband capability and services to its residents.

• Support legislation that would prohibit the flying of helicopters, unmanned aircraft or other aircraft at low altitudes over residential neighbors excluding police, fire or other public safety aircraft.

• Support efforts to increase state resources for local arts, cultural events and library programs, including performing and visual arts programs.

• Support legislation that encourages policies and programming that promote healthy lifestyles; e.g. physical activity, preventative screenings, healthful eating and core wellness for people of all ages and abilities.

• Support legislation that would establish statewide regulations prohibiting the use of unmanned aircraft to record or transmit any visual audio recording of any person or private real property in which the subject person or owner of property has a reasonable expectation of privacy.

**Public Works - Solid Waste**

• Support funding for new infrastructure related to the passage of AB 1826 – Mandatory Commercial Organics Recycling and SB 1383 – Short-Lived Climate Pollutants: Methane Emissions.

• Support legislation that incentivizes corporations to recycle in the United States rather than sending recyclables overseas.

• Support legislation that incentivizes manufacturers to produce recyclable products.

• Support legislation that requires manufactures to be responsible for the end of life of non-recyclable products.

• Support legislation that promotes sustainable practices related to waste reduction, increased reuse of materials, and then recycling.

• Support legislation that encourages the reduction diversion of commercial food waste.

**Public Works - Stormwater**

• Support state and county efforts to develop avenues for agencies to collect revenue to support stormwater retention efforts.

• Support legislation that would classify stormwater as a utility similar to water, wastewater and solid waste services.

• Support legislation for funding stormwater infrastructure improvements, including building facilities to capture stormwater runoff and integrate with local, regional and statewide water resources.

• Support legislation that would provide pragmatic compliance goals in statewide and regional National Pollutant Discharge Elimination System (NPDES) permits.

• Ensure the state continues to fund the California Department of Transportation (Cal Trans) capital construction budget for offsetting their requirements to limit their total maximum daily load (TMDL) for pollutant discharge. Encourage Cal Trans to
continue to enter into Cooperative Implementation Agreements with local jurisdictions to fund stormwater capture and retention projects.

- Ensure that the State (State Water Resources Control Board) continues to provide Cal Trans Stormwater a Compliance Based Credit System that includes compliance based on using funds to support stormwater projects that would meet statewide TMDLs.

**Public Works - Water & Utilities**

- Support California Water Fix as it will assist with protecting the water supply for Beverly Hills.
- Support projects and legislation that protect the City’s ability to receive water from the Bay Delta and the State Water Project.
- Support measures that uphold the ability of the City of Beverly Hills City Council to regulate and manage their publicly owned water utility so that local authority is not eroded by state or federal agencies, authorities, or other regulatory bodies.
- Oppose legislation that adds requirements to provide services that customers do not value, want, or need.
- Support legislation that ensures local ratemaking authority is preserved and remains meaningful.
- Support policies that recognize, support, and credit the role of water conservation and water use efficiency in reducing greenhouse gas emissions.
- Support local control of groundwater uses and groundwater rights unless otherwise contraindicated.
- Support local control for planning management and use of water supplies to address local needs and contribute to long-term sustainability, unless otherwise contraindicated.
- Support efforts that seek to bring federal sources of funding to California for water infrastructure development and renewable energy development through water management.
- Support cost effective water conservation programs and incentives that are funded by the state or federal government.
- Support flexible funding options that will help Beverly Hills upgrade and replace water and wastewater infrastructure.
- Support legislation for state funding for the development of local water supply and water conservation efforts.
- Support legislation that provides the City of Beverly Hills the flexibility to implement a community choice aggregation program for the purchase of renewable electricity and oppose legislation that would place overly strict requirements on the establishment of, and activities by, community choice aggregators.
- Oppose legislation that makes it more difficult for community-choice aggregators to implement a successful community choice aggregation program.
- Support legislation that ensures equitable cost-sharing between investor-owned utilities and community choice aggregation for stranded costs.
• Support funding and legislation for water recycling projects.
• Support legislation and funding aimed at strengthening cyber security and preventing cyber security threats to critical infrastructure, including water utilities.

Revised January 20210
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.

Senate Bill 6 – Local planning: housing: commercial zones (SB 6) involves a policy matter that may have a nexus to the City’s adopted Legislative Platform language. The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 6 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 6, the Liaisons may recommend the following actions:

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

Should the Liaisons recommend a position that is consistent with the City’s Legislative Platform, then staff will generate a letter for the Mayor to sign. Should the recommendation not be consistent with the City’s Legislative Platform or this subject matter is not addressed in the City’s Legislative Platform, then the item will be placed on a future City Council agenda for concurrence.
Attachment 1
January 19, 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 6 (Caballero) Local planning: housing: commercial zones.

Introduction and Background
SB 6 (Caballero), the Neighborhood Homes Act, introduced by Senator Anna Caballero, Senator Susan Eggman, and Susan Rubio along with 12 coauthors, would authorize residential development on existing lots currently zoned for commercial office and retail space such as strip malls or large “big box” retail spaces. The bill requires the development of residential units be at a minimum density to accommodate housing which is affordable and is required to comply with local planning and development ordinances. SB 6 is part of the ‘Building Opportunities for All’ Senate Housing Package.

Specifically, this bill would:

- 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.
- Deem a housing development project, as defined, an allowable use on a neighborhood lot, which is defined as a parcel within an office or retail commercial zone that is not adjacent to an industrial use.
- Requires the density for a housing development under these provisions to meet or exceed the density deemed appropriate to accommodate housing for lower income households according to the type of local jurisdiction, including a density of at least 20 units per acre for a suburban jurisdiction.
- Require the housing development to meet all other local requirements for a neighborhood lot, other than those that prohibit residential use, or allow residential use at a lower density than that required by the bill.
- Provides that a housing development under these provisions is subject to the local zoning, parking, design, and other ordinances, local code requirements, and procedures applicable to the processing and permitting of a housing development in a zone that allows for the housing with the density required by the act.
- Requires a local agency to require that a rental of any unit created pursuant to the bill’s provisions be for a term longer than 30 days.

Status of Legislation
The bill is in the Senate Rules Committee pending referral to policy committee.

Support
None listed at this time.
**Opposition**
None listed at this time.
Attachment 2
SENATE BILL

No. 6

Introduced by Senators Caballero, Eggman, and Rubio
(Principal coauthors: Senators Atkins, Durazo, Gonzalez, and Wiener)
(Coauthor: Senator Hueso)
(Coauthors: Assembly Members Arambula, Carrillo, Cooper, Gipson, Quirk-Silva, and Robert Rivas)

December 7, 2020

An act to amend Section 65913.4 of, and to add Section 65852.23 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 6, as introduced, Caballero. Local planning: housing: commercial zones.

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 requires that the housing element include, among other things, an inventory of land suitable and available for residential development. If the inventory of sites does not identify adequate sites to accommodate the need for groups of all households pursuant to specified law, existing law requires the local government to rezone sites within specified time periods and that this rezoning accommodate 100% of the need for housing for very low and low-income households on sites that will be zoned to permit owner-occupied and rental multifamily residential use by right for specified developments.

This bill, the Neighborhood Homes Act, would deem a housing development project, as defined, an allowable use on a neighborhood lot, which is defined as a parcel within an office or retail commercial
zone that is not adjacent to an industrial use. The bill would require the density for a housing development under these provisions to meet or exceed the density deemed appropriate to accommodate housing for lower income households according to the type of local jurisdiction, including a density of at least 20 units per acre for a suburban jurisdiction. The bill would require the housing development to meet all other local requirements for a neighborhood lot, other than those that prohibit residential use, or allow residential use at a lower density than that required by the bill. The bill would provide that a housing development under these provisions is subject to the local zoning, parking, design, and other ordinances, local code requirements, and procedures applicable to the processing and permitting of a housing development in a zone that allows for the housing with the density required by the act. If more than one zoning designation of the local agency allows for housing with the density required by the act, the bill would require that the zoning standards that apply to the closest parcel that allows residential use at a density that meets the requirements of the act would apply. If the existing zoning designation allows residential use at a density greater than that required by the act, the bill would require that the existing zoning designation for the parcel would apply. The bill would also require that a housing development under these provisions comply with public notice, comment, hearing, or other procedures applicable to a housing development in a zone with the applicable density. The bill would require that the housing development is subject to a recorded deed restriction with an unspecified affordability requirement, as provided. The bill would require that a developer either certify that the development is a public work, as defined, or is not in its entirety a public work, but that all construction workers will be paid prevailing wages, as provided, or certify that a skilled and trained workforce, as defined, will be used to perform all construction work on the development, as provided. The bill would require a local agency to require that a rental of any unit created pursuant to the bill’s provisions be for a term longer than 30 days. The bill would authorize a local agency to exempt a neighborhood lot from these provisions in its land use element of the general plan if the local agency concurrently reallocates the lost residential density to other lots so that there is no net loss in residential density in the jurisdiction, as provided. The bill would specify that it does not alter or affect the application of any housing, environmental, or labor law applicable to a housing development authorized by these provisions, including, but not limited
to, the California Coastal Act, the California Environmental Quality Act, the Housing Accountability Act, obligations to affirmatively further fair housing, and any state or local affordability laws or tenant protection laws. The bill would require an applicant of a housing development under these provisions to provide notice of a pending application to each commercial tenant of the neighborhood lot.

The bill would include findings that changes proposed by the Neighborhood Homes Act address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project, as defined for purposes of the act, for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based on a preponderance of the evidence in the record. That act states that it shall not be construed to prohibit a local agency from requiring a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction’s share of the regional housing need, except as provided. That act further provides that a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

The bill would provide that for purposes of the Housing Accountability Act, a proposed housing development project is consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if the housing development project is consistent with the standards applied to the parcel pursuant to specified provisions of the Neighborhood Homes Act and if none of the square footage in the project is designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel, as defined.

The Planning and Zoning Law, until January 1, 2026, also authorizes a development proponent to submit an application for a multifamily housing development that is subject to a streamlined, ministerial
approval process, as provided, and not subject to a conditional use permit, if the development satisfies specified objective planning standards, including a requirement that the site on which the development is proposed is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least ⅔ of the square footage of the development designated for residential use. Under that law, the proposed development is also required to be consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time the development is submitted to the local government.

This bill would permit the development to be proposed for a site zoned for office or retail commercial use if the site has had no commercial tenants on 50% or more of its total usable net interior square footage for a period of at least 3 years prior to the submission of the application. The bill would also provide that a project located on a neighborhood lot, as defined, shall be deemed consistent with objective zoning standards, objective design standards, and objective subdivision standards if the project is consistent with the applicable provisions of the Neighborhood Homes Act.

By expanding the crime of perjury and imposing new duties on local agencies with regard to local planning and zoning, 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 specified reasons.


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

SECTION 1. Section 65852.23 is added to the Government Code, to read:

(a) (1) This section shall be known, and may be cited, as the Neighborhood Homes Act.

(2) The Legislature finds and declares that creating more affordable housing is critical to the achievement of regional housing needs assessment goals, and that housing units developed

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at higher densities may generate affordability by design for California residents, without the necessity of public subsidies, income eligibility, occupancy restrictions, lottery procedures, or other legal requirements applicable to deed restricted affordable housing to serve very low and low-income residents and special needs residents.

(b) A housing development project shall be deemed an allowable use on a neighborhood lot if it complies with all of the following:

1. (A) The density for the housing development shall meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households as follows:
   1. (i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area, sites allowing at least 15 units per acre.
   2. (ii) For an unincorporated area in a nonmetropolitan county not included in subparagraph (A), sites allowing at least 10 units per acre.
   3. (iii) For a suburban jurisdiction, sites allowing at least 20 units per acre.
   4. (iv) For a jurisdiction in a metropolitan county, sites allowing at least 30 units per acre.

(B) “Metropolitan county,” “nonmetropolitan county,” “nonmetropolitan county with a micropolitan area,” and “suburban,” shall have the same meanings as defined in subdivisions (d), (e), and (f) of Section 65583.2.

2. (A) The housing development shall be subject to local zoning, parking, design, and other ordinances, local code requirements, and procedures applicable to the processing and permitting of a housing development in a zone that allows for the housing with the density described in paragraph (1).

(B) If more than one zoning designation of the local agency allows for housing with the density described in paragraph (1), the zoning standards applicable to a parcel that allows residential use pursuant to this section shall be the zoning standards that apply to the closest parcel that allows residential use at a density that meets the requirements of paragraph (1).

(C) If the existing zoning designation for the parcel, as adopted by the local government, allows residential use at a density greater than that required in paragraph (1), the existing zoning designation shall apply.
(3) The housing development shall comply with any public
notice, comment, hearing, or other procedures imposed by the
local agency on a housing development in the applicable zoning
designation identified in paragraph (2).

(4) The housing development shall be subject to a recorded deed
restriction requiring that at least __ percent of the units have an
affordable housing cost or affordable rent for lower income
households.

(5) All other local requirements for a neighborhood lot, other
than those that prohibit residential use, or allow residential use at
a lower density than provided in paragraph (1).

(6) The developer has done both of the following:

(A) Certified to the local agency that either of the following is
true:

(i) The entirety of the development is a public work for purposes
of Chapter 1 (commencing with Section 1720) of Part 7 of Division
2 of the Labor Code.

(ii) The development is not in its entirety a public work for
which prevailing wages must be paid under Article 2 (commencing
with Section 1720) of Chapter 1 of Part 2 of Division 2 of the
Labor Code, but all construction workers employed on construction
of the development will be paid at least the general prevailing rate
of per diem wages for the type of work and geographic area, as
determined by the Director of Industrial Relations pursuant to
Sections 1773 and 1773.9 of the Labor Code, except that
apprentices registered in programs approved by the Chief of the
Division of Apprenticeship Standards may be paid at least the
applicable apprentice prevailing rate. If the development is subject
to this subparagraph, then for those portions of the development
that are not a public work all of the following shall apply:

(I) The developer shall ensure that the prevailing wage
requirement is included in all contracts for the performance of all
construction work.

(II) All contractors and subcontractors shall pay to all
construction workers employed in the execution of the work at
least the general prevailing rate of per diem wages, except that
apprentices registered in programs approved by the Chief of the
Division of Apprenticeship Standards may be paid at least the
applicable apprentice prevailing rate.
(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, or by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee though a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, “project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (e) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) Certified to the local agency that a skilled and trained workforce will be used to perform all construction work on the development.
(i) For purposes of this section, “skilled and trained workforce” has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(ii) If the developer has certified that a skilled and trained workforce will be used to construct all work on development and the application is approved, the following shall apply:

(I) The developer shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to construct the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to construct the development.

(III) Except as provided in subclause (IV), the developer shall provide to the local agency, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the local government pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. A developer that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the
skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, “project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(c) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(d) (1) A local agency may exempt a neighborhood lot from this section in its land use element of the general plan if the local agency concurrently reallocates the lost residential density to other lots so that there is no net loss in residential density in the jurisdiction.

(2) A local agency may reallocate the residential density from an exempt neighborhood lot pursuant to this subdivision only if the site or sites chosen by the local agency to which the residential density is reallocated meet both of the following requirements:

(A) The site or sites are suitable for residential development. For purposes of this subparagraph, “site or sites suitable for residential development” shall have the same meaning as “land suitable for residential development,” as defined in Section 65583.2.

(B) The site or sites are subject to an ordinance that allows for development by right.

(e) (1) This section does not alter or lessen the applicability of any housing, environmental, or labor law applicable to a housing development authorized by this section, including, but not limited to, the following:

(A) The California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code)

(B) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) The Housing Accountability Act (Section 65589.5).

(D) The Density Bonus Law (Section 65915).

(E) Obligations to affirmatively further fair housing, pursuant to Section 8899.50.

(F) State or local affordable housing laws.

(G) State or local tenant protection laws.

(2) All local demolition ordinances shall apply to a project developed on a neighborhood lot.
(3) For purposes of the Housing Accountability Act (Section 65589.5), a proposed housing development project that is consistent with the provisions of paragraph (2) of subdivision (b) shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(4) Notwithstanding any other provision of this section, for purposes of the Density Bonus Law (Section 65915), an applicant for a housing development under this section may apply for a density bonus pursuant to Section 65915.

(f) An applicants for a housing development under this section shall provide written notice of the pending application to each commercial tenant on the neighborhood lot when the application is submitted.

(g) (1) An applicant seeking to develop a housing project on a neighborhood lot may request that a local agency establish a Mello-Roos Community Facilities District, or may request that the neighborhood lot be annexed to an existing community facilities district, as authorized in Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 to finance improvements and services to the units proposed to be developed.

(2) An annexation to a community facilities district for a neighborhood lot shall be subject to a protest proceeding as provided in subdivision (b) of Section 53339.6.

(3) An applicant who voluntarily enrolls in the district shall not be required to pay a development, impact, or mitigation fee, charge, or exaction in connection with the approval of a development project to the extent that those facilities and services are funded by a community facilities district established pursuant to this subdivision. This paragraph shall not prohibit a local agency from imposing any application, development, mitigation, building, or other fee to fund the construction cost of public infrastructure facilities or services that are not funded by a community facilities district to support a housing development project.

(h) For purposes of this section:

(1) “Housing development project” means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential retail commercial or office uses. None of the square
footage of any such development shall be designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel.

(2) “Local agency” means a city, including a charter city, county, or a city and county.

(3) “Neighborhood lot” means a parcel within an office or retail commercial zone that is not adjacent to an industrial use.

(4) “Office or retail commercial zone” means any commercial zone, except for zones where office uses and retail uses are not permitted, or are permitted only as an accessory use.

(5) “Residential hotel” has the same meaning as defined in Section 50519 of the Health and Safety Code.

(i) The Legislature finds and declares that ensuring access to affordable housing 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, this section applies to all cities, including charter cities.

SEC. 2. Section 65913.4 of the Government Code is amended to read:

65913.4. (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (c) and is not subject to a conditional use permit if the development complies with subdivision (b) and satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

(2) The development and the site on which it is located satisfy all of the following:

(A) It is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.
(C) (i) A site that meets the requirements of clause (ii) and satisfies any of the following:
   (I) The site is zoned for residential use or residential mixed-use development.
   (II) The site has a general plan designation that allows residential use or a mix of residential and nonresidential uses.
   (III) The site is zoned for office or retail commercial use and has had no commercial tenants on 50 percent or more of its total usable net interior square footage for a period of at least three years prior to the submission of the application.

(D) It is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, and at least two-thirds of the square footage of the development is designated for residential use. Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law in Section 65915 shall be included in the square footage calculation. The square footage of the development shall not include underground space, such as basements or underground parking garages.

(3) (A) The development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that any lower or moderate income housing units required pursuant to subparagraph (B) of paragraph (4) shall remain available at affordable housing costs or rent to persons and families of lower or moderate income for no less than the following periods of time:
   (i) Fifty-five years for units that are rented.
   (ii) Forty-five years for units that are owned.
   (B) The city or county shall require the recording of covenants or restrictions implementing this paragraph for each parcel or unit of real property included in the development.

(4) The development satisfies subparagraphs (A) and (B) below:
   (A) Is located in a locality that the department has determined is subject to this subparagraph on the basis that the number of units that have been issued building permits, as shown on the most recent production report received by the department, is less than the locality’s share of the regional housing needs, by income category,
for that reporting period. A locality shall remain eligible under this subparagraph until the department’s determination for the next reporting period.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on one of the following:

(i) The locality did not submit its latest production report to the department by the time period required by Section 65400, or that production report reflects that there were fewer units of above moderate-income housing issued building permits than were required for the regional housing needs assessment cycle for that reporting period. In addition, if the project contains more than 10 units of housing, the project does either of the following:

(I) The project dedicates a minimum of 10 percent of the total number of units to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, that local ordinance applies.

(II) (ia) If the project is located within the San Francisco Bay area, the project, in lieu of complying with subclause (I), dedicates 20 percent of the total number of units to housing affordable to households making below 120 percent of the area median income with the average income of the units at or below 100 percent of the area median income. However, a local ordinance adopted by the locality applies if it requires greater than 20 percent of the units be dedicated to housing affordable to households making at or below 120 percent of the area median income, or requires that any of the units be dedicated at a level deeper than 120 percent. In order to comply with this subclause, the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 120 percent of the area median income shall not exceed 30 percent of the gross income of the household.

(ib) For purposes of this subclause, “San Francisco Bay area” means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.
(ii) The locality’s latest production report reflects that there were fewer units of housing issued building permits affordable to either very low income or low-income households by income category than were required for the regional housing needs assessment cycle for that reporting period, and the project seeking approval dedicates 50 percent of the total number of units to housing affordable to households making at or below 80 percent of the area median income. However, if the locality has adopted a local ordinance that requires that greater than 50 percent of the units be dedicated to housing affordable to households making at or below 80 percent of the area median income, that local ordinance applies.

(iii) The locality did not submit its latest production report to the department by the time period required by Section 65400, or if the production report reflects that there were fewer units of housing affordable to both income levels described in clauses (i) and (ii) that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (i) or (ii).

(C) (i) A development proponent that uses a unit of affordable housing to satisfy the requirements of subparagraph (B) may also satisfy any other local or state requirement for affordable housing, including local ordinances or the Density Bonus Law in Section 65915, provided that the development proponent complies with the applicable requirements in the state or local law.

(ii) A development proponent that uses a unit of affordable housing to satisfy any other state or local affordability requirement may also satisfy the requirements of subparagraph (B), provided that the development proponent complies with applicable requirements of subparagraph (B).

(iii) A development proponent may satisfy the affordability requirements of subparagraph (B) with a unit that is restricted to households with incomes lower than the applicable income limits required in subparagraph (B).

(5) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915, is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the
time that the development is submitted to the local government
pursuant to this section, or at the time a notice of intent is submitted
pursuant to subdivision (b), whichever occurs earlier. For purposes
of this paragraph, “objective zoning standards,” “objective
subdivision standards,” and “objective design review standards”
mean standards that involve no personal or subjective judgment
by a public official and are uniformly verifiable by reference to
an external and uniform benchmark or criterion available and
knowable by both the development applicant or proponent and the
public official before submittal. These standards may be embodied
in alternative objective land use specifications adopted by a city
or county, and may include, but are not limited to, housing overlay
zones, specific plans, inclusionary zoning ordinances, and density
bonus ordinances, subject to the following:
(A) A development shall be deemed consistent with the objective
zoning standards related to housing density, as applicable, if the
density proposed is compliant with the maximum density allowed
within that land use designation, notwithstanding any specified
maximum unit allocation that may result in fewer units of housing
being permitted.
(B) In the event that objective zoning, general plan, subdivision,
or design review standards are mutually inconsistent, a
development shall be deemed consistent with the objective zoning
and subdivision standards pursuant to this subdivision if the
development is consistent with the standards set forth in the general
plan.
(C) It is the intent of the Legislature that the objective zoning
standards, objective subdivision standards, and objective design
review standards described in this paragraph be adopted or
amended in compliance with the requirements of Chapter 905 of
the Statutes of 2004.
(D) The amendments to this subdivision made by the act adding
this subparagraph do not constitute a change in, but are declaratory
of, existing law.
(E) A project located on a neighborhood lot, as defined in Section
65852.23, shall be deemed consistent with objective zoning
standards, objective design standards, and objective subdivision
standards if the project is consistent with the provisions of
subdivision (b) of Section 65852.23 and if none of the square
footage in the project is designated for hotel, motel, bed and
breakfast inn, or other transient lodging use, except for a residential hotel. For purposes of this subdivision, “residential hotel” shall have the same meaning as defined in Section 50519 of the Health and Safety Code.

(6) The development is not located on a site that is any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California
Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(G) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.
(I) Lands identified for conservation in an adopted natural
community conservation plan pursuant to the Natural Community
Conservation Planning Act (Chapter 10 (commencing with Section
2800) of Division 3 of the Fish and Game Code), habitat
conservation plan pursuant to the federal Endangered Species Act
of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural
resource protection plan.

(J) Habitat for protected species identified as candidate,
sensitive, or species of special status by state or federal agencies,
fully protected species, or species protected by the federal
the California Endangered Species Act (Chapter 1.5 (commencing
with Section 2050) of Division 3 of the Fish and Game Code), or
the Native Plant Protection Act (Chapter 10 (commencing with
Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(7) The development is not located on a site where any of the
following apply:

(A) The development would require the demolition of the
following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance,
or law that restricts rents to levels affordable to persons and
families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control
through a public entity’s valid exercise of its police power.

(iii) Housing that has been occupied by tenants within the past
10 years.

(B) The site was previously used for housing that was occupied
by tenants that was demolished within 10 years before the
development proponent submits an application under this section.

(C) The development would require the demolition of a historic
structure that was placed on a national, state, or local historic
register.

(D) The property contains housing units that are occupied by
tenants, and units at the property are, or were, subsequently offered
for sale to the general public by the subdivider or subsequent owner
of the property.

(8) The development proponent has done both of the following,
as applicable:
(A) Certified to the locality that either of the following is true, as applicable:

(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(I) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to
secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, “project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(B) (i) For developments for which any of the following conditions apply, certified that a skilled and trained workforce shall be used to complete the development if the application is approved:

(I) On and after January 1, 2018, until December 31, 2021, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(II) On and after January 1, 2022, until December 31, 2025, the development consists of 50 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction located in a coastal or bay county with a population of 225,000 or more.

(III) On and after January 1, 2018, until December 31, 2019, the development consists of 75 or more units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.
(IV) On and after January 1, 2020, until December 31, 2021, the development consists of more than 50 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(V) On and after January 1, 2022, until December 31, 2025, the development consists of more than 25 units with a residential component that is not 100 percent subsidized affordable housing and will be located within a jurisdiction with a population of fewer than 550,000 and that is not located in a coastal or bay county.

(ii) For purposes of this section, “skilled and trained workforce” has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(iii) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:

(I) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.

(III) Except as provided in subclause (IV), the applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement.
Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, “project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Notwithstanding subparagraphs (A) and (B), a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(i) The project includes 10 or fewer units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(9) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:

(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).

(B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used, pursuant to paragraph (8).

(10) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2
of Division 2 of the Civil Code), the Recreational Vehicle Park
Occupancy Law (Chapter 2.6 (commencing with Section 799.20)
of Title 2 of Part 2 of Division 2 of the Civil Code), the
Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)
of Division 13 of the Health and Safety Code), or the Special
Occupancy Parks Act (Part 2.3 (commencing with Section 18860)
(b) (1) (A) (i) Before submitting an application for a
development subject to the streamlined, ministerial approval
process described in subdivision (c), the development proponent
shall submit to the local government a notice of its intent to submit
an application. The notice of intent shall be in the form of a
preliminary application that includes all of the information
described in Section 65941.1, as that section read on January 1,
2020.
(ii) Upon receipt of a notice of intent to submit an application
described in clause (i), the local government shall engage in a
scoping consultation regarding the proposed development with
any California Native American tribe that is traditionally and
culturally affiliated with the geographic area, as described in
Section 21080.3.1 of the Public Resources Code, of the proposed
development. In order to expedite compliance with this subdivision,
the local government shall contact the Native American Heritage
Commission for assistance in identifying any California Native
American tribe that is traditionally and culturally affiliated with
the geographic area of the proposed development.
(iii) The timeline for noticing and commencing a scoping
consultation in accordance with this subdivision shall be as follows:
(I) The local government shall provide a formal notice of a
development proponent’s notice of intent to submit an application
described in clause (i) to each California Native American tribe
that is traditionally and culturally affiliated with the geographic
area of the proposed development within 30 days of receiving that
notice of intent. The formal notice provided pursuant to this
subclause shall include all of the following:
(ia) A description of the proposed development.
(ib) The location of the proposed development.
(ic) An invitation to engage in a scoping consultation in
accordance with this subdivision.
(II) Each California Native American tribe that receives a formal notice pursuant to this clause shall have 30 days from the receipt of that notice to accept the invitation to engage in a scoping consultation.

(III) If the local government receives a response accepting an invitation to engage in a scoping consultation pursuant to this subdivision, the local government shall commence the scoping consultation within 30 days of receiving that response.

(B) The scoping consultation shall recognize that California Native American tribes traditionally and culturally affiliated with a geographic area have knowledge and expertise concerning the resources at issue and shall take into account the cultural significance of the resource to the culturally affiliated California Native American tribe.

(C) The parties to a scoping consultation conducted pursuant to this subdivision shall be the local government and any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development. More than one California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development may participate in the scoping consultation. However, the local government, upon the request of any California Native American tribe traditionally and culturally affiliated with the geographic area of the proposed development, shall engage in a separate scoping consultation with that California Native American tribe. The development proponent and its consultants may participate in a scoping consultation process conducted pursuant to this subdivision if all of the following conditions are met:

(i) The development proponent and its consultants agree to respect the principles set forth in this subdivision.

(ii) The development proponent and its consultants engage in the scoping consultation in good faith.

(iii) The California Native American tribe participating in the scoping consultation approves the participation of the development proponent and its consultants. The California Native American tribe may rescind its approval at any time during the scoping consultation, either for the duration of the scoping consultation or with respect to any particular meeting or discussion held as part of the scoping consultation.
(D) The participants to a scoping consultation pursuant to this subdivision shall comply with all of the following confidentiality requirements:

(i) Subdivision (r) of Section 6254.
(ii) Section 6254.10.
(iii) Subdivision (c) of Section 21082.3 of the Public Resources Code.
(iv) Subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.
(v) Any additional confidentiality standards adopted by the California Native American tribe participating in the scoping consultation.

(E) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to a scoping consultation conducted pursuant to this subdivision.

2) (A) If, after concluding the scoping consultation, the parties find that no potential tribal cultural resource would be affected by the proposed development, the development proponent may submit an application for the proposed development that is subject to the streamlined, ministerial approval process described in subdivision (c).

(B) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is documented between the California Native American tribe and the local government on methods, measures, and conditions for tribal cultural resource treatment, the development proponent may submit the application for a development subject to the streamlined, ministerial approval process described in subdivision (c). The local government shall ensure that the enforceable agreement is included in the requirements and conditions for the proposed development.

(C) If, after concluding the scoping consultation, the parties find that a potential tribal cultural resource could be affected by the proposed development and an enforceable agreement is not documented between the California Native American tribe and the local government regarding methods, measures, and conditions for tribal cultural resource treatment, the development shall not be eligible for the streamlined, ministerial approval process described in subdivision (c).
(D) For purposes of this paragraph, a scoping consultation shall
be deemed to be concluded if either of the following occur:
(i) The parties to the scoping consultation document an
enforceable agreement concerning methods, measures, and
conditions to avoid or address potential impacts to tribal cultural
resources that are or may be present.
(ii) One or more parties to the scoping consultation, acting in
good faith and after reasonable effort, conclude that a mutual
agreement on methods, measures, and conditions to avoid or
address impacts to tribal cultural resources that are or may be
present cannot be reached.
(E) If the development or environmental setting substantially
changes after the completion of the scoping consultation, the local
government shall notify the California Native American tribe of
the changes and engage in a subsequent scoping consultation if
requested by the California Native American tribe.
(3) A local government may only accept an application for
streamlined, ministerial approval pursuant to this section if one of
the following applies:
(A) A California Native American tribe that received a formal
notice of the development proponent’s notice of intent to submit
an application pursuant to subclause (I) of clause (iii) of
subparagraph (A) of paragraph (1) did not accept the invitation to
engage in a scoping consultation.
(B) The California Native American tribe accepted an invitation
to engage in a scoping consultation pursuant to subclause (II) of
clause (iii) of subparagraph (A) of paragraph (1) but substantially
failed to engage in the scoping consultation after repeated
documented attempts by the local government to engage the
California Native American tribe.
(C) The parties to a scoping consultation pursuant to this
subdivision find that no potential tribal cultural resource will be
affected by the proposed development pursuant to subparagraph
(A) of paragraph (2).
(D) A scoping consultation between a California Native
American tribe and the local government has occurred in
accordance with this subdivision and resulted in agreement
pursuant to subparagraph (B) of paragraph (2).
(4) A project shall not be eligible for the streamlined, ministerial
process described in subdivision (c) if any of the following apply:
(A) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project.

(B) There is a potential tribal cultural resource that could be affected by the proposed development and the parties to a scoping consultation conducted pursuant to this subdivision do not document an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment, as described in subparagraph (C) of paragraph (2).

(C) The parties to a scoping consultation conducted pursuant to this subdivision do not agree as to whether a potential tribal cultural resource will be affected by the proposed development.

(5) (A) If, after a scoping consultation conducted pursuant to this subdivision, a project is not eligible for the streamlined, ministerial process described in subdivision (c) for any or all of the following reasons, the local government shall provide written documentation of that fact, and an explanation of the reason for which the project is not eligible, to the development proponent and to any California Native American tribe that is a party to that scoping consultation:

(i) There is a tribal cultural resource that is on a national, state, tribal, or local historic register list located on the site of the project, as described in subparagraph (A) of paragraph (4).

(ii) The parties to the scoping consultation have not documented an enforceable agreement on methods, measures, and conditions for tribal cultural resource treatment, as described in subparagraph (C) of paragraph (2) and subparagraph (B) of paragraph (4).

(iii) The parties to the scoping consultation do not agree as to whether a potential tribal cultural resource will be affected by the proposed development, as described in subparagraph (C) of paragraph (4).

(B) The written documentation provided to a development proponent pursuant to this paragraph shall include information on how the development proponent may seek a conditional use permit or other discretionary approval of the development from the local government.

(6) This section is not intended, and shall not be construed, to limit consultation and discussion between a local government and a California Native American tribe pursuant to other applicable law, confidentiality provisions under other applicable law, the protection of religious exercise to the fullest extent permitted under
state and federal law, or the ability of a California Native American
tribe to submit information to the local government or participate
in any process of the local government.

(7) For purposes of this subdivision:

(A) “Consultation” means the meaningful and timely process
of seeking, discussing, and considering carefully the views of
others, in a manner that is cognizant of all parties’ cultural values
and, where feasible, seeking agreement. Consultation between
local governments and Native American tribes shall be conducted
in a way that is mutually respectful of each party’s sovereignty.
Consultation shall also recognize the tribes’ potential needs for
confidentiality with respect to places that have traditional tribal
cultural importance. A lead agency shall consult the tribal
consultation best practices described in the “State of California
Tribal Consultation Guidelines: Supplement to the General Plan
Guidelines” prepared by the Office of Planning and Research.

(B) “Scoping” means the act of participating in early discussions
or investigations between the local government and California
Native American tribe, and the development proponent if
authorized by the California Native American tribe, regarding the
potential effects a proposed development could have on a potential
tribal cultural resource, as defined in Section 21074 of the Public
Resources Code, or California Native American tribe, as defined
in Section 21073 of the Public Resources Code.

(8) This subdivision shall not apply to any project that has been
approved under the streamlined, ministerial approval process
provided under this section before the effective date of the act
adding this subdivision.

(c) (1) If a local government determines that a development
submitted pursuant to this section is in conflict with any of the
objective planning standards specified in subdivision (a), it shall
provide the development proponent written documentation of
which standard or standards the development conflicts with, and
an explanation for the reason or reasons the development conflicts
with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local
government pursuant to this section if the development contains
150 or fewer housing units.
(B) Within 90 days of submittal of the development to the local
government pursuant to this section if the development contains
more than 150 housing units.

(2) If the local government fails to provide the required
documentation pursuant to paragraph (1), the development shall
be deemed to satisfy the objective planning standards specified in
subdivision (a).

(3) For purposes of this section, a development is consistent
with the objective planning standards specified in subdivision (a)
if there is substantial evidence that would allow a reasonable person
to conclude that the development is consistent with the objective
planning standards.

(d) (1) Any design review or public oversight of the
development may be conducted by the local government’s planning
commission or any equivalent board or commission responsible
for review and approval of development projects, or the city council
or board of supervisors, as appropriate. That design review or
public oversight shall be objective and be strictly focused on
assessing compliance with criteria required for streamlined projects,
as well as any reasonable objective design standards published
and adopted by ordinance or resolution by a local jurisdiction
before submission of a development application, and shall be
broadly applicable to development within the jurisdiction. That
design review or public oversight shall be completed as follows
and shall not in any way inhibit, chill, or preclude the ministerial
approval provided by this section or its effect, as applicable:
(A) Within 90 days of submittal of the development to the local
government pursuant to this section if the development contains
150 or fewer housing units.

(B) Within 180 days of submittal of the development to the
local government pursuant to this section if the development
contains more than 150 housing units.

(2) If the development is consistent with the requirements of
subparagraph (A) or (B) of paragraph (9) of subdivision (a) and
is consistent with all objective subdivision standards in the local
subdivision ordinance, an application for a subdivision pursuant
to the Subdivision Map Act (Division 2 (commencing with Section
66410)) shall be exempt from the requirements of the California
Environmental Quality Act (Division 13 (commencing with Section
21000) of the Public Resources Code) and shall be subject to the public oversight timelines set forth in paragraph (1).

(e) (1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing automobile parking requirements in multifamily developments, shall not impose automobile parking standards for a streamlined development that was approved pursuant to this section in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car share vehicle located within one block of the development.

(2) If the development does not fall within any of the categories described in paragraph (1), the local government shall not impose automobile parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

(f) (1) If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire if the project includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making at or below 80 percent of the area median income.

(2) (A) If a local government approves a development pursuant to this section and the project does not include 50 percent of the units affordable to households making at or below 80 percent of the area median income, that approval shall remain valid for three years from the date of the final action establishing that approval, or if litigation is filed challenging that approval, from the date of the final judgment upholding that approval. Approval shall remain valid for a project provided that vertical construction of the development has begun and is in progress. For purposes of this subdivision, “in progress” means one of the following:

(i) The construction has begun and has not ceased for more than 180 days.
(ii) If the development requires multiple building permits, an initial phase has been completed, and the project proponent has applied for and is diligently pursuing a building permit for a subsequent phase, provided that once it has been issued, the building permit for the subsequent phase does not lapse.

(B) Notwithstanding subparagraph (A), a local government may grant a project a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application.

(3) If a local government approves a development pursuant to this section, that approval shall remain valid for three years from the date of the final action establishing that approval and shall remain valid thereafter for a project so long as vertical construction of the development has begun and is in progress. Additionally, the development proponent may request, and the local government shall have discretion to grant, an additional one-year extension to the original three-year period. The local government’s action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and processes set forth in this section.

(g) (1) (A) A development proponent may request a modification to a development that has been approved under the streamlined, ministerial approval process provided in subdivision (b) if that request is submitted to the local government before the issuance of the final building permit required for construction of the development.

(B) Except as provided in paragraph (3), the local government shall approve a modification if it determines that the modification is consistent with the objective planning standards specified in subdivision (a) that were in effect when the original development application was first submitted.

(C) The local government shall evaluate any modifications requested pursuant to this subdivision for consistency with the objective planning standards using the same assumptions and analytical methodology that the local government originally used to assess consistency for the development that was approved for streamlined, ministerial approval pursuant to subdivision (b).

(D) A guideline that was adopted or amended by the department pursuant to subdivision (j) after a development was approved
through the streamlined ministerial approval process described in subdivision (b) shall not be used as a basis to deny proposed modifications.

(2) Upon receipt of the developmental proponent’s application requesting a modification, the local government shall determine if the requested modification is consistent with the objective planning standard and either approve or deny the modification request within 60 days after submission of the modification, or within 90 days if design review is required.

(3) Notwithstanding paragraph (1), the local government may apply objective planning standards adopted after the development application was first submitted to the requested modification in any of the following instances:

(A) The development is revised such that the total number of residential units or total square footage of construction changes by 15 percent or more.

(B) The development is revised such that the total number of residential units or total square footage of construction changes by 5 percent or more and it is necessary to subject the development to an objective standard beyond those in effect when the development application was submitted in order to mitigate or avoid a specific, adverse impact, as that term is defined in subparagraph (A) of paragraph (1) of subdivision (j) of Section 65589.5, upon the public health or safety and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, may be applied to all modifications.

(4) The local government’s review of a modification request pursuant to this subdivision shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, modify the development’s consistency with the objective planning standards and shall not reconsider prior determinations that are not affected by the modification.

(h) (1) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or
inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(2) A local government shall issue a subsequent permit required for a development approved under this section if the application substantially complies with the development as it was approved pursuant to subdivision (c). Upon receipt of an application for a subsequent permit, the local government shall process the permit without unreasonable delay and shall not impose any procedure or requirement that is not imposed on projects that are not approved pursuant to this section. Issuance of subsequent permits shall implement the approved development, and review of the permit application shall not inhibit, chill, or preclude the development. For purposes of this paragraph, a “subsequent permit” means a permit required subsequent to receiving approval under subdivision (c), and includes, but is not limited to, demolition, grading, encroachment, and building permits and final maps, if necessary.

(3) (A) If a public improvement is necessary to implement a development that is subject to the streamlined, ministerial approval pursuant to this section, including, but not limited to, a bicycle lane, sidewalk or walkway, public transit stop, driveway, street paving or overlay, a curb or gutter, a modified intersection, a street sign or street light, landscape or hardscape, an above-ground or underground utility connection, a water line, fire hydrant, storm or sanitary sewer connection, retaining wall, and any related work, and that public improvement is located on land owned by the local government, to the extent that the public improvement requires approval from the local government, the local government shall not exercise its discretion over any approval relating to the public improvement in a manner that would inhibit, chill, or preclude the development.

(B) If an application for a public improvement described in subparagraph (A) is submitted to a local government, the local government shall do all of the following:

(i) Consider the application based upon any objective standards specified in any state or local laws that were in effect when the original development application was submitted.

(ii) Conduct its review and approval in the same manner as it would evaluate the public improvement if required by a project
that is not eligible to receive ministerial or streamlined approval pursuant to this section.

(C) If an application for a public improvement described in subparagraph (A) is submitted to a local government, the local government shall not do either of the following:

(i) Adopt or impose any requirement that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval pursuant to this section.

(ii) Unreasonably delay in its consideration, review, or approval of the application.

(i) (1) This section shall not affect a development proponent’s ability to use any alternative streamlined by right permit processing adopted by a local government, including the provisions of subdivision (i) of Section 65583.2.

(2) This section shall not prevent a development from also qualifying as a housing development project entitled to the protections of Section 65589.5. This paragraph does not constitute a change in, but is declaratory of, existing law.

(j) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to actions taken by a state agency, local government, or the San Francisco Bay Area Rapid Transit District to:

(1) Lease, convey, or encumber land owned by the local government or the San Francisco Bay Area Rapid Transit District or to facilitate the lease, conveyance, or encumbrance of land owned by the local government, or for the lease of land owned by the San Francisco Bay Area Rapid Transit District in association with an eligible TOD project, as defined pursuant to Section 29010.1 of the Public Utilities Code, nor to any decisions associated with that lease, or to provide financial assistance to a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

(2) Approve improvements located on land owned by the local government or the San Francisco Bay Area Rapid Transit District that are necessary to implement a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.
(k) For purposes of this section, the following terms have the following meanings:

(1) “Affordable housing cost” has the same meaning as set forth in Section 50052.5 of the Health and Safety Code.

(2) “Affordable rent” has the same meaning as set forth in Section 50053 of the Health and Safety Code.

(3) “Department” means the Department of Housing and Community Development.

(4) “Development proponent” means the developer who submits an application for streamlined approval pursuant to this section.

(5) “Completed entitlements” means a housing development that has received all the required land use approvals or entitlements necessary for the issuance of a building permit.

(6) “Locality” or “local government” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(7) “Moderate income housing units” means housing units with an affordable housing cost or affordable rent for persons and families of moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(8) “Production report” means the information reported pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(9) “State agency” includes every state office, officer, department, division, bureau, board, and commission, but does not include the California State University or the University of California.

(10) “Subsidized” means units that are price or rent restricted such that the units are affordable to households meeting the definitions of very low and lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code.

(11) “Reporting period” means either of the following:

(A) The first half of the regional housing needs assessment cycle.

(B) The last half of the regional housing needs assessment cycle.

(12) “Urban uses” means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(f) The department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that
supplement or clarify the terms, references, or standards set forth
in this section. Any guidelines or terms adopted pursuant to this
subdivision shall not be subject to Chapter 3.5 (commencing with
Section 11340) of Part 1 of Division 3 of Title 2 of the Government
Code.

(m) The determination of whether an application for a
development is subject to the streamlined ministerial approval
process provided by subdivision (c) is not a “project” as defined
in Section 21065 of the Public Resources Code.

(n) It is the policy of the state that this section be interpreted
and implemented in a manner to afford the fullest possible weight
to the interest of, and the approval and provision of, increased
housing supply.

(o) This section shall remain in effect only until January 1, 2026,
and as of that date is repealed.

SEC. 3. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B 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 or because 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.

CORRECTIONS:

Heading—Line 4.
Item B-3
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 7 – Environmental quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2021 (SB 7) involves a policy matter that may have a nexus to the City’s adopted Legislative Platform language. The City’s state lobbyist, Shaw Yoder Antwh Schmelzer & Lange, provided a summary memo for SB 7 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 7, the Liaisons may recommend the following actions:

1) Oppose SB 7;
2) Support SB 7;
3) Support if Amended;
4) Oppose unless Amended;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend a position that is consistent with the City’s Legislative Platform, then staff will generate a letter for the Mayor to sign. Should the recommendation not be consistent with the City’s Legislative Platform or this subject matter is not addressed in the City’s Legislative Platform, then the item will be placed on a future City Council agenda for concurrence.
Attachment 1
January 20, 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 7 (Atkins) The Jobs and Economic Improvement Through Environmental Leadership Act of 2021

Summary
Reestablishes the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 (Environmental Leadership Act) which streamlined paperwork and expedited legal challenges to large, multi-benefit housing, energy and manufacturing projects. SB 7 would extend the Environmental Leadership Act through 2025. Specifically, this bill would:

1. Define an “Environmental leadership development project,” as a project that is one of the following:
   a. A residential, retail, commercial, sports, cultural, entertainment, or recreational use project that is certified as Leadership in Energy and Environmental Design (LEED) gold or better by the United States Green Building Council and, where applicable, that achieves a 15-percent greater standard for transportation efficiency than for comparable projects.
   b. Located on an infill site. For a project that is within a metropolitan planning organization for which a sustainable communities strategy or alternative planning strategy is in effect, the infill project shall be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board has accepted that, if implemented, would achieve the greenhouse gas emission reduction targets.
   c. A clean renewable energy project that generates electricity exclusively through wind or solar, but not including waste incineration or conversion.
   d. A clean energy manufacturing project that manufactures products, equipment, or components used for renewable energy generation, energy efficiency, or for the production of clean alternative fuel vehicles.

2. Makes infill housing development projects that meet certain requirements, including a minimum investment of $15,000,000 in California, at least 15 percent of the project is dedicated to housing that is affordable to lower income households, and labor requirements, eligible for certification.

3. Prohibits any part of the housing project from being used for manufacturing or industrial uses, a rental unit for a term shorter than 30 days, or designated for hotel, motel, bed and breakfast inn, or other transient-lodging use.
4. Specifies that if a local agency has adopted an inclusionary zoning ordinance that establishes a minimum percentage for affordable housing within the jurisdiction that is higher than the 15 percent required by the bill, that the ordinance shall be used.

5. Specifies that a housing development project is a project for residential units only, mixed use development with at least two-thirds of the square footage dedicated to residential use, or transitional or supportive housing.

6. Authorize the Governor, until January 1, 2024, to certify projects that meet specified requirements for streamlining benefits related to CEQA. (Note: the last round of annual authorizations would be announced in January 2024 before the program expires on January 1, 2025).

7. Require a lead agency to prepare a master EIR for a general plan, plan amendment, plan element, or specific plan for housing projects where the state has provided funding for the preparation of the master EIR. Allows for limited review of proposed subsequent housing projects that are described in the master EIR if the use of the master EIR is consistent with specified provisions of CEQA.

8. Specify labor-related requirements for projects undertaken by both public agencies and private entities. Specifically, the project must create high-wage, highly skilled jobs that pay prevailing wages and living wages, provides construction jobs and permanent jobs for Californians, helps reduce unemployment, and promotes apprenticeship training.

9. Authorize the Governor to certify a project before the lead agency certifies the final EIR for the project. Project applicants must agree to pay the costs of the trial court in hearing and deciding a case challenging a lead agency’s action on a certified project and for administrative fees set by the Governor’s Office of Planning and Research (OPR).

10. To the extent feasible, requires resolution of judicial review of action taken by a lead agency within 270 business days after the filing of the record of proceedings with the court. If a lead agency fails to approve a project certified by the Governor under this act before January 1, 2025, the certification is no longer valid.

**Background**
The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 (AB 900-Buchanan), established specified administrative and judicial review procedures for the review of the environmental review documents and public agency approvals granted for designated residential, retail, commercial, sports, cultural, entertainment, or recreational use projects, known as Environmental Leadership Development Projects (ELDP). To qualify as an ELDP, the project must meet specified objective environmental standards. The Legislature has also enacted similar expedited frameworks for specific sports stadiums that meet certain objective environmental standards.

**Prior Legislation:**
SB 995 (Atkins) 2020, sought to extend AB 900 (Buchanan) and add specified housing projects to the Environmental Leadership Program. SB 995 would have extended eligibility to housing projects that result in a minimum investment of $15 million, but less than $100 million, provided at least 15 percent of project is affordable to lower income households and the project is not used
as a short-term rental. SB 995 (Atkins) failed to secure the necessary votes for approval before the Legislature concluded its business for the 2019-2020 Regular Session.

SB 7 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 e “provides more land-use tools and flexibility to meet the needs of local governments and community partners, and streamlines procedural hurdles.”

Other bills in the **Building Housing Opportunities For All Senate Housing Package** include:

**SB 5 (Atkins)** – Placeholder legislation for a future Housing Bond Act
**SB 6 (Caballero)** – Seeks to authorize residential development on commercial lots
**SB 8 (Skinner)** – Placeholder legislation related to Density Bonus Law
**SB 9 (Atkins)** – Makes it easier for a homeowner to create a duplex or subdivide an existing lot in residential areas. (Similar to SB 1120 from 2020).
**SB 10 (Wiener)** – Creates a ministerial process to allow cities to upzone specified urbanized areas (close to job centers, transit, etc) to allow up to ten units.

**Support /Opposition**

SB 7 (Atkins) was just introduced on December 7, 2020, and has not been heard in any policy committees yet, we have not been made aware of any registered support or opposition yet, but the following groups adopted formal positions on SB 995 (Atkins) from 2020:

**Registered Support for SB 995 (Atkins):**
1hwy1
Associated Builders and Contractors Northern California Chapter
Bay Area Council
California Apartment Association
California Association of Realtors
City of San Diego
City of San Jose
Civil Justice Association of California
Council President Georgette Gómez, City of San Diego
Downtown San Diego Partnership
Habitat for Humanity California
Los Angeles Business Council
Riley Realty, LP
San Diego Board of Supervisors, 4th District, Nathan Fletcher
San Diego County Board of Supervisors, Greg Cox, Chairman
San Diego Regional Economic Development Corporation
San Francisco Bay Area Planning and Urban Research Association
San Francisco Housing Action Coalition
Schneider Electric
Southern California Leadership Council
Yimby Law

**Registered Opposition for SB 995 (Atkins) from 2020:**
Angeles Mesa Homeowners Community Group
Associated Builders and Contractors - Southern California Chapter
California Judges Association
City of Hidden Hills
City of Malibu
City of Torrance
Communities United Cd7
Friends of Sunset Park
Riviera Homeowners Association
Shadow Hills Property Owners Association
Sustainable Tamalmonte
Tamalpais Design Review Board
Victoria/54th Ave Block Club
View Heights Block Club
WCH Association
Western Electrical Contractors Association
Introduced by Senator Atkins
(Coauthors: Senators Gonzalez and Rubio)

December 7, 2020

An act to add Section 21157.8 to, and to add and repeal Chapter 6.5 (commencing with Section 21178) of Division 13 of, the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST


(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report (EIR) on a project that the lead agency proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA authorizes the preparation of a master EIR and authorizes the use of the master EIR to limit the environmental review of subsequent projects that are described in the master EIR, as specified.

This bill would require a lead agency to prepare a master EIR for a general plan, plan amendment, plan element, or specific plan for housing projects where the state has provided funding for the preparation of the master EIR. The bill would allow for limited review of proposed
subsequent housing projects that are described in the master EIR if the use of the master EIR is consistent with specified provisions of CEQA.

(2) The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 (leadership act), which repeals on January 1, 2021, authorizes the Governor, until January 1, 2020, to certify projects that meet certain requirements, including specified labor-related requirements and a requirement that the project applicant agrees to pay the costs of the court of appeal in hearing and deciding a case challenging a lead agency’s action on a certified project, for streamlining benefits provided by the leadership act related to CEQA. The leadership act also requires resolution, to the extent feasible, of judicial review of action taken by a lead agency within 270 days of the filing of the certified record of proceedings with the court. The leadership act provides that if a lead agency fails to approve a project certified by the Governor before January 1, 2021, the certification expires and is no longer valid. The leadership act requires a lead agency to prepare the record of proceedings for the certified project concurrent with the preparation of the EIR.

This bill would reenact the leadership act, with certain changes, and would authorize the Governor, until January 1, 2024, to certify projects that meet specified requirements for streamlining benefits related to CEQA. The bill would additionally include housing development projects, as defined, meeting certain conditions as projects eligible for certification. The bill would, except for those housing development projects, require the quantification and mitigation of the impacts of a project from the emissions of greenhouse gases, as provided. The bill would revise and recast the labor-related requirements for projects undertaken by both public agencies and private entities. The bill would provide that the Governor is authorized to certify a project before the lead agency certifies the final EIR for the project. The bill also would provide for the certification by the Governor of a project alternative described in an EIR for a certified project, as provided. The bill would additionally require an applicant for certification of a project for which the environmental review has begun to demonstrate that the record of proceedings for the project is being prepared concurrently with the administrative process. The bill would require the project applicant, as a condition of certification, to agree to pay the costs of the trial court in hearing and deciding a case challenging a lead agency’s action on a certified project. The bill would authorize the Office of Planning and Research to charge a fee to an applicant seeking certification for costs
incurred by the Governor’s office in the implementation of the reenacted leadership act. The bill would require resolution, to the extent feasible, of judicial review of action taken by a lead agency within 270 business days after the filing of the record of proceedings with the court. The bill would provide that if a lead agency fails to approve a project certified by the Governor under the reenacted leadership act before January 1, 2025, the certification is no longer valid. The bill would repeal the reenacted leadership act on January 1, 2025. Because the bill would require the lead agency to prepare concurrently the record of proceedings for projects that are certified by the Governor, this bill would impose a state-mandated local program.

This bill would further provide that projects certified by the Governor under the former leadership act that are approved by a lead agency on or before January 1, 2022, are entitled to the benefits of and are required to comply with the requirements set forth in the former leadership act as it read on January 1, 2020.

(3) 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.

(4) 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. Section 21157.8 is added to the Public Resources Code, to read:

(a) To streamline and expedite environmental review for housing projects, a lead agency shall prepare a master environmental impact report for a general plan, plan amendment, plan element, or specific plan for housing projects where the state has provided funding for the preparation of the master environmental impact report.

(b) The preparation and certification of a master environmental impact report, if prepared and certified consistent with this division, shall allow for the limited review of proposed subsequent housing projects that are described in the master environmental impact
report as being within the scope of the master environmental impact report, if the use of the master environmental impact report for proposed subsequent housing projects is consistent with Sections 21157.1 and 21157.6.

(c) A negative declaration or mitigated negative declaration shall be prepared for a proposed subsequent housing project if both of the following occur:

1. An initial study has identified potentially new or additional significant effects on the environment that were not analyzed in the master environmental impact report.
2. Feasible mitigation measures or alternatives will be incorporated to revise the proposed subsequent housing project, before the negative declaration is released for public review, to avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment will occur.

(d) If there is substantial evidence in light of the whole record before the lead agency that a proposed subsequent housing project may have a significant effect on the environment and a mitigated negative declaration is not prepared, the lead agency shall prepare a focused environmental impact report pursuant to Section 21158.

SEC. 2. Chapter 6.5 (commencing with Section 21178) is added to Division 13 of the Public Resources Code, to read:

CHAPTER 6.5. JOBS AND ECONOMIC IMPROVEMENT THROUGH ENVIRONMENTAL LEADERSHIP ACT OF 2021

21178. The Legislature finds and declares all of the following:
(a) The California Environmental Quality Act (Division 13 (commencing with Section 21000)) requires that the environmental impacts of development projects be identified and mitigated.
(b) The California Environmental Quality Act also guarantees the public an opportunity to review and comment on the environmental impacts of a project and to participate meaningfully in the development of mitigation measures for potentially significant environmental impacts.
(c) There are large projects under consideration in various regions of the state that would replace old and outmoded facilities with new job-creating facilities to meet those regions’ needs while also establishing new, cutting-edge environmental benefits in those regions.
(d) These projects are privately financed or financed from revenues generated from the projects themselves and do not require taxpayer financing.

(e) These projects further will generate thousands of full-time jobs during construction and thousands of additional, permanent jobs once the projects are constructed and operating.

(f) These projects also present an unprecedented opportunity to implement nation-leading innovative measures that will significantly reduce traffic, air quality, and other significant environmental impacts, and fully mitigate the greenhouse gas emissions resulting from passenger vehicle trips attributed to the projects.

(g) These pollution reductions will be the best in the nation compared to other comparable projects in the United States.

(h) The purpose of this chapter is to provide, for a limited time, unique and unprecedented streamlining benefits under the California Environmental Quality Act for projects that provide the benefits described above to put people to work as soon as possible.

21180. For purposes of this chapter, the following definitions apply:

(a) “Applicant” means a public or private entity or its affiliates, or a person or entity that undertakes a public works project, that proposes a project and its successors, heirs, and assignees.

(b) “Environmental leadership development project,” “leadership project,” or “project” means a project as described in Section 21065 that is one of the following:

1. A residential, retail, commercial, sports, cultural, entertainment, or recreational use project that is certified as Leadership in Energy and Environmental Design (LEED) gold or better by the United States Green Building Council and, where applicable, that achieves a 15-percent greater standard for transportation efficiency than for comparable projects. These projects must be located on an infill site. For a project that is within a metropolitan planning organization for which a sustainable communities strategy or alternative planning strategy is in effect, the infill project shall be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board has accepted a metropolitan planning
organization’s determination, under subparagraph (I) of paragraph
(2) of subdivision (b) of Section 65080 of the Government Code,
that the sustainable communities strategy or the alternative planning
strategy would, if implemented, achieve the greenhouse gas
emission reduction targets.
(2) A clean renewable energy project that generates electricity
exclusively through wind or solar, but not including waste
incineration or conversion.
(3) A clean energy manufacturing project that manufactures
products, equipment, or components used for renewable energy
generation, energy efficiency, or for the production of clean
alternative fuel vehicles.
(4) (A) A housing development project that meets all of the
following conditions:
(i) The housing development project is located on an infill site.
(ii) For a housing development project that is located within a
metropolitan planning organization for which a sustainable
communities strategy or alternative planning strategy is in effect,
the project is consistent with the general use designation, density,
building intensity, and applicable policies specified for the project
area in either a sustainable communities strategy or an alternative
planning strategy, for which the State Air Resources Board has
accepted a metropolitan planning organization’s determination,
under subparagraph (H) of paragraph (2) of subdivision (b) of
Section 65080 of the Government Code, that the sustainable
communities strategy or the alternative planning strategy would,
if implemented, achieve the greenhouse gas emission reduction
targets.
(iii) Notwithstanding paragraph (1) of subdivision (a) of Section
21183, the housing development project will result in a minimum
investment of fifteen million dollars ($15,000,000), but less than
one hundred million dollars ($100,000,000), in California upon
completion of construction.
(iv) (I) Except as provided in subclause (II), at least 15 percent
of the housing development project is dedicated as housing that is
affordable to lower income households, as defined in Section
50079.5 of the Health and Safety Code. Upon completion of a
housing development project that is qualified under this paragraph
and is certified by the Governor, the lead agency or applicant of
the project shall notify the Office of Planning and Research of the
number of housing units and affordable housing units established by the project.

(II) Notwithstanding subclause (I), if a local agency has adopted an inclusionary zoning ordinance that establishes a minimum percentage for affordable housing within the jurisdiction in which the housing development project is located that is higher than 15 percent, the percentage specified in the inclusionary zoning ordinance shall be the threshold for affordable housing.

(v) (I) Except for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code, no part of the housing development project shall be used for a rental unit for a term shorter than 30 days, or designated for hotel, motel, bed and breakfast inn, or other transient lodging use.

(II) No part of the housing development project shall be used for manufacturing or industrial uses.

(B) For purposes of this paragraph, “housing development project” means a project for any of the following:

(i) Residential units only.

(ii) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(iii) Transitional housing or supportive housing.

(c) “Infill site” has the same meaning as set forth in Section 21061.3.

(d) “Transportation efficiency” means the number of vehicle trips by employees, visitors, or customers of the residential, retail, commercial, sports, cultural, entertainment, or recreational use project divided by the total number of employees, visitors, and customers.

21181. This chapter does not apply to a project if the Governor does not certify the project as an environmental leadership development project eligible for streamlining under this chapter before January 1, 2024.

21182. A person proposing to construct a leadership project may apply to the Governor for certification that the leadership project is eligible for streamlining as provided by this chapter. The person shall supply evidence and materials that the Governor deems necessary to make a decision on the application. Any evidence or materials shall be made available to the public at least 15 days before the Governor certifies a project under this chapter.
21183. The Governor may certify a leadership project for streamline before a lead agency certifies a final environmental impact report for a project under this chapter if all the following conditions are met:

(a) (1) Except as provided in paragraph (2), the project will result in a minimum investment of one hundred million dollars ($100,000,000) in California upon completion of construction.

(2) Paragraph (1) does not apply to a leadership project described in paragraph (4) of subdivision (b) of Section 21180.

(b) The project creates high-wage, highly skilled jobs that pay prevailing wages and living wages, provides construction jobs and permanent jobs for Californians, helps reduce unemployment, and promotes apprenticeship training. For purposes of this subdivision, a project is deemed to create jobs that pay prevailing wages, create highly skilled jobs, and promote apprenticeship training if the applicant demonstrates to the satisfaction of the Governor that the project will comply with Section 21183.5.

(c) (1) For a project described in paragraph (1), (2), or (3) of subdivision (b) of Section 21180, the project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation. For purposes of this paragraph, a project is deemed to meet the requirements of this paragraph if the applicant demonstrates to the satisfaction of the Governor that the project will comply with Section 21183.6.

(2) For a project described in paragraph (4) of subdivision (b) of Section 21180, the project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation.

(d) The applicant demonstrates compliance with the requirements of Chapter 12.8 (commencing with Section 42649) and Chapter 12.9 (commencing with Section 42649.8) of Part 3 of Division 30, as applicable.

(e) The applicant has entered into a binding and enforceable agreement that all mitigation measures required under this division to certify the project under this chapter shall be conditions of approval of the project, and those conditions will be fully enforceable by the lead agency or another agency designated by the lead agency. In the case of environmental mitigation measures, the applicant agrees, as an ongoing obligation, that those measures
will be monitored and enforced by the lead agency for the life of
the obligation.

(f) (1) Except as provided in paragraph (2), the applicant agrees
to pay the costs of the trial court and the court of appeal in hearing
and deciding any case challenging a lead agency’s action on a
certified project under this division, including payment of the costs
for the appointment of a special master if deemed appropriate by
the court, in a form and manner specified by the Judicial Council,
as provided in the Rules of Court adopted by the Judicial Council
under Section 21185.

(2) The applicant of a project described in paragraph (4) of
subdivision (b) of Section 21180 agrees to pay the costs of the
court of appeal in hearing and deciding any case challenging a
lead agency’s action on a certified project under this division,
including payment of the costs for the appointment of a special
master if deemed appropriate by the court, in a form and manner
specified by the Judicial Council, as provided in the Rules of Court
adopted by the Judicial Council under Section 21185.

(g) The applicant agrees to pay the costs of preparing the record
of proceedings for the project concurrent with review and
consideration of the project under this division, in a form and
manner specified by the lead agency for the project.

(h) For a project for which environmental review has
commenced, the applicant demonstrates that the record of
proceedings is being prepared in accordance with Section 21186.

21183.5. (a) For purposes of this section, the following
definitions apply:

(1) “Project labor agreement” has the same meaning as set forth
in paragraph (1) of subdivision (b) of Section 2500 of the Public
Contract Code.

(2) “Skilled and trained workforce” has the same meaning as
set forth in Chapter 2.9 (commencing with Section 2600) of Part
1 of Division 2 of the Public Contract Code.

(b) (1) For a project undertaken by a public agency that is
certified under this chapter, except as provided in paragraph (2),
an entity shall not be prequalified or shortlisted or awarded a
contract by the public agency to perform any portion of the project
unless the entity provides an enforceable commitment to the public
agency that the entity and its contractors and subcontractors at
every tier will use a skilled and trained workforce to perform all
work on the project or contract that falls within an apprenticeable
occupation in the building and construction trades.
(2) Paragraph (1) does not apply if any of the following
requirements are met:
(A) The public agency has entered into a project labor agreement
that will bind all contractors and subcontractors at every tier
performing work on the project or contract to use a skilled and
trained workforce, and the entity agrees to be bound by that project
labor agreement.
(B) The project or contract is being performed under the
extension or renewal of a project labor agreement that was entered
into by the public agency before January 1, 2021.
(C) The entity has entered into a project labor agreement that
will bind the entity and all of its contractors and subcontractors at
every tier performing work on the project or contract to use a
skilled and trained workforce.
(c) For a project undertaken by a private entity that is certified
under this chapter, the applicant shall do both of the following:
(1) Certify to the lead agency that either of the following is true:
(A) The entirety of the project is a public work for purposes of
Chapter 1 (commencing with Section 1720) of Part 7 of Division
2 of the Labor Code.
(B) If the project is not in its entirety a public work, all
construction workers employed in the execution of the project will
be paid at least the general prevailing rate of per diem wages for
the type of work and geographic area, as determined by the Director
of Industrial Relations under Sections 1773 and 1773.9 of the
Labor Code, except that apprentices registered in programs
approved by the Chief of the Division of Apprenticeship Standards
may be paid at least the applicable apprentice prevailing rate. If
the project is subject to this subparagraph, then, for those portions
of the project that are not a public work, all of the following shall
apply:
(i) The applicant shall ensure that the prevailing wage
requirement is included in all contracts for the performance of the
work.
(ii) All contractors and subcontractors at every tier shall pay to
all construction workers employed in the execution of the work
on the project or contract at least the general prevailing rate of per
diem wages, except that apprentices registered in programs
approved by the Chief of the Division of Apprenticeship Standards
may be paid at least the applicable apprentice prevailing rate.
(iii) (I) Except as provided in subclause (III), all contractors
and subcontractors at every tier shall maintain and verify payroll
records under Section 1776 of the Labor Code and make those
records available for inspection and copying as provided by that
section.
(II) Except as provided in subclause (III), the obligation of all
contractors and subcontractors at every tier to pay prevailing wages
may be enforced by the Labor Commissioner through the issuance
of a civil wage and penalty assessment under Section 1741 of the
Labor Code, which may be reviewed under Section 1742 of the
Labor Code, within 18 months after the completion of the project,
by an underpaid worker through an administrative complaint or
civil action, or by a joint labor-management committee through a
civil action under Section 1771.2 of the Labor Code. If a civil wage
and penalty assessment is issued, the contractor, subcontractor,
and surety on a bond or bonds issued to secure the payment of
wages covered by the assessment shall be liable for liquidated
damages under Section 1742.1 of the Labor Code.
(III) Subclauses (I) and (II) do not apply if all contractors and
subcontractors at every tier performing work on the project or
contract are subject to a project labor agreement that requires the
payment of prevailing wages to all construction workers employed
in the execution of the project or contract and provides for
enforcement of that obligation through an arbitration procedure.
(iv) Notwithstanding subdivision (c) of Section 1773.1 of the
Labor Code, the requirement that employer payments not reduce
the obligation to pay the hourly straight time or overtime wages
found to be prevailing shall not apply if otherwise provided in a
bona fide collective bargaining agreement covering the worker.
The requirement to pay at least the general prevailing rate of per
diem wages does not preclude use of an alternative workweek
schedule adopted under Section 511 or 514 of the Labor Code.
(2) Certify to the lead agency that a skilled and trained
workforce will be used to perform all construction work on the
project or contract. All of the following requirements shall apply
to the project:
(A) The applicant shall require in all contracts for the
performance of work that every contractor and subcontractor at
(B) Every contractor and subcontractor at every tier shall use a skilled and trained workforce to complete the project.

(C) (i) Except as provided in clause (ii), the applicant shall provide to the lead agency, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the lead agency under this clause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the project using the same procedures for issuance of civil wage and penalty assessments under Section 1741 of the Labor Code, and may be reviewed under the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(ii) Clause (i) does not apply if all contractors and subcontractors at every tier performing work on the project are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.

21183.6. (a) The quantification and mitigation of the impacts of a project described in paragraph (1), (2), or (3) of subdivision (b) of Section 21180 from the emissions of greenhouse gases shall be as follows:

(1) The environmental baseline for greenhouse gas emissions shall be established based upon the physical environmental conditions in the vicinity of the project site at the time the
application is submitted in a manner consistent with Section 15125 of Title 14 of the California Code of Regulations as those regulations existed on January 1, 2021.

(2) The mitigation of the impacts resulting from the emissions of greenhouse gases shall be achieved in accordance with the following priority:

(A) Direct emissions reductions from the project that also reduce emissions of criteria air pollutants or toxic air contaminants through implementation of project features, project design, or other measures, including, but not limited to, energy efficiency, installation of renewable energy electricity generation, and reductions in vehicle miles traveled.

(B) If all of the project impacts cannot be feasibly and fully mitigated by direct emissions reductions as described in subparagraph (A), the remaining unmitigated impacts shall be mitigated by direct emissions reductions that also reduce emissions of criteria air pollutants or toxic air contaminants within the same air pollution control district or air quality management district in which the project is located.

(C) If all of the project impacts cannot be feasibly and fully mitigated by direct emissions reductions as described in subparagraph (A) or (B), the remaining unmitigated impacts shall be mitigated through the use of offsets that originate within the same air pollution control district or air quality management district in which the project is located. The offsets shall be undertaken in a manner consistent with Division 25.5 (commencing with Section 38500) of the Health and Safety Code, including, but not limited to, the requirement that the offsets be real, permanent, quantifiable, verifiable, and enforceable, and shall be undertaken from sources in the community in which the project is located or in adjacent communities.

(D) If all of the project impacts cannot be feasibly and fully mitigated by the measures described in subparagraph (A), (B), or (C), the remaining unmitigated impacts shall be mitigated through the use of offsets that originate from sources that provide a specific, quantifiable, and direct environmental and public health benefit to the community in which the project is located.

(b) It is the intent of the Legislature, in enacting this section, to maximize the environmental and public health benefits from measures to mitigate the project impacts resulting from the
emissions of greenhouse gases to those people that are impacted
most by the project.

21184. (a) The Governor may certify a project for streamlining
under this chapter if it complies with the conditions specified in
Section 21183.

(b) (1) Before certifying a project, the Governor shall make a
determination that each of the conditions specified in Section 21183
has been met. These findings are not subject to judicial review.

(2) (A) If the Governor determines that a leadership project is
eligible for streamlining under this chapter, the Governor shall
submit that determination, and any supporting information, to the
Joint Legislative Budget Committee for review and concurrence
or nonconcurrence.

(B) Within 30 days of receiving the determination, the Joint
Legislative Budget Committee shall concur or nonconcur in writing
on the determination.

(C) If the Joint Legislative Budget Committee fails to concur
or nonconcur on a determination by the Governor within 30 days
of the submittal, the leadership project is deemed to be certified.

(c) The Governor may issue guidelines regarding application
and certification of projects under this chapter. Any guidelines
issued under this subdivision are not subject to the rulemaking
provisions of the Administrative Procedure Act (Chapter 3.5
(commencing with Section 11340) of Part 1 of Division 3 of Title

21184.5. (a) Notwithstanding any other law, except as provided
in subdivision (b), a multifamily residential project certified under
this chapter shall provide unbundled parking, such that private
vehicle parking spaces are priced and rented or purchased
separately from dwelling units.

(b) Subdivision (a) shall not apply if the dwelling units are
subject to affordability restrictions in law that prescribe rent or
sale prices, and the cost of parking spaces cannot be unbundled
from the cost of dwelling units.

21184.7. The Office of Planning and Research may charge a
fee to an applicant seeking certification under this chapter for the
costs incurred by the Governor’s office in implementing this
chapter.

21185. The Judicial Council shall adopt a rule of court to
establish procedures that require actions or proceedings brought
to attack, review, set aside, void, or annul the certification of an
environmental impact report for an environmental leadership
development project certified by the Governor under this chapter
or the granting of any project approvals that require the actions or
proceedings, including any potential appeals to the court of appeal
or the Supreme Court, to be resolved, to the extent feasible, within
270 business days of the filing of the certified record of
proceedings with the court.

21186. notwithstanding any other law, the preparation and
certification of the record of proceedings for a leadership project
certified by the Governor shall be performed in the following
manner:

(a) The lead agency for the project shall prepare the record of
proceedings under this division concurrently with the
administrative process.

(b) All documents and other materials placed in the record of
proceedings shall be posted on, and be downloadable from, an
internet website maintained by the lead agency commencing with
the date of the release of the draft environmental impact report.

(c) The lead agency shall make available to the public in a
readily accessible electronic format the draft environmental impact
report and all other documents submitted to, or relied on by, the
lead agency in preparing the draft environmental impact report.

(d) Any document prepared by the lead agency or submitted by
the applicant after the date of the release of the draft environmental
impact report that is a part of the record of the proceedings shall
be made available to the public in a readily accessible electronic
format within five business days after the document is released or
received by the lead agency.

(e) The lead agency shall encourage written comments on the
project to be submitted in a readily accessible electronic format,
and shall make any comment available to the public in a readily
accessible electronic format within five business days of its receipt.

(f) Within seven business days after the receipt of any comment
that is not in an electronic format, the lead agency shall convert
that comment into a readily accessible electronic format and make
it available to the public in that format.

(g) Notwithstanding paragraphs (b) to (f), inclusive, documents
submitted to or relied on by the lead agency that were not prepared
specifically for the project and are copyright protected are not
required to be made readily accessible in an electronic format. For
those copyright-protected documents, the lead agency shall make
an index of these documents available in an electronic format no
later than the date of the release of the draft environmental impact
report, or within five business days if the document is received or
relied on by the lead agency after the release of the draft
environmental impact report. The index must specify the libraries
or lead agency offices in which hardcopies of the copyrighted
materials are available for public review.

(h) The lead agency shall certify the final record of proceedings
within five business days of its approval of the project.

(i) Any dispute arising from the record of proceedings shall be
resolved by the superior court. Unless the superior court directs
otherwise, a party disputing the content of the record shall file a
motion to augment the record at the time it files its initial brief.

(j) The contents of the record of proceedings shall be as set forth
in subdivision (e) of Section 21167.6.

21187. Within 10 business days of the Governor certifying an
environmental leadership development project under this chapter,
a lead agency shall, at the applicant’s expense, issue a public notice
in no less than 12-point type stating the following:

"THE APPLICANT HAS ELECTED TO PROCEED UNDER
CHAPTER 6.5 (COMMENCING WITH SECTION 21178) OF
DIVISION 13 OF THE PUBLIC RESOURCES CODE, WHICH
PROVIDES, AMONG OTHER THINGS, THAT ANY JUDICIAL
ACTION CHALLENGING THE CERTIFICATION OF THE
ENVIRONMENTAL IMPACT REPORT (EIR) OR THE
APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS
SUBJECT TO THE PROCEDURES SET FORTH IN SECTIONS
21185 TO 21186, INCLUSIVE, OF THE PUBLIC RESOURCES
CODE. A COPY OF CHAPTER 6.5 (COMMENCING WITH
SECTION 21178) OF DIVISION 13 OF THE PUBLIC
RESOURCES CODE IS INCLUDED BELOW."

The public notice shall be distributed by the lead agency as
required for public notices issued under paragraph (3) of
subdivision (b) of Section 21092.

21187.5. (a) For purposes of this section, “project alternative”
means an alternative studied in a leadership project’s environmental
impact report under Section 15126.6 of Title 14 of the California
Code of Regulations as those regulations existed on January 1,
2021.

(b) Before a lead agency’s approval of a project alternative
described in an environmental impact report for a leadership project
certified by the Governor under this chapter, the Governor may,
upon application of the applicant, certify the project alternative
under this chapter if the project alternative meets the definition of
a leadership project pursuant to Section 21180 and complies with
Section 21183 as those sections existed at the time of the
Governor’s certification of the leadership project. The applicant
shall supply evidence and materials that the Governor deems
necessary to make a decision on the application to certify the
project alternative. Any evidence or materials provided by the
applicant shall be made available by the Governor to the public at
least 15 days before the Governor certifies a project alternative
pursuant to this chapter. Paragraph (2) of subdivision (b) of Section
21184 shall not apply to the certification of a project alternative
pursuant to this section. The findings made by the Governor
pursuant to this section are not subject to judicial review.

(c) The rule of court adopted under Section 21185 applies to
actions or proceedings brought to attack, review, set aside, void,
or annul a public agency’s approval of a project alternative certified
under this section on the grounds of noncompliance with this
division.

21188. The provisions of this chapter are severable. If any
provision of this chapter or its application is held to be invalid,
that invalidity shall not affect any other provision or application
that can be given effect without the invalid provision or application.

21189. Except as otherwise provided expressly in this chapter,
nothing in this chapter affects the duty of any party to comply with
this division.

21189.1. If, before January 1, 2025, a lead agency fails to
approve a project certified by the Governor under this chapter,
then the certification expires and is no longer valid.

21189.3. This chapter shall remain in effect until January 1,
2025, and as of that date is repealed unless a later enacted statute
extends or repeals that date.

SEC. 3. Notwithstanding former Section 21189.1, as it read
on January 1, 2021, a project that is certified by the Governor
under the former Chapter 6.5 (commencing with Section 21178) of Division 13 of the Public Resources Code that is approved by a lead agency on or before January 1, 2022, shall be entitled to the benefits of and shall comply with the requirements set forth in that former chapter as it read on January 1, 2020.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B 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.

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: To expedite the development and construction of urgently needed housing, clean energy, low carbon, and environmentally-beneficial projects, and the jobs they create, it is necessary that this act be immediately enacted.
Attachment 2
Item B-4
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: January 25, 2021
SUBJECT: Senate Bill 8 (Skinner) - Density Bonus Law.
ATTACHMENTS: 1. Summary Memo – SB 8
2. Bill Text – SB 8

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

Senate Bill 8 – Density Bonus Law (SB 8) involves a policy matter that may have a nexus to the City’s adopted Legislative Platform language. As this is a spot bill, it may be too early for the City to take a position; however, City staff and the City’s state lobbyist wanted to provide an overview of the bill to the City Council Liaison/Legislative/Lobby Committee.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 8 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 8, the Liaisons may recommend the following actions:
1) Oppose SB 8;
2) Support SB 8;
3) Oppose unless Amended;
4) Support if Amended;
5) Take a position of “Watch” on SB 8 until it is further developed;
6) Remain neutral; or
7) Provide other direction to City staff.

Should the Liaisons recommend a position of “Watch” or “Neutral”, no further action will be taken as this time by staff. Staff can continue to monitor the bill as it moves through the various Committees and bring it back to the Liaisons for a recommendation once the bill is amended with additional language.

Should the Liaisons recommend a position that is consistent with the City’s Legislative Platform, then staff will generate a letter for the Mayor to sign. Should the recommendation not be consistent with the City’s Legislative Platform or this subject matter is not addressed in the City’s Legislative Platform, then the item will be placed on a future City Council agenda for concurrence.
January 19, 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 8 (Skinner) Density Bonus Law

Introduction and Background
SB 8 (Skinner), would make a nonsubstantive change to the definition of “development standard” for the purposes of the Density Bonus Law. This bill is a spot bill, which amends the Government Code section, relating to housing, in a nonsubstantive way. We anticipate that this bill will be substantially amended later in the legislative session.

While SB 8 is still in spot language form, the bill is part of the ‘Building Opportunities for All’ Senate Housing Package. According to the press release announcing the Senate Housing Package, Senator Skinner stated, “SB 8 will address California’s housing crisis by focusing on opportunities to ensure housing production can continue to move forward in the state.”

Status of Legislation
The bill is in the Senate Rules Committee pending referral to policy committee.

Support
None listed at this time.

Opposition
None listed at this time.
Attachment 2
Introduced by Senator Skinner
(Principal coauthor: Senator Caballero)

December 7, 2020

An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

SB 8, as introduced, Skinner. Density Bonus Law.
Existing law, known as the Density Bonus Law, requires a city, county, or city and county to provide a developer that proposes a housing development within the jurisdictional boundaries of that city, county, or city and county with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents and meets other requirements. Among other things, the Density Bonus Law prohibits a city, county, or city and county from applying any development standard, as defined, that has the effect of physically precluding the construction of a qualifying development at the densities or with the concessions or incentives permitted under that law.

This bill would make a nonsubstantive change to the definition of “development standard” for purposes of the Density Bonus Law.

SECTION 1. Section 65915 of the Government Code is amended to read:

65915. (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Except as otherwise provided in subdivision (s), failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:
(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section
50093 of the Health and Safety Code, provided that all units in the
development are offered to the public for purchase.

E) Ten percent of the total units of a housing development for
transitional foster youth, as defined in Section 66025.9 of the
Education Code, disabled veterans, as defined in Section 18541,
or homeless persons, as defined in the federal McKinney-Vento
Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units
described in this subparagraph shall be subject to a recorded
affordability restriction of 55 years and shall be provided at the
same affordability level as very low income units.

F) Twenty percent of the total units for lower income
students in a student housing development that meets the following
requirements:

I) All units in the student housing development will be used
exclusively for undergraduate, graduate, or professional students
enrolled full time at an institution of higher education accredited
by the Western Association of Schools and Colleges or the
Accrediting Commission for Community and Junior Colleges. In
order to be eligible under this subclause, the developer shall, as a
condition of receiving a certificate of occupancy, provide evidence
to the city, county, or city and county that the developer has entered
into an operating agreement or master lease with one or more
institutions of higher education for the institution or institutions
to occupy all units of the student housing development with
students from that institution or institutions. An operating
agreement or master lease entered into pursuant to this subclause
is not violated or breached if, in any subsequent year, there are not
sufficient students enrolled in an institution of higher education
to fill all units in the student housing development.

II) The applicable 20-percent units will be used for lower
income students. For purposes of this clause, “lower income
students” means students who have a household income and asset
level that does not exceed the level for Cal Grant A or Cal Grant
B award recipients as set forth in paragraph (I) of subdivision (k)
of Section 69432.7 of the Education Code. The eligibility of a
student under this clause shall be verified by an affidavit, award
letter, or letter of eligibility provided by the institution of higher
education that the student is enrolled in, as described in subclause
(I), or by the California Student Aid Commission that the student
receives or is eligible for financial aid, including an institutional

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grant or fee waiver, from the college or university, the California
Student Aid Commission, or the federal government shall be
sufficient to satisfy this subclause.
(III) The rent provided in the applicable units of the development
for lower income students shall be calculated at 30 percent of 65
percent of the area median income for a single-room occupancy
unit type.
(IV) The development will provide priority for the applicable
affordable units for lower income students experiencing
homelessness. A homeless service provider, as defined in paragraph
(3) of subdivision (e) of Section 103577 of the Health and Safety
Code, or institution of higher education that has knowledge of a
person’s homeless status may verify a person’s status as homeless
for purposes of this subclause.
(ii) For purposes of calculating a density bonus granted pursuant
to this subparagraph, the term “unit” as used in this section means
one rental bed and its pro rata share of associated common area
facilities. The units described in this subparagraph shall be subject
to a recorded affordability restriction of 55 years.
(G) One hundred percent of all units in the development,
including total units and density bonus units, but exclusive of a
manager’s unit or units, are for lower income households, as
defined by Section 50079.5 of the Health and Safety Code, except
that up to 20 percent of the units in the development, including
total units and density bonus units, may be for moderate-income
households, as defined in Section 50053 of the Health and Safety
Code.
(2) For purposes of calculating the amount of the density bonus
pursuant to subdivision (f), an applicant who requests a density
bonus pursuant to this subdivision shall elect whether the bonus
shall be awarded on the basis of subparagraph (A), (B), (C), (D),
(E), (F), or (G) of paragraph (1).
(3) For the purposes of this section, “total units,” “total dwelling
units,” or “total rental beds” does not include units added by a
density bonus awarded pursuant to this section or any local law
granting a greater density bonus.
(c) (1) (A) An applicant shall agree to, and the city, county,
or city and county shall ensure, the continued affordability of all
very low and low-income rental units that qualified the applicant
for the award of the density bonus for 55 years or a longer period
of time if required by the construction or mortgage financing
assistance program, mortgage insurance program, or rental subsidy
program.
(B) (i) Except as otherwise provided in clause (ii), rents for the
lower income density bonus units shall be set at an affordable rent,
as defined in Section 50053 of the Health and Safety Code.
(ii) For housing developments meeting the criteria of
subparagraph (G) of paragraph (1) of subdivision (b), rents for all
units in the development, including both base density and density
bonus units, shall be as follows:
(I) The rent for at least 20 percent of the units in the
development shall be set at an affordable rent, as defined in Section
(II) The rent for the remaining units in the development shall
be set at an amount consistent with the maximum rent levels for
a housing development that receives an allocation of state or federal
low-income housing tax credits from the California Tax Credit
Allocation Committee.
(2) An applicant shall agree to, and the city, county, or city and
county shall ensure that, the initial occupant of all for-sale units
that qualified the applicant for the award of the density bonus are
persons and families of very low, low, or moderate income, as
required, and that the units are offered at an affordable housing
cost, as that cost is defined in Section 50052.5 of the Health and
Safety Code. The local government shall enforce an equity sharing
agreement, unless it is in conflict with the requirements of another
public funding source or law. The following apply to the equity
sharing agreement:
(A) Upon resale, the seller of the unit shall retain the value of
any improvements, the downpayment, and the seller’s proportionate
share of appreciation. The local government shall recapture any
initial subsidy, as defined in subparagraph (B), and its proportionate
share of appreciation, as defined in subparagraph (C), which
amount shall be used within five years for any of the purposes
described in subdivision (e) of Section 33334.2 of the Health and
Safety Code that promote home ownership.
(B) For purposes of this subdivision, the local government’s
initial subsidy shall be equal to the fair market value of the home
at the time of initial sale minus the initial sale price to the
moderate-income household, plus the amount of any downpayment
assistance or mortgage assistance. If upon resale the market value
is lower than the initial market value, then the value at the time of
the resale shall be used as the initial market value.
(C) For purposes of this subdivision, the local government’s
proportionate share of appreciation shall be equal to the ratio of
the local government’s initial subsidy to the fair market value of
the home at the time of initial sale.
(3) (A) An applicant shall be ineligible for a density bonus or
any other incentives or concessions under this section if the housing
development is proposed on any property that includes a parcel or
parcels on which rental dwelling units are or, if the dwelling units
have been vacated or demolished in the five-year period preceding
the application, have been subject to a recorded covenant,
ordinance, or law that restricts rents to levels affordable to persons
and families of lower or very low income; subject to any other
form of rent or price control through a public entity’s valid exercise
of its police power; or occupied by lower or very low income
households, unless the proposed housing development replaces
those units, and either of the following applies:
(i) The proposed housing development, inclusive of the units
replaced pursuant to this paragraph, contains affordable units at
the percentages set forth in subdivision (b).
(ii) Each unit in the development, exclusive of a manager’s unit
or units, is affordable to, and occupied by, either a lower or very
low income household.
(B) For the purposes of this paragraph, “replace” shall mean
either of the following:
(i) If any dwelling units described in subparagraph (A) are
occupied on the date of application, the proposed housing
development shall provide at least the same number of units of
equivalent size to be made available at affordable rent or affordable
housing cost to, and occupied by, persons and families in the same
or lower income category as those households in occupancy. If
the income category of the household in occupancy is not known,
it shall be rebuttably presumed that lower income renter households
occupied these units in the same proportion of lower income renter
households to all renter households within the jurisdiction, as
determined by the most recently available data from the United
States Department of Housing and Urban Development’s
Comprehensive Housing Affordability Strategy database. For
unoccupied dwelling units described in subparagraph (A) in a
development with occupied units, the proposed housing
development shall provide units of equivalent size to be made
available at affordable rent or affordable housing cost to, and
occupied by, persons and families in the same or lower income
category as the last household in occupancy. If the income category
of the last household in occupancy is not known, it shall be
rebuttably presumed that lower income renter households occupied
these units in the same proportion of lower income renter
households to all renter households within the jurisdiction, as
determined by the most recently available data from the United
States Department of Housing and Urban Development’s
Comprehensive Housing Affordability Strategy database. All
replacement calculations resulting in fractional units shall be
rounded up to the next whole number. If the replacement units will
be rental dwelling units, these units shall be subject to a recorded
affordability restriction for at least 55 years. If the proposed
development is for-sale units, the units replaced shall be subject
to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have
been vacated or demolished within the five-year period preceding
the application, the proposed housing development shall provide
at least the same number of units of equivalent size as existed at
the highpoint of those units in the five-year period preceding the
application to be made available at affordable rent or affordable
housing cost to, and occupied by, persons and families in the same
or lower income category as those persons and families in
occupancy at that time, if known. If the incomes of the persons
and families in occupancy at the highpoint is not known, it shall
be rebuttably presumed that low-income and very low income
renter households occupied these units in the same proportion of
low-income and very low income renter households to all renter
households within the jurisdiction, as determined by the most
recently available data from the United States Department of
Housing and Urban Development’s Comprehensive Housing
Affordability Strategy database. All replacement calculations
resulting in fractional units shall be rounded up to the next whole
number. If the replacement units will be rental dwelling units,
these units shall be subject to a recorded affordability restriction
for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government’s valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction’s rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction’s rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, “equivalent size” means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant’s application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5
of the Health and Safety Code, or for rents for the targeted units
to be set as specified in subdivision (c).
(B) The concession or incentive would have a specific, adverse
impact, as defined in paragraph (2) of subdivision (d) of Section
65589.5, upon public health and safety or the physical environment
or on any real property that is listed in the California Register of
Historical Resources and for which there is no feasible method to
satisfactorily mitigate or avoid the specific, adverse impact without
rendering the development unaffordable to low-income and
moderate-income households.
(C) The concession or incentive would be contrary to state or
federal law.
(2) The applicant shall receive the following number of
incentives or concessions:
(A) One incentive or concession for projects that include at least
10 percent of the total units for lower income households, at least
5 percent for very low income households, or at least 10 percent
for persons and families of moderate income in a common interest
development.
(B) Two incentives or concessions for projects that include at
least 17 percent of the total units for lower income households, at
least 10 percent for very low income households, or at least 20
percent for persons and families of moderate income in a common
interest development.
(C) Three incentives or concessions for projects that include at
least 24 percent of the total units for lower income households, at
least 15 percent for very low income households, or at least 30
percent for persons and families of moderate income in a common
interest development.
(D) Four incentives or concessions for projects meeting the
criteria of subparagraph (G) of paragraph (1) of subdivision (b).
If the project is located within one-half mile of a major transit stop,
the applicant shall also receive a height increase of up to three
additional stories, or 33 feet.
(3) The applicant may initiate judicial proceedings if the city,
county, or city and county refuses to grant a requested density
bonus, incentive, or concession. If a court finds that the refusal to
grant a requested density bonus, incentive, or concession is in
violation of this section, the court shall award the plaintiff
reasonable attorney’s fees and costs of suit. Nothing in this
subdivision shall be interpreted to require a local government to
grant an incentive or concession that has a specific, adverse impact,
as defined in paragraph (2) of subdivision (d) of Section 65589.5,
upon health, safety, or the physical environment, and for which
there is no feasible method to satisfactorily mitigate or avoid the
specific adverse impact. Nothing in this subdivision shall be
interpreted to require a local government to grant an incentive or
concession that would have an adverse impact on any real property
that is listed in the California Register of Historical Resources.
The city, county, or city and county shall establish procedures for
carrying out this section that shall include legislative body approval
of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden
of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply
any development standard that will have the effect of physically
precluding the construction of a development meeting the criteria
of subdivision (b) at the densities or with the concessions or
incentives permitted by this section. Subject to paragraph (3), an
applicant may submit to a city, county, or city and county a
proposal for the waiver or reduction of development standards that
will have the effect of physically precluding the construction of a
development meeting the criteria of subdivision (b) at the densities
or with the concessions or incentives permitted under this section,
and may request a meeting with the city, county, or city and county.
If a court finds that the refusal to grant a waiver or reduction of
development standards is in violation of this section, the court
shall award the plaintiff reasonable attorney’s fees and costs of
suit. Nothing in this subdivision shall be interpreted to require a
local government to waive or reduce development standards if the
waiver or reduction would have a specific, adverse impact, as
defined in paragraph (2) of subdivision (d) of Section 65589.5,
upon health, safety, or the physical environment, and for which
there is no feasible method to satisfactorily mitigate or avoid the
specific adverse impact. Nothing in this subdivision shall be
interpreted to require a local government to waive or reduce
development standards that would have an adverse impact on any
real property that is listed in the California Register of Historical
Resources, or to grant any waiver or reduction that would be
contrary to state or federal law.
(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

<table>
<thead>
<tr>
<th>Percentage Low-Income Units</th>
<th>Percentage Density Bonus</th>
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</thead>
<tbody>
<tr>
<td>10</td>
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<td>11</td>
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<td>33.5</td>
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<td>35</td>
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<td>21</td>
<td>38.75</td>
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<td>22</td>
<td>42.5</td>
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</tbody>
</table>
(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

<table>
<thead>
<tr>
<th>Percentage Very Low Income Units</th>
<th>Percentage Density Bonus</th>
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<tbody>
<tr>
<td>5</td>
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<td>46.25</td>
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<td>50</td>
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(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(D) For housing developments meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b), the following shall apply:

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

<table>
<thead>
<tr>
<th>Percentage Moderate-Income Units</th>
<th>Percentage Density Bonus</th>
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</tbody>
</table>
(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

<table>
<thead>
<tr>
<th>Percentage Very Low Income</th>
<th>Percentage Density Bonus</th>
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</tbody>
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99
(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2,
and is or will be served by adequate public facilities and
infrastructure.

(D) The transferred land shall have all of the permits and
approvals, other than building permits, necessary for the
development of the very low income housing units on the
transferred land, not later than the date of approval of the final
subdivision map, parcel map, or residential development
application, except that the local government may subject the
proposed development to subsequent design review to the extent
authorized by subdivision (i) of Section 65583.2 if the design is
not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject
to a deed restriction ensuring continued affordability of the units
consistent with paragraphs (1) and (2) of subdivision (c), which
shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing
developer approved by the local agency. The local agency may
require the applicant to identify and transfer the land to the
developer.

(G) The transferred land shall be within the boundary of the
proposed development or, if the local agency agrees, within
one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units
shall be identified not later than the date of approval of the final
subdivision map, parcel map, or residential development
application.

(h) (1) When an applicant proposes to construct a housing
development that conforms to the requirements of subdivision (b)
and includes a childcare facility that will be located on the premises
of, as part of, or adjacent to, the project, the city, county, or city
and county shall grant either of the following:

(A) An additional density bonus that is an amount of square
feet of residential space that is equal to or greater than the amount
of square feet in the childcare facility.

(B) An additional concession or incentive that contributes
significantly to the economic feasibility of the construction of the
childcare facility.

(2) The city, county, or city and county shall require, as a
condition of approving the housing development, that the following
occur:
(A) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the childcare facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

(4) "Childcare facility," as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study,
or other discretionary approval. For purposes of this subdivision, “study” does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.
(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

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

1. “Development standard” includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

2. “Located within one-half mile of a major transit stop” means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

3. “Major transit stop” has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

4. “Maximum allowable residential density” means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the
density allowed under the zoning ordinance is inconsistent with
the density allowed under the land use element of the general plan,
the general plan density shall prevail.
(p) (1) Except as provided in paragraphs (2), (3), and (4), upon
the request of the developer, a city, county, or city and county shall
not require a vehicular parking ratio, inclusive of parking for
persons with a disability and guests, of a development meeting the
criteria of subdivisions (b) and (c), that exceeds the following
ratios:
(A) Zero to one bedroom: one onsite parking space.
(B) Two to three bedrooms: one and one-half onsite parking
spaces.
(C) Four and more bedrooms: two and one-half parking spaces.
(2) (A) Notwithstanding paragraph (1), if a development
includes at least 20 percent low-income units for housing
developments meeting the criteria of subparagraph (A) of paragraph
(1) of subdivision (b) or at least 11 percent very low income units
for housing developments meeting the criteria of subparagraph
(B) of paragraph (1) of subdivision (b), is located within one-half
mile of a major transit stop, and there is unobstructed access to
the major transit stop from the development, then, upon the request
of the developer, a city, county, or city and county shall not impose
a vehicular parking ratio, inclusive of parking for persons with a
disability and guests, that exceeds 0.5 spaces per unit.
(B) For purposes of this subdivision, a development shall have
unobstructed access to a major transit stop if a resident is able to
access the major transit stop without encountering natural or
constructed impediments. For purposes of this subparagraph,
“natural or constructed impediments” includes, but is not limited
to, freeways, rivers, mountains, and bodies of water, but does not
include residential structures, shopping centers, parking lots, or
rails used for transit.
(3) Notwithstanding paragraph (1), if a development consists
solely of rental units, exclusive of a manager's unit or units, with
an affordable housing cost to lower income families, as provided
in Section 50052.5 of the Health and Safety Code, then, upon the
request of the developer, a city, county, or city and county shall
not impose vehicular parking standards if the development meets
either of the following criteria:
(A) The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development.

(B) The development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) Notwithstanding paragraphs (1) and (8), if a development consists solely of rental units, exclusive of a manager’s unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose any minimum vehicular parking requirement. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(5) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(6) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(7) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(8) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher
vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(9) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

(s) Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing that allows for density bonuses that exceed the density bonuses required by the version of this section effective through December 31, 2020, that city, county, or city and county is not required to amend or otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (C) and (D) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f).
Item B-5
TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Policy and Management Analyst

DATE: January 25, 2021

SUBJECT: Senate Bill 9 - (Atkins) Housing development: approvals.

ATTACHMENTS: 1. Summary Memo – SB 9
                2. 2020 Letter – SB 1120
                3. Bill Text – SB 9

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

Senate Bill 9 - Housing development: approvals (SB 9) involves a policy matter that may have a nexus to the City’s adopted Legislative Platform language. This bill is a reintroduction of SB 1120 (Atkins, 2020), which failed to secure final approval before adjournment of the 2019-2020 Regular Session. The City of Beverly Hills adopted a formal position in opposition to SB 1120 (Atkins, 2020).

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for SB 9 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 9, the Liaisons may recommend the following actions:
1) Oppose SB 9;
2) Support SB 9;
3) Support if Amended;
4) Oppose unless Amended;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend a position that is consistent with the City’s Legislative Platform, then staff will generate a letter for the Mayor to sign. Should the recommendation not be consistent with the City’s Legislative Platform or this subject matter is not addressed in the City’s Legislative Platform, then the item will be placed on a future City Council agenda for concurrence.
Attachment 1
January 20, 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


Summary
Requires ministerial approval of duplexes and urban lot splits, as specified, and extends the validity of subdivision maps by one year. Specifically, this bill:

1) Requires a city or county, including a charter city or county, to:
   a) Provide ministerial approval, not subject to the California Environmental Quality Act (CEQA), of a proposed housing development within a single-family residential zone containing two residential units (a duplex), that meets specified criteria.
   b) Provide ministerial approval, not subject to CEQA review, of a parcel map or tentative and final map dividing a lot into two equal parts of not less than 1,200 square feet each for residential use (an urban lot split) that meets specified criteria.

2) Requires that eligible projects be located within an urbanized area or urban cluster, as defined, and not be located on prime farmland, wetlands, a hazardous waste site, certain environmentally protected land, a site on an historic register or in a very high fire hazard zone, earthquake zone or floodplain.

3) Prohibits an eligible project from requiring demolition or alteration of housing subject to rent control, restricted to affordable rent levels, or occupied by tenants within the last three years.

4) Requires a city or county to restrict the rental term of any unit created under this bill to a term of more than 30 days.

5) Specifies a city or county is not required to permit accessory dwelling units (ADUs) on parcels subdivided through an urban lot split and have two residential units on the parcel.

6) Requires a city or county to include specified data pursuant to this bill in the annual housing element report submitted to the Department of Housing and Community Development (HCD).

7) Allows a city or county to adopt an ordinance to implement the provisions of the bill and provides that such an ordinance is not a project under CEQA.

8) Allows a city or county to extend the life of subdivision maps by an additional 12 months, up to a total of four years.
**Background**
Cities and counties must adopt a general plan that sets out planned uses for all of the area covered by the plan. A general plan must include specified mandatory “elements,” including a housing element that establishes the locations and densities of housing, among other requirements. Major local land use decisions—including zoning ordinances and other aspects of development permitting—must be consistent with their general plans.

Local jurisdictions may impose a wide variety of conditions on subdivision maps, provided those decisions comply with the Subdivision Map Act, which governs how local officials regulate the division of real property into smaller parcels for sale, lease, or financing.

For smaller subdivisions that create four or fewer parcels, local officials usually use parcel maps, but they can require tentative parcel maps followed by final parcel maps. The Map Act also constrains the dedications and improvements that local cities and counties can require as a condition of a subdivision of four or fewer lots to only the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created.

**Prior Legislation**
Senator Atkins authored identical legislation, SB 1120, which failed to secure final approval before adjournment of the 2019-2020 Regular Session. The City of Beverly Hills adopted a formal position in opposition to SB 1120 (Atkins).

SB 9 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.”

Other bills in the Building Housing Opportunities For All Senate Housing Package include:

- **SB 5 (Atkins)** – Placeholder legislation for a future Housing Bond Act
- **SB 6 (Caballero)** – Seeks to authorize residential development on commercial lots
- **SB 7 (Atkins)** - Environmental Streamlining for specially designated housing, and other large multi-benefit projects projects
- **SB 8 (Skinner)** – Placeholder legislation related to Density Bonus Law
- **SB 10 (Wiener)** – Creates a ministerial process to allow cities to upzone specified urbanized areas (close to job centers, transit, etc) to allow up to ten units.

**Support/Opposition**
SB 9 (Atkins) was introduced on December 7, 2020 and has not been heard in a policy committee yet, so we are not aware of any formal, registered support or opposition to this measure. But the last amended version of SB 1120 (Atkins) contained identical provisions. Here is a list of formally registered support and opposition for SB 1120 from last year:

<table>
<thead>
<tr>
<th>Formally Registered Support for SB 1120 (Atkins) from 2020:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abundant Housing LA</td>
</tr>
<tr>
<td>All Home</td>
</tr>
<tr>
<td>American Planning Association, California Chapter</td>
</tr>
<tr>
<td>Associated Builders and Contractors Northern</td>
</tr>
<tr>
<td>California Chapter</td>
</tr>
<tr>
<td>Bay Area Housing Advocacy Coalition</td>
</tr>
<tr>
<td>Bridge Housing Corporation California</td>
</tr>
<tr>
<td>Apartment</td>
</tr>
<tr>
<td>Association California Association of Realtors</td>
</tr>
</tbody>
</table>
Formally Registered Opposition to SB 1120
(Atkins from 2020)

AIDS Healthcare Foundation
Aircraft Owners and Pilots Association
Angeles Mesa Homeowners Community Group
Bay Area Transportation Working Group
Brentwood Beautiful
Brentwood Homeowners Association
Brynhurst Avenue Block Club
By the Beach Tamarack Group
California League of Conservation Voters
Center for Biological Diversity
Cherrywood Leimert Park Block Club
Cities Association of Santa Clara County
Citizens Preserving Venice
Citizens Protecting San Pedro
City of Agoura Hills;
City of Beverly Hills;
City of Burbank;
City of Camarillo;
City of Campbell;
City of Cerritos;
City of Chino Hills;
City of Cupertino;
City of Del Mar;
City of Diamond Bar;
City of Downey;
City of El Segundo;
City of Glendora;
City of Hawthorne;
City of Hidden Hills;
City of Huntington Beach;
City of Laguna Beach;
City of Lomita;
City of Newport Beach;
City of Norwalk;
City of Orinda;
City of Paramount;
City of Pasadena;
City of Pico Rivera;
City of Rancho Palos Verdes;
City of Redondo Beach;
City of Rohnert Park;
City of Rosemead;
City of Santa Clarita;
City of Saratoga;
City of Signal Hill;
City of Thousand Oaks;
City of Torrance
Coastal San Pedro Neighborhood Council
Comstock Hills Homeowners Association
Contra Costa Taxpayers Association
Families of Park Mesa Heights
Federation of Hillside and Canyon Associations
Franklin Corridor Coalition
Friends of Sunset Park
Grayburn Avenue Block Club
Graylawn Neighbors for Quality of Life
Hyde Park Organizational Partnership for Empowerment
Las Virgenes-Malibu Council of Governments
Leimert Park - Edgehill Drive Residents Association
Livable California
Livable Pasadena
Livable Riverside & Moreno Valley
Mission Street Neighbors
North Santa Ana Preservation Alliance
Northeast San Fernando Valley Activists
Orinda Watch
Pacific Palisades Community Council
Planning and Conservation League
Protecting Our Foothill Community
Rampart Village Neighborhood Council
Riviera Homeowners Association
Shadow Hills Property Owners Association
Sherman Oaks Homeowners Association
Sierra Club California
South Bay Cities Council of Governments
Southeast Torrance Homeowners’ Association, Inc.
Sunnyvale Neighbors
Sunset-parkside Education and Action Committee
Sustainable Tamalmonte
Tamalpais Design Review Board
Tarzana Property Owners Association
Transportation Solutions Defense and Education Fund
United Neighborhoods for Los Angeles
Victoria/54th Ave Block Club
View Heights Block Club
WCH Association
West Wood Highlands Neighborhood Association
Westwood Hills Property Owners Association
Wilshire Montana Neighborhood Coalition
Woodland Hills Homeowners Organization
60 Individuals
Attachment 2
The Honorable Toni Atkins  
California State Senate, 39th District  
State Capitol, Room 205  
Sacramento, CA 95814  

Re: SB 1120 (Atkins) Subdivisions: Tentative Maps.  
City of Beverly Hills – OPPOSE  

Dear Senator Atkins,  

On behalf of the City of Beverly Hills, I write to you in respectful OPPOSITION to your SB 1120, which would require cities and counties to ministerially permit a duplex located on a parcel zoned for single-family housing, or the subdivision of a parcel zoned for residential use into two equal parcels.  

The City of Beverly Hills has put forth a great amount of time and effort into ensuring that the City's growth is well-planned and takes the City's future housing needs into account. The City strongly believes in the preservation of local control over zoning as localities are best suited to aptly address the needs of local constituents.  

SB 1120 would eliminate single-family zoning by requiring the ministerial approval of duplexes and parcel splits in these areas, even if local officials and residents object. According to a Redfin study released last November, a majority of Americans still want a single-family home, even if it means sacrificing proximity to work. Over time, this bill would cause the supply of single-family homes to diminish due to conversions to duplexes. This would negatively impact prices for the rest of the state’s single-family dwellings which would make it more difficult for residents to attain their own home. Additionally, this bill would override local land use plans and regulations and eviscerate decades of careful planning.  

The one-size-fits-all approach in SB 1120 fails to take into account the role that local governments’ discretionary land use authority plays in ensuring that public safety is maintained. Portions of Beverly Hills are in the “Very High Fire Hazard Severity Zone” and increased density in these and nearby areas has the potential to negatively impact evacuation efforts in the event of a wildfire. SB 1120 does not provide any protections for local governments that wish to limit overly dense development in areas that pose such a safety risk. The bill also fails to take into account the additional costs associated with expanding local emergency services to maintain the public’s safety and ensure these vital services are not negatively impacted due to the increase in population.
The City of Beverly Hills has long supported the preservation of local control, as localities are best suited to aptly address the needs of local constituents, which this bill would further erode. This proposal overrides local discretionary land use authority and prevents municipalities like ours from best serving our communities. For these reasons, the City of Beverly Hills must respectfully OPPOSE your SB 1120. Thank you for your consideration.

Sincerely,

Lester J. Friedman
Mayor, City of Beverly Hills

cc: Members and Consultants, Assembly Housing and Community Development Committee
    The Honorable Ben Allen, 26th Senate District
    The Honorable Richard Bloom, 50th Assembly District
    Andrew K. Antwih, Shaw Yoder Antwih Schmelzer & Lange
Attachment 3
An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL’S DIGEST

SB 9, as introduced, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not
limited to, authorizing a city or county to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency’s processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a city or county to ministerially approve a parcel map or tentative and final map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the parcel is located within a residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a city or county to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units on either of the resulting parcels, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it
proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local government from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

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.

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. Section 65852.21 is added to the Government Code, to read:
2 65852.21. (a) A proposed housing development containing two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:
3 (1) The parcel subject to the proposed housing development is located within a city the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal
parcel wholly within the boundaries of an urbanized area or urban
cluster, as designated by the United States Census Bureau.
(2) The parcel satisfies the requirements specified in
subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision
(a) of Section 65913.4.
(3) Notwithstanding any provision of this section or any local
law, the proposed housing development would not require
demolition or alteration of any of the following types of housing:
(A) Housing that is subject to a recorded covenant, ordinance,
or law that restricts rents to levels affordable to persons and
families of moderate, low, or very low income.
(B) Housing that is subject to any form of rent or price control
through a public entity’s valid exercise of its police power.
(C) Housing that has been occupied by a tenant in the last three
years.
(4) The parcel subject to the proposed housing development is
not a parcel on which an owner of residential real property has
exercised the owner’s rights under Chapter 12.75 (commencing
with Section 7060) of Division 7 of Title 1 to withdraw
accommodations from rent or lease within 15 years before the date
that the development proponent submits an application.
(5) The proposed housing development does not allow the
demolition of more than 25 percent of the existing exterior
structural walls, unless the housing development meets at least
one of the following conditions:
(A) If a local ordinance so allows.
(B) The site has not been occupied by a tenant in the last three
years.
(6) The development is not located within a historic district or
property included on the State Historic Resources Inventory, as
defined in Section 5020.1 of the Public Resources Code, or within
a site that is designated or listed as a city or county landmark or
historic property or district pursuant to a city or county ordinance.
(b) (1) Notwithstanding any local law and except as provided
in paragraph (2), a city or county may impose objective zoning
standards, objective subdivision standards, and objective design
review standards that do not conflict with this section.
(2) (A) The city or county shall not impose objective zoning
standards, objective subdivision standards, and objective design
standards that would have the effect of physically precluding the
construction of up to two units.

(B) (i) Notwithstanding subparagraph (A), no setback shall be
required for an existing structure or a structure constructed in the
same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances
not described in clause (i), a local government may require a
setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with
subdivision (b), a local agency may require any of the following
conditions when considering an application for two residential
units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a
local agency shall not impose parking requirements in either of
the following instances:

(A) The parcel is located within one-half mile walking distance
of either a high-quality transit corridor, as defined in subdivision
(b) of Section 21155 of the Public Resources Code, or a major
transit stop, as defined in Section 21064.3 of the Public Resources
Code.

(B) There is a car share vehicle located within one block of the
parcel.

(2) For residential units connected to an onsite wastewater
treatment system, a percolation test completed within the last five
years, or, if the percolation test has been recertified, within the last
10 years.

(d) A local agency shall require that a rental of any unit created
pursuant to this section be for a term longer than 30 days.

(e) Notwithstanding Section 65852.2, a local agency shall not
be required to permit an accessory dwelling unit on parcels that
use both the authority contained within this section and the
authority contained in Section 66411.7.

(f) Notwithstanding subparagraph (B) of paragraph (2) of
subdivision (b), an application shall not be rejected solely because
it proposes adjacent or connected structures provided that the
structures meet building code safety standards and are sufficient
to allow separate conveyance.

(g) Local agencies shall include units constructed pursuant to
this section in the annual housing element report as required by
subsection (I) of paragraph (2) of subdivision (a) of Section 65400.

(h) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes two new units or if it proposes to add one new unit to an existing unit.

(2) The terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(i) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 2. Section 66411.7 is added to the Government Code, to read:

66411.7. (a) Notwithstanding any other provision of this division and any local law, a city or county shall ministerially approve, as set forth in this section, a parcel map or tentative and final map for an urban lot split that meets all the following requirements:

(1) The parcel map or tentative and final map subdivides an existing parcel to create two new parcels of equal size.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.
(B) A local agency may by ordinance adopt a smaller minimum
lot size subject to ministerial approval under this subdivision.
(3) The parcel being subdivided meets all the following
requirements:
(A) The parcel is located within a residential zone.
(B) The parcel subject to the proposed urban lot split is located
within a city the boundaries of which include some portion of
either an urbanized area or urban cluster, as designated by the
United States Census Bureau, or, for unincorporated areas, a legal
parcel wholly within the boundaries of an urbanized area or urban
cluster, as designated by the United States Census Bureau.
(C) The parcel satisfies the requirements specified in
 subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision
(a) of Section 65913.4.
(D) The proposed urban lot split would not require demolition
or alteration of any of the following types of housing:
(i) Housing that is subject to a recorded covenant, ordinance,
or law that restricts rents to levels affordable to persons and
families of moderate, low, or very low income.
(ii) Housing that is subject to any form of rent or price control
through a public entity’s valid exercise of its police power.
(iii) A parcel or parcels on which an owner of residential real
property has exercised the owner’s rights under Chapter 12.75
(commencing with Section 7060) of Division 7 of Title 1 to
withdraw accommodations from rent or lease within 15 years
before the date that the development proponent submits an
application.
(iv) Housing that has been occupied by a tenant in the last three
years.
(E) The parcel is not located within a historic district or property
included on the State Historic Resources Inventory, as defined in
Section 5020.1 of the Public Resources Code, or within a site that
is designated or listed as a city or county landmark or historic
property or district pursuant to a city or county ordinance.
(F) The parcel has not been established through prior exercise
of an urban lot split as provided for in this section.
(G) Neither the owner of the parcel being subdivided nor any
person acting in concert with the owner has previously subdivided
an adjacent parcel using an urban lot split as provided for in this
section.
(b) An application for an urban lot split shall be approved in accordance with the following requirements:

1. A local agency shall approve or deny an application for an urban lot split ministerially without discretionary review.

2. A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

3. Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map or tentative and final map for an urban lot split.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a city or county may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local government may require a setback of up to four feet from the side and rear lot lines.

(d) In addition to any conditions established in accordance with subdivision (c), a local agency may require any of the following conditions when considering an application for an urban lot split:

1. Easements required for the provision of public services and facilities.

2. A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

3. Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

   (A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision
(b) of Section 21155 of the Public Resources Code, or a major
transit stop as defined in Section 21064.3 of the Public Resources
Code.
(B) There is a car share vehicle located within one block of the
parcel.
(c) A local agency shall require that the uses allowed on a lot
created by this section be limited to residential uses.
(f) A local agency shall require that a rental of any unit created
pursuant to this section be for a term longer than 30 days.
(g) A local agency shall not require, as a condition for ministerial
approval of a permit application for the creation of an urban lot
split, the correction of nonconforming zoning conditions.
(h) Notwithstanding Section 65852.2, a local agency shall not
be required to permit an accessory dwelling unit on parcels that
use both the authority contained within this section and the
authority contained in Section 65852.21.
(i) Notwithstanding paragraph (3) of subdivision (c), an
application shall not be rejected solely because it proposes adjacent
or connected structures provided that the structures meet building
code safety standards and are sufficient to allow separate
conveyance.
(j) Local agencies shall include the number of applications for
urban lot splits pursuant to this section in the annual housing
element report as required by subparagraph (I) of paragraph (2)
of subdivision (a) of Section 65400.
(k) For purposes of this section, the terms “objective zoning
standards,” “objective subdivision standards,” and “objective
design review standards” mean standards that involve no personal
or subjective judgment by a public official and are uniformly
verifiable by reference to an external and uniform benchmark or
criterion available and knowable by both the development applicant
or proponent and the public official prior to submittal. These
standards may be embodied in alternative objective land use
specifications adopted by a city or county, and may include, but
are not limited to, housing overlay zones, specific plans,
inclusionary zoning ordinances, and density bonus ordinances.
(l) A local agency may adopt an ordinance to implement the
provisions of this section. An ordinance adopted to implement this
section shall not be considered a project under Division 13
(commencing with Section 21000) of the Public Resources Code.
(m) Nothing in this section shall be construed to supersede or
in any way alter or lessen the effect or application of the California
Coastal Act of 1976 (Division 20 (commencing with Section
30000) of the Public Resources Code), except that the local
government shall not be required to hold public hearings for coastal
development permit applications for urban lot splits pursuant to
this section.

SEC. 3. Section 66452.6 of the Government Code is amended
to read:

66452.6. (a) (1) An approved or conditionally approved
tentative map shall expire 24 months after its approval or
conditional approval, or after any additional period of time as may
be prescribed by local ordinance, not to exceed an additional 12
24 months. However, if the subdivider is required to expend two
hundred thirty-six thousand seven hundred ninety dollars
($236,790) or more to construct, improve, or finance the
construction or improvement of public improvements outside the
property boundaries of the tentative map, excluding improvements
of public rights-of-way—which that abut the boundary of the
property to be subdivided and which that are reasonably related
to the development of that property, each filing of a final map
authorized by Section 66456.1 shall extend the expiration of the
approved or conditionally approved tentative map by 36 48 months
from the date of its expiration, as provided in this section, or the
date of the previously filed final map, whichever is later. The
extensions shall not extend the tentative map more than 10 years
from its approval or conditional approval. However, a tentative
map on property subject to a development agreement authorized
by Article 2.5 (commencing with Section 65864) of Chapter 4 of
Division 1 may be extended for the period of time provided for in
the agreement, but not beyond the duration of the agreement. The
number of phased final maps that may be filed shall be determined
by the advisory agency at the time of the approval or conditional
approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year
thereafter, the amount of two hundred thirty-six thousand seven
hundred ninety dollars ($236,790) shall be annually increased by
operation of law according to the adjustment for inflation set forth
in the statewide cost index for class B construction, as determined
by the State Allocation Board at its January meeting. The effective
date of each annual adjustment shall be March 1. The adjusted
amount shall apply to tentative and vesting tentative maps whose
applications were received after the effective date of the
adjustment.
(3) “Public improvements,” as used in this subdivision, include
traffic controls, streets, roads, highways, freeways, bridges,
overcrossings, street interchanges, flood control or storm drain
facilities, sewer facilities, water facilities, and lighting facilities.
(b) (1) The period of time specified in subdivision (a), including
any extension thereof granted pursuant to subdivision (c), shall
not include any period of time during which a development
moratorium, imposed after approval of the tentative map, is in
existence. However, the length of the moratorium shall not exceed
five years.
(2) The length of time specified in paragraph (1) shall be
extended for up to three years, but in no event beyond January 1,
1992, during the pendency of any lawsuit in which the subdivider
asserts, and the local agency which that approved or conditionally
approved the tentative map denies, the existence or application of
a development moratorium to the tentative map.
(3) Once a development moratorium is terminated, the map
shall be valid for the same period of time as was left to run on the
map at the time that the moratorium was imposed. However, if the
remaining time is less than 120 days, the map shall be valid for
120 days following the termination of the moratorium.
(c) The period of time specified in subdivision (a), including
any extension thereof granted pursuant to subdivision (c), shall
not include the period of time during which a lawsuit involving
the approval or conditional approval of the tentative map is or was
pending in a court of competent jurisdiction, if the stay of the time
period is approved by the local agency pursuant to this section.
After service of the initial petition or complaint in the lawsuit upon
the local agency, the subdivider may apply to the local agency for
a stay pursuant to the local agency’s adopted procedures. Within
40 days after receiving the application, the local agency shall either
stay the time period for up to five years or deny the requested stay.
The local agency may, by ordinance, establish procedures for
reviewing the requests, including, but not limited to, notice and
hearing requirements, appeal procedures, and other administrative
requirements.
(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed prior to before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Prior to Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider’s application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

1. The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or
delayed in taking the necessary action prior to before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency which that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency which that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency which that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B 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-6
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Policy and Management Analyst

DATE: January 25, 2021

SUBJECT: Senate Bill 10 - (Wiener) Planning and zoning: housing development: density.

ATTACHMENTS: 1. Summary Memo – SB 10
2. 2020 Letter – SB 902
3. Bill Text – SB 10

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

Senate Bill 10 Planning and zoning: housing development: density (SB 10) involves a policy matter that may have a nexus to the City’s adopted Legislative Platform language. This bill is a reintroduction of SB 902 (Wiener, 2020), which failed in the Assembly Appropriations Committee. The City of Beverly Hills took an ‘Oppose Unless Amended’ position on SB 902 to ensure that a jurisdiction’s local governing body is not able to utilize the ordinance allowing for streamlined rezoning process to overturn any voter approved initiatives.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 10 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 10, the Liaisons may recommend the following actions:

1) Oppose SB 10;
2) Support SB 10;
3) Support if Amended;
4) Oppose unless Amended;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend a position that is consistent with the City’s Legislative Platform, then staff will generate a letter for the Mayor to sign. Should the recommendation not be consistent with the City’s Legislative Platform or this subject matter is not addressed in the City’s Legislative Platform, then the item will be placed on a future City Council agenda for concurrence.
January 19, 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 10 (Wiener) Planning and Zoning: housing developments: density

Introduction and Background
SB 10 (Wiener) would authorize a local government to pass an ordinance, notwithstanding any local restrictions on adopting zoning ordinances, to zone any parcel for up to ten units of residential density per parcel, at a height specified in the ordinance by the local government in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site, as those terms are defined.

This bill is a reintroduction of SB 902 (Wiener, 2020), which failed in the Assembly Appropriations Committee. The City of Beverly Hills took an ‘Oppose Unless Amended’ position, SB 902 to ensure that a jurisdiction’s local governing body is not able to utilize the ordinance allowing for streamlined rezoning process to overturn any voter approved initiatives.

SB 10 is part of the ‘Building Opportunities for All’ Senate Housing Package.

Specifically, this bill would:

- Define a “transit rich area” as a parcel within one-half mile of a major transit stop or a parcel on a high-quality bus corridor. Define a “high-quality bus corridor” as a corridor with a fixed-route bus service that meets specified service interval times.

- Define a “jobs-rich area” as an area defined by the Department of Housing and Community Development (HCD), in consultation with the Office of Planning and Research (OPR) that is high opportunity and either jobs rich or would enable shorter commuter distances based upon whether, in a regional analysis, the tract meets both of the following requirements:
  - The tract is high opportunity, meaning its characteristics are associated with positive educational and economic outcomes for households of all income levels residing in the tract.
  - The tract meets either of the following criteria:
    - New housing sited on the tract would enable residents to live near more jobs than is typical for tracts in the region.
    - New housing sited in the tract would enable shorter commute distances for residents, relative to existing commute patterns and jobs-housing fit.

- Requires HCD, beginning January 1, 2022, to publish and update, every five years thereafter a map showing “jobs-rich areas.”
• Defines “urban infill” site as a site that satisfies all of the following:
  o A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, or for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster.
  o A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses.
  o A site that is zoned for residential use or residential mixed-use development or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least 2/3 of the square footage of the development designated for residential use.

• Permit a local government to pass an ordinance, notwithstanding any local restrictions on zoning ordinances, to zone any parcel up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in one of the following:
  o A transit-rich area.
  o A jobs-rich area.
  o An urban infill site.

**Status of Legislation**
The bill is in the Senate Rules Committee pending referral to policy committee.

**Support**
None listed at this time.

**Opposition**
None listed at this time.
Attachment 2
CITY OF BEVERLY HILLS
455 NORTH REXFORD DRIVE • BEVERLY HILLS, CALIFORNIA 90210

Lester J. Friedman, Mayor

August 6, 2020

The Honorable Scott Wiener
California State Senate, 11th District
State Capitol, Room 5100
Sacramento, CA 95814

Re: SB 902 (Wiener) Planning and zoning: housing development: density
City of Beverly Hills – Oppose Unless Amended

Dear Senator Wiener,

On behalf of the City of Beverly Hills, I write to you with a position of OPPOSE UNLESS AMENDED to your SB 902. This bill would permit a local government to pass an ordinance allowing the utilization of a streamlined approval process for rezoning parcels of land to allow for increased density; however, our City is advocating for you to include a clause in SB 902 to ensure the ordinance does not have the ability to overturn voter approved initiatives.

While this measure seeks to address California’s housing crisis by providing local governments with an additional tool to increase housing production in their jurisdictions, it fails to ensure local governments are not able to overturn the democratic will of their residents. The permissive approach taken in SB 902 is a welcome change from the more common prescriptive approaches taken by the state. This allows local governments to utilize the streamlined approval procedures when they determine that such an approach to increase their housing stock is a proper fit for their community.

The City of Beverly Hills respectfully requests consideration be given to amending SB 902 to ensure a jurisdiction’s local governing body is not able to utilize the ordinance process to overturn any voter approved initiatives in regards to allowing for a streamlined rezoning process. Such initiatives are one of the most direct means that voters have of expressing their will for their communities and allowing an elected body to capriciously overturn these initiatives would be an affront to the democratic process.
As drafted, SB 902 would provide additional flexibility for local governments to increase density but would also allow those local governments to overturn the will of the voters. For these reasons, the City of Beverly Hills must respectfully OPPOSE your SB 902 UNLESS AMENDED to address the concerns previously mentioned.

Sincerely,

Lester J. Friedman  
Mayor, City of Beverly Hills

cc: Members and Consultants, Assembly Local Government Committee  
The Honorable Ben Allen, 26th Senate District  
The Honorable Richard Bloom, 50th Assembly District  
Andrew K. Antwi, Shaw Yoder Antwi Schmelzer & Lange
Attachment 3
Introduced by Senator Wiener
(Principal coauthors: Senators Atkins and Caballero)
(Principal coauthor: Assembly Member Robert Rivas)

December 7, 2020

An act to add Section 65913.5 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL’S DIGEST

SB 10, as introduced, Wiener. Planning and zoning: housing development: density.

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. Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

This bill would, notwithstanding any local restrictions on adopting zoning ordinances, authorize a local government to pass an ordinance to zone any parcel for up to 10 units of residential density per parcel, at a height specified in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site, as those terms are defined. In this regard, the bill would require the Department of Housing and Community Development, in consultation with the Office
of Planning and Research, to determine jobs-rich areas and publish a map of those areas every 5 years, commencing January 1, 2022, based on specified criteria. The bill would specify that an ordinance adopted under these provisions is not a project for purposes of the California Environmental Quality Act. The bill would prohibit a residential or mixed-use residential project consisting of 10 or more units that is located on a parcel rezoned pursuant to these provisions from being approved ministerially or by right.

This 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.


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

SECTION 1. Section 65913.5 is added to the Government Code, to read:

65913.5. (a) (1) Notwithstanding any local restrictions on adopting zoning ordinances enacted by the jurisdiction, including restrictions enacted by a local voter initiative, that limit the legislative body’s ability to adopt zoning ordinances, a local government may pass an ordinance to zone a parcel for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in one of the following:

(A) A transit-rich area.
(B) A jobs-rich area.
(C) An urban infill site.

(2) An ordinance adopted in accordance with this subdivision shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(3) Paragraph (1) shall not apply to parcels located within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This paragraph does not apply to parcels excluded from the specified hazard zones by a local agency pursuant to subdivision (b) of Section 51179, or
sites that have adopted fire hazard mitigation measures pursuant
to existing building standards or state fire mitigation measures
applicable to the development.
(b) (1) Notwithstanding any other law, a residential or
mixed-use residential project consisting of more than 10 new
residential units on one or more parcels that have been zoned to
permit residential development pursuant to this section shall not
be approved ministerially or by right, and shall not be exempt from
Division 13 (commencing with Section 21000) of the Public
Resources Code.
(2) Paragraph (1) shall not apply to a project to create no more
than two accessory dwelling units and no more than two junior
accessory dwelling units per parcel pursuant to Sections 65852.2
(3) A project may not be divided into smaller projects in order
to exclude the project from the prohibition in this subdivision.
(c) For purposes of this section:
(1) “High-quality bus corridor” means a corridor with fixed
route bus service that meets all of the following criteria:
(A) It has average service intervals of no more than 15 minutes
during the three peak hours between 6 a.m. to 10 a.m., inclusive,
and the three peak hours between 3 p.m. and 7 p.m., inclusive, on
Monday through Friday.
(B) It has average service intervals of no more than 20 minutes
during the hours of 6 a.m. to 10 a.m., inclusive, on Monday through
Friday.
(C) It has average intervals of no more than 30 minutes during
the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.
(2) (A) “Jobs-rich area” means an area identified by the
Department of Housing and Community Development in
consultation with the Office of Planning and Research that is high
opportunity and either is jobs rich or would enable shorter commute
distances based on whether, in a regional analysis, the tract meets
both of the following:
(i) The tract is high opportunity, meaning its characteristics are
associated with positive educational and economic outcomes for
households of all income levels residing in the tract.
(ii) The tract meets either of the following criteria:
(i) New housing sited in the tract would enable residents to live
near more jobs than is typical for tracts in the region.
(II) New housing sited in the tract would enable shorter commute
distances for residents, relative to existing commute patterns and
jobs-housing fit.

(B) The Department of Housing and Community Development
shall, commencing on January 1, 2022, publish and update, every
five years thereafter, a map of the state showing the areas identified
by the department as “jobs-rich areas.”

(3) “Transit-rich area” means a parcel within one-half mile of
a major transit stop, as defined in Section 21064.3 of the Public
Resources Code, or a parcel on a high-quality bus corridor.

(4) “Urban infill site” means a site that satisfies all of the
following:

(A) A site that is a legal parcel or parcels located in a city if,
and only if, the city boundaries include some portion of either an
urbanized area or urban cluster, as designated by the United States
Census Bureau, or, for unincorporated areas, a legal parcel or
parcels wholly within the boundaries of an urbanized area or urban
cluster, as designated by the United States Census Bureau.

(B) A site in which at least 75 percent of the perimeter of the
site adjoins parcels that are developed with urban uses. For the
purposes of this section, parcels that are only separated by a street
or highway shall be considered to be adjoined.

(C) A site that is zoned for residential use or residential
mixed-use development, or has a general plan designation that
allows residential use or a mix of residential and nonresidential
uses, with at least two-thirds of the square footage of the
development designated for residential use.

(d) The Legislature finds and declares that ensuring the adequate
production of affordable housing 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, this section
applies to all cities, including charter cities.
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.

Assembly Bill 15 - COVID-19 relief: tenancy: Tenant Stabilization Act of 2021 (AB 15) involves a policy matter that does not have a nexus to the City's adopted Legislative Platform language. However, the City has traditionally reviewed and taken positions on various legislation as related to tenants, evictions, and tenant rights.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 15 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 15, the Liaisons may recommend the following actions:

1) Oppose AB 15;
2) Support AB 15;
3) Oppose unless Amended;
4) Support if Amended;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend a position then the item will be placed on a future City Council agenda for concurrence.
January 19, 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


Introduction and Background
In August 2020, Assemblymember David Chiu introduced AB 3088, an urgency measure that bars evictions as long as renters pay 25 percent of their rent and attest to financial hardship. This bill was intended to provide a pathway for tenants enduring financial hardship due to the COVID-19 pandemic to remain in their homes through the end of January 2021. This urgency measure was signed by Governor Newsom and was supported by the California State Council of Services Employees International Union, California YIMBY, and California for Rural Housing.

Given that the COVID-19 pandemic is now at its peak, Assemblymember Chiu introduced AB 15 on December 7, 2020, which would extend and modify key provisions of AB 3088. The bill would still require tenants to pay 25 percent of their rent owed, but between September 1, 2020 and December 31, 2021, to avoid eviction. AB 15 would also extend the repeal date of the act to January 1, 2026. The bill would make other conforming changes to align with these extended dates. This bill is an urgency measure, which requires a two-thirds vote.

The bill would also do the following:

- Extend the definition of “COVID-19 rental debt” as unpaid rent or any other unpaid financial obligation of a tenant that came due between March 1, 2020, and December 31, 2021.

- Existing law authorizes a landlord to require a high-income tenant, as defined, to submit additional documentation supporting the claim that the tenant has suffered COVID-19-related financial distress if the landlord provides the tenant with a specified notice.
  - This bill would provide that a tenant is not required to submit that additional supporting documentation unless the landlord provides the tenant with a copy of the proof of income that demonstrates that the tenant qualifies as a high-income tenant.

- Existing law, until February 1, 2021, prohibits a landlord from bringing an action for unlawful detainer based on a cause of action other than nonpayment of COVID-19 rental debt for the purpose of retaliating against the lessee because the lessee has COVID-19 rental debt. This bill would extend that prohibition to January 1, 2022.
Status of Legislation
The bill is currently in Assembly Housing and Community Development Committee. Hearing date as not been set.

Support
None listed at this time.

Opposition
None listed at this time.
Attachment 2
An act to amend Sections 789.4, 798.56, 1942.5, and 2924.15 of, and to add Sections 1785.20.4 and 1942.5.5 to, the Civil Code, and to amend Sections 116.223, 1161, 1161.2, 1161.2.5, 1179.02, 1179.02.5, 1179.03, 1179.03.5, and 1179.07 of, and to add Section 1179.04.5 to, the Code of Civil Procedure, relating to tenancies, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST


(1) Existing law, the COVID-19 Tenant Relief Act of 2020, establishes certain procedural requirements and limitations on evictions for nonpayment of rent due to COVID-19 rental debt, as defined. The act, among other things, prohibits a tenant that delivers a declaration, under penalty of perjury, of COVID-19-related financial distress from being deemed in default with regard to the COVID-19 rental debt, as specified. Existing law defines COVID-19 rental debt as unpaid rent or any other unpaid financial obligation of a tenant that came due
between March 1, 2020, and January 31, 2021. Existing law repeals the act on February 1, 2025.

This bill would extend the definition of “COVID-19 rental debt” as unpaid rent or any other unpaid financial obligation of a tenant that came due between March 1, 2020, and December 31, 2021. The bill would also extend the repeal date of the act to January 1, 2026. The bill would make other conforming changes to align with these extended dates. By extending the repeal date of the act, the bill would expand the crime of perjury and create a state-mandated local program.

Existing law authorizes a landlord to require a high-income tenant, as defined, to submit additional documentation supporting the claim that the tenant has suffered COVID-19-related financial distress if the landlord provides the tenant with a specified notice.

This bill would provide that a tenant is not required to submit that additional supporting documentation unless the landlord provides the tenant with a copy of the proof of income that demonstrates that the tenant qualifies as a high-income tenant.

Existing law prohibits a landlord from interrupting or terminating utility service furnished to a tenant with the intent to terminate the occupancy of the tenant, and imposes specified penalties on a landlord who violates that prohibition. Existing law, until February 1, 2021, imposes additional damages in an amount of at least $1,000, but not more than $2,500, on a landlord that violates that prohibition, if the tenant has provided a declaration of COVID-19 financial distress, as specified.

This bill would extend the imposition of those additional damages to January 1, 2022, and would remove the condition that the tenant provide a declaration of COVID-19 financial distress.

This bill would additionally prohibit a landlord from taking certain actions with respect to a tenant’s COVID-19 rental debt, including, among others, charging or attempting to collect late fees, providing different terms or conditions of tenancy, or withholding a service or amenity.

Existing law, until February 1, 2021, prohibits a landlord from bringing an action for unlawful detainer based on a cause of action other than nonpayment of COVID-19 rental debt for the purpose of retaliating against the lessee because the lessee has COVID-19 rental debt.

This bill would extend that prohibition to January 1, 2022.
Existing law, until February 1, 2025, provides that a small claims court has jurisdiction in any action for recovery of COVID-19 rental debt, as defined, regardless of the amount demanded.

This bill would extend that provision to January 1, 2026.

Existing law prohibits action to recover COVID-19 rental debt from commencing before March 1, 2021.

This bill would extend that prohibition to January 1, 2022, or the end of a local jurisdiction’s repayment period, whichever is later.

(2) Existing law, the Consumer Credit Reporting Agencies Act, provides for the regulation of consumer credit reporting agencies that collect credit-related information on consumers and report this information to subscribers and of persons who furnish that information to consumer credit reporting agencies, as provided.

This bill would prohibit a housing provider, credit reporting agency, tenant screening company, or other entity that evaluates tenants on behalf of a housing provider from using an alleged COVID-19 rental debt, as defined, as a negative factor for the purpose of evaluating creditworthiness or as the basis for a negative reference to a prospective housing provider.

(3) Existing law, the Mobilehome Residency Law, requires the management of a mobilehome park to comply with notice and specified other requirements in order to terminate a tenancy in a mobilehome park due to a change of use of the mobilehome park, including giving homeowners at least 15 days’ written notice that the management will be appearing before a local governmental board, commission, or body to request permits for the change of use.

This bill would instead require the management to give homeowners at least 60 days’ written notice that the management will be appearing before a local governmental board, commission, or body to obtain local approval for the intended change of use of the mobilehome park.

(4) Existing law prescribes various requirements to be satisfied before the exercise of a power of sale under a mortgage or deed of trust. In this regard, existing law requires that a notice of default and a notice of sale be recorded and that specified periods of time elapse between the recording and the sale. Existing law establishes certain requirements in connection with foreclosures on mortgages and deeds of trust, including restrictions on the actions mortgage servicers may take while a borrower is attempting to secure a loan modification or has submitted a loan modification application. Existing law, until January 1, 2023, applies those protections to a first lien mortgage or deed of trust that is
secured by residential real property that is occupied by a tenant, contains
no more than four dwelling units, and meets certain criteria, including
that a tenant occupying the property is unable to pay rent due to a
reduction in income resulting from the novel coronavirus.

The bill, commencing January 1, 2023, would limit the extension of
those protections to the above-described first lien mortgages and deeds
of trust to instances in which the borrower has been approved for
foreclosure prevention, as specified, or the borrower submitted a
completed application for a first lien loan modification before January
1, 2023, and, as of January 1, 2023, either the mortgage servicer has
not yet determined whether the applicant is eligible, or the appeal period
for the mortgage servicer’s denial of the application has not yet expired.

(5) 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.

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

State-mandated local program: yes.

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

SECTION 1. This act shall be known, and may be cited, as the

SEC. 2. The Legislature finds and declares all of the following:
(a) On March 4, 2020, Governor Gavin Newsom proclaimed a
state of emergency in response to the COVID-19 pandemic.
Measures necessary to contain the spread of COVID-19 have
brought about widespread economic and societal disruption, placing
the state in unprecedented circumstances. Millions of Californians
have unexpectedly, and through no fault of their own, faced new
public health requirements and been unable to work and cover
many basic expenses, creating tremendous uncertainty and
instability.
(b) As part of the state’s emergency response to the pandemic,
the Judicial Council adopted Emergency Rule 1, effective April
6, 2020, which temporarily halted evictions and supported public
health efforts to slow the spread of COVID-19 by ensuring that
tenants remained housed and court personnel were not placed at
unnecessary risk of exposure. Emergency Rule 1 expired on
September 1, 2020.
(c) With strong evidence that the expiration of Emergency Rule
1 could lead to mass evictions absent legislative action, the
Legislature passed and Governor Newsom signed Assembly Bill
3088 (Chapter 37 of the Statutes of 2020), the Tenant, Homeowner,
and Small Landlord Relief and Stabilization Act of 2020, which
became effective on August 31, 2020. Assembly Bill 3088 included
the COVID-19 Tenant Relief Act of 2020, which provides critical
protections from eviction for tenants. Those protections are set to
expire on February 1, 2021.
(d) In passing Assembly Bill 3088, the Legislature was clear
that the bill was intended to provide temporary relief to help
stabilize Californians through the state of emergency. That
emergency is far from over. Since its passage, the COVID-19 crisis
in California has grown worse and millions of renters remain
vulnerable to eviction due to circumstances that are beyond their
control. While a restoration of Emergency Rule 1 would be justified
and desirable in furtherance of public health goals, in the absence
of such action by the Judicial Council, the Legislature must act
with urgency to avoid the mass eviction of tenants.
(e) Mass evictions would be calamitous both for public health
and for the state’s economic recovery from this unprecedented
crisis. A wave of evictions would force some individuals and
families to move in together, often in overcrowded housing
conditions that promote the spread of the virus. Many other
Californians would likely become homeless. In addition to being
a humanitarian calamity, such an outcome would likely facilitate
further spread of COVID-19, place even further strain on the state’s
fiscal resources, and hamper the state’s economic recovery.
(f) It is the intent of this act to extend the protections of the
COVID-19 Tenant Relief Act of 2020 and address areas where
the act has created uncertainty or challenges in ensuring that tenants
can remain housed. It is critical that tenants have no gap in
 protections so that they can weather this public health and
economic crisis without losing their homes. It is the intent of the
Legislature that this act remain in effect only temporarily, until
such time as the Legislature enacts and the Governor signs a
long-term solution to the tremendous housing instability caused by this pandemic.

SEC. 3. Section 789.4 of the Civil Code is amended to read:

789.4. (a) In addition to the damages provided in subdivision (c) of Section 789.3 of the Civil Code, a landlord who violates Section 789.3 of the Civil Code, if the tenant has provided a declaration of COVID-19 financial distress pursuant to Section 179.03 of the Code of Civil Procedure, shall be liable for damages in an amount that is at least one thousand dollars ($1,000) but not more than two thousand five hundred dollars ($2,500), as determined by the trier of fact.

(b) This section shall remain in effect until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 798.56 of the Civil Code, as amended by Section 4 of Chapter 37 of the Statutes of 2020, is amended to read:

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the homeowner or resident, upon the park premises, that constitutes a substantial annoyance to other homeowners or residents.

(c) (1) Conviction of the homeowner or resident for prostitution, for a violation of subdivision (d) of Section 243, paragraph (2) of subdivision (a), or subdivision (b), of Section 245, Section 288, or Section 451, of the Penal Code, or a felony controlled substance offense, if the act resulting in the conviction was committed anywhere on the premises of the mobilehome park, including, but not limited to, within the homeowner’s mobilehome.

(2) However, the tenancy may not be terminated for the reason specified in this subdivision if the person convicted of the offense has permanently vacated, and does not subsequently reoccupy, the mobilehome.

(d) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment thereto.
No act or omission of the homeowner or resident shall constitute a failure to comply with a reasonable rule or regulation unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to the rule or regulation within seven days. However, if a homeowner has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the homeowner or resident has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.

(e) (1) Except as provided for in the COVID-19 Tenant Relief Act of 2020 (Chapter 5 (commencing with Section 1179.01) of Title 3 of Part 3 of the Code of Civil Procedure), nonpayment of rent, utility charges, or reasonable incidental service charges; provided that the amount due has been unpaid for a period of at least five days from its due date, and provided that the homeowner shall be given a three-day written notice subsequent to that five-day period to pay the amount due or to vacate the tenancy. For purposes of this subdivision, the five-day period does not include the date the payment is due. The three-day written notice shall be given to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure. A copy of this notice shall be sent to the persons or entities specified in subdivision (b) of Section 798.55 within 10 days after notice is delivered to the homeowner. If the homeowner cures the default, the notice need not be sent. The notice may be given at the same time as the 60 days’ notice required for termination of the tenancy. A three-day notice given pursuant to this subdivision shall contain the following provisions printed in at least 12-point boldface type at the top of the notice, with the appropriate number written in the blank:

“Warning: This notice is the (insert number) three-day notice for nonpayment of rent, utility charges, or other reasonable incidental services that has been served upon you in the last 12 months. Pursuant to Civil Code Section 798.56 (e) (5), if you have been given a three-day notice to either pay rent, utility charges, or other reasonable incidental services or to vacate your tenancy on three
or more occasions within a 12-month period, management is not
required to give you a further three-day period to pay rent or vacate
the tenancy before your tenancy can be terminated.’’
(2) Payment by the homeowner prior to the expiration of the
three-day notice period shall cure a default under this subdivision.
If the homeowner does not pay prior to the expiration of the
three-day notice period, the homeowner shall remain liable for all
payments due up until the time the tenancy is vacated.
(3) Payment by the legal owner, as defined in Section 18005.8
of the Health and Safety Code, any junior lienholder, as defined
in Section 18005.3 of the Health and Safety Code, or the registered
owner, as defined in Section 18009.5 of the Health and Safety
Code, if other than the homeowner, on behalf of the homeowner
prior to the expiration of 30 calendar days following the mailing
of the notice to the legal owner, each junior lienholder, and the
registered owner provided in subdivision (b) of Section 798.55,
shall cure a default under this subdivision with respect to that
payment.
(4) Cure of a default of rent, utility charges, or reasonable
incidental service charges by the legal owner, any junior lienholder,
or the registered owner, if other than the homeowner, as provided
by this subdivision, may not be exercised more than twice during
a 12-month period.
(5) If a homeowner has been given a three-day notice to pay
the amount due or to vacate the tenancy on three or more occasions
within the preceding 12-month period and each notice includes
the provisions specified in paragraph (1), no written three-day
notice shall be required in the case of a subsequent nonpayment
of rent, utility charges, or reasonable incidental service charges.
In that event, the management shall give written notice to the
homeowner in the manner prescribed by Section 1162 of the Code
of Civil Procedure to remove the mobilehome from the park within
a period of not less than 60 days, which period shall be specified
in the notice. A copy of this notice shall be sent to the legal owner,
each junior lienholder, and the registered owner of the mobilehome,
if other than the homeowner, as specified in paragraph (b) of
Section 798.55, by certified or registered mail, return receipt
requested, within 10 days after notice is sent to the homeowner.
(6) When a copy of the 60 days’ notice described in paragraph
(5) is sent to the legal owner, each junior lienholder, and the
registered owner of the mobilehome, if other than the homeowner, the default may be cured by any of them on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice, if all of the following conditions exist:
(A) A copy of a three-day notice sent pursuant to subdivision (b) of Section 798.55 to a homeowner for the nonpayment of rent, utility charges, or reasonable incidental service charges was not sent to the legal owner, junior lienholder, or registered owner, of the mobilehome, if other than the homeowner, during the preceding 12-month period.
(B) The legal owner, junior lienholder, or registered owner of the mobilehome, if other than the homeowner, has not previously cured a default of the homeowner during the preceding 12-month period.
(C) The legal owner, junior lienholder lienholder, or registered owner, if other than the homeowner, is not a financial institution or mobilehome dealer.
If the default is cured by the legal owner, junior lienholder, or registered owner within the 30-day period, the notice to remove the mobilehome from the park described in paragraph (5) shall be rescinded.
(f) Condemnation of the park.
(g) Change of use of the park or any portion thereof, provided:
(1) The management gives the homeowners at least 60 days’ written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.
(2) (A) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the homeowners six months’ or more written notice of termination of tenancy.
(B) If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management’s determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.
(3) The management gives each proposed homeowner written notice thereof prior to the inception of the proposed homeowner’s tenancy that the management is requesting a change of use before
local governmental bodies or that a change of use request has been
granted.

(4) The notice requirements for termination of tenancy set forth
in Sections 798.56 and this section and Section 798.57 shall be
followed if the proposed change actually occurs.

(5) A notice of a proposed change of use given prior to January
1, 1980, that conforms to the requirements in effect at that time
shall be valid. The requirements for a notice of a proposed change
of use imposed by this subdivision shall be governed by the law
in effect at the time the notice was given.

(h) The report required pursuant to subdivisions (b) and (i) of
Section 65863.7 of the Government Code shall be given to the
homeowners or residents at the same time that notice is required
pursuant to subdivision (g) of this section.

(i) For purposes of this section, “financial institution” means a
state or national bank, state or federal savings and loan association
or credit union, or similar organization, and mobilehome dealer
as defined in Section 18002.6 of the Health and Safety Code or
any other organization that, as part of its usual course of business,
originates, owns, or provides loan servicing for loans secured by
a mobilehome.

(j) This section remain in effect until February 1, 2025, January
1, 2026, and as of that date is repealed.

SEC. 5. Section 798.56 of the Civil Code, as added by Section
5 of Chapter 37 of the Statutes of 2020, is amended to read:

798.56. A tenancy shall be terminated by the management only
for one or more of the following reasons:

(a) Failure of the homeowner or resident to comply with a local
ordinance or state law or regulation relating to mobilehomes within
a reasonable time after the homeowner receives a notice of
noncompliance from the appropriate governmental agency.

(b) Conduct by the homeowner or resident, upon the park
premises, that constitutes a substantial annoyance to other
homeowners or residents.

(c) (1) Conviction of the homeowner or resident for prostitution,
for a violation of subdivision (d) of Section 243, paragraph (2) of
subdivision (a), or subdivision (b), of Section 245, Section 288,
or Section 451, of the Penal Code, or a felony controlled substance
offense, if the act resulting in the conviction was committed
anywhere on the premises of the mobilehome park, including, but
not limited to, within the homeowner’s mobilehome.
(2) However, the tenancy may not be terminated for the reason
specified in this subdivision if the person convicted of the offense
has permanently vacated, and does not subsequently reoccupy, the
mobilehome.
(d) Failure of the homeowner or resident to comply with a
reasonable rule or regulation of the park that is part of the rental
agreement or any amendment thereto.
No act or omission of the homeowner or resident shall constitute
a failure to comply with a reasonable rule or regulation unless and
until the management has given the homeowner written notice of
the alleged rule or regulation violation and the homeowner or
resident has failed to adhere to the rule or regulation within seven
days. However, if a homeowner has been given a written notice
of an alleged violation of the same rule or regulation on three or
more occasions within a 12-month period after the homeowner or
resident has violated that rule or regulation, no written notice shall
be required for a subsequent violation of the same rule or
regulation.
Nothing in this subdivision shall relieve the management from
its obligation to demonstrate that a rule or regulation has in fact
been violated.
(e) (1) Nonpayment of rent, utility charges, or reasonable
incidental service charges; provided that the amount due has been
unpaid for a period of at least five days from its due date, and
provided that the homeowner shall be given a three-day written
notice subsequent to that five-day period to pay the amount due
or to vacate the tenancy. For purposes of this subdivision, the
five-day period does not include the date the payment is due. The
three-day written notice shall be given to the homeowner in the
manner prescribed by Section 1162 of the Code of Civil Procedure.
A copy of this notice shall be sent to the persons or entities
specified in subdivision (b) of Section 798.55 within 10 days after
notice is delivered to the homeowner. If the homeowner cures the
default, the notice need not be sent. The notice may be given at
the same time as the 60 days’ notice required for termination of
the tenancy. A three-day notice given pursuant to this subdivision
shall contain the following provisions printed in at least 12-point
boldface type at the top of the notice, with the appropriate number
written in the blank:

“Warning: This notice is the (insert number) three-day notice
for nonpayment of rent, utility charges, or other reasonable
incidental services that has been served upon you in the last 12
months. Pursuant to Civil Code Section 798.56 (e) (5), if you have
been given a three-day notice to either pay rent, utility charges, or
other reasonable incidental services or to vacate your tenancy on
three or more occasions within a 12-month period, management
is not required to give you a further three-day period to pay rent
or vacate the tenancy before your tenancy can be terminated.”

(2) Payment by the homeowner prior to the expiration of the
three-day notice period shall cure a default under this subdivision.
If the homeowner does not pay prior to the expiration of the
three-day notice period, the homeowner shall remain liable for all
payments due up until the time the tenancy is vacated.

(3) Payment by the legal owner, as defined in Section 18005.8
of the Health and Safety Code, any junior lienholder, as defined
in Section 18005.3 of the Health and Safety Code, or the registered
owner, as defined in Section 18009.5 of the Health and Safety
Code, if other than the homeowner, on behalf of the homeowner
prior to the expiration of 30 calendar days following the mailing
of the notice to the legal owner, each junior lienholder, and the
registered owner provided in subdivision (b) of Section 798.55,
shall cure a default under this subdivision with respect to that
payment.

(4) Cure of a default of rent, utility charges, or reasonable
incidental service charges by the legal owner, any junior lienholder,
or the registered owner, if other than the homeowner, as provided
by this subdivision, may not be exercised more than twice during
a 12-month period.

(5) If a homeowner has been given a three-day notice to pay
the amount due or to vacate the tenancy on three or more occasions
within the preceding 12-month period and each notice includes
the provisions specified in paragraph (1), no written three-day
notice shall be required in the case of a subsequent nonpayment
of rent, utility charges, or reasonable incidental service charges.

In that event, the management shall give written notice to the
homeowner in the manner prescribed by Section 1162 of the Code
of Civil Procedure to remove the mobilehome from the park within
a period of not less than 60 days, which period shall be specified
in the notice. A copy of this notice shall be sent to the legal owner,
each junior lienholder, and the registered owner of the mobilehome,
if other than the homeowner, as specified in paragraph (b) of
Section 798.55, by certified or registered mail, return receipt
requested, within 10 days after notice is sent to the homeowner.
(6) When a copy of the 60 days’ notice described in paragraph
(5) is sent to the legal owner, each junior lienholder, and the
registered owner of the mobilehome, if other than the homeowner,
the default may be cured by any of them on behalf of the
homeowner prior to the expiration of 30 calendar days following
the mailing of the notice, if all of the following conditions exist:
(A) A copy of a three-day notice sent pursuant to subdivision
(b) of Section 798.55 to a homeowner for the nonpayment of rent,
utility charges, or reasonable incidental service charges was not
sent to the legal owner, junior lienholder, or registered owner, of
the mobilehome, if other than the homeowner, during the preceding
12-month period.
(B) The legal owner, junior lienholder, or registered owner of
the mobilehome, if other than the homeowner, has not previously
cured a default of the homeowner during the preceding 12-month
period.
(C) The legal owner, junior lienholder, or registered
owner, if other than the homeowner, is not a financial institution
or mobilehome dealer.
If the default is cured by the legal owner, junior lienholder, or
registered owner within the 30-day period, the notice to remove
the mobilehome from the park described in paragraph (5) shall be
rescinded.
(f) Condemnation of the park.
(g) Change of use of the park or any portion thereof, provided:
(1) The management gives the homeowners at least 60 days’
written notice that the management will be appearing before a
local governmental board, commission, or body to request permits
for a change of use of the mobilehome park.
(2) (A) After all required permits requesting a change of use
have been approved by the local governmental board, commission,
or body, the management shall give the homeowners six months’
or more written notice of termination of tenancy.
(B) If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management’s determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

(3) The management gives each proposed homeowner written notice thereof prior to the inception of the proposed homeowner’s tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) The notice requirements for termination of tenancy set forth in Sections 798.56 and 798.57 shall be followed if the proposed change actually occurs.

(5) A notice of a proposed change of use given prior to January 1, 1980, that conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall be governed by the law in effect at the time the notice was given.

(h) The report required pursuant to subdivisions (b) and (i) of Section 65863.7 of the Government Code shall be given to the homeowners or residents at the same time that notice is required pursuant to subdivision (g) of this section.

(i) For purposes of this section, “financial institution” means a state or national bank, state or federal savings and loan association or credit union, or similar organization, and mobilehome dealer as defined in Section 18002.6 of the Health and Safety Code or any other organization that, as part of its usual course of business, originates, owns, or provides loan servicing for loans secured by a mobilehome.

(j) This section shall become operative on January 1, 2026.

SEC. 6. Section 1785.20.4 is added to the Civil Code, to read:

1785.20.4. (a) A housing provider, credit reporting agency, tenant screening company, or other entity that evaluates tenants on behalf of a housing provider shall not use an alleged COVID-19 rental debt as a negative factor for the purpose of evaluating creditworthiness or as the basis for a negative reference to a prospective housing provider, regardless of whether a report is received alleging that the tenant has COVID-19 rental debt.
(b) For purposes of this section, “COVID-19 rental debt” shall have the same meaning as defined in Section 1179.02 of the Code of Civil Procedure.

SEC. 7. Section 1942.5 of the Civil Code, as amended by Section 6 of Chapter 37 of the Statutes of 2020, is amended to read:

1942.5. (a) If the lessor retaliates against the lessee because of the exercise by the lessee of the lessee’s rights under this chapter or because of the lessee’s complaint to an appropriate agency as to tenantability of a dwelling, and if the lessee of a dwelling is not in default as to the payment of rent, the lessor may not recover possession of a dwelling in any action or proceeding, cause the lessee to quit involuntarily, increase the rent, or decrease any services within 180 days of any of the following:

(1) After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, has provided notice of a suspected bed bug infestation, or has made an oral complaint to the lessor regarding tenantability.

(2) After the date upon which the lessee, in good faith, has filed a written complaint, or an oral complaint which is registered or otherwise recorded in writing, with an appropriate agency, of which the lessor has notice, for the purpose of obtaining correction of a condition relating to tenantability.

(3) After the date of an inspection or issuance of a citation, resulting from a complaint described in paragraph (2) of which the lessor did not have notice.

(4) After the filing of appropriate documents commencing a judicial or arbitration proceeding involving the issue of tenantability.

(5) After entry of judgment or the signing of an arbitration award, if any, when in the judicial proceeding or arbitration the issue of tenantability is determined adversely to the lessor.

In each instance, the 180-day period shall run from the latest applicable date referred to in paragraphs (1) to (5), inclusive.

(b) A lessee may not invoke subdivision (a) more than once in any 12-month period.

(c) To report, or to threaten to report, the lessee or individuals known to the landlord to be associated with the lessee to immigration authorities is a form of retaliatory conduct prohibited...
under subdivision (a). This subdivision shall in no way limit the
definition of retaliatory conduct prohibited under this section.
(d) Notwithstanding subdivision (a), it is unlawful for a lessor
to increase rent, decrease services, cause a lessee to quit
involuntarily, bring an action to recover possession, or threaten to
do any of those acts, for the purpose of retaliating against the lessee
because the lessee has lawfully organized or participated in a
lessees’ association or an organization advocating lessees’ rights
or has lawfully and peaceably exercised any rights under the law.
It is also unlawful for a lessor to bring an action for unlawful
detainer based on a cause of action other than nonpayment of
COVID-19 rental debt, as defined in Section 1179.02 of the Code
of Civil Procedure, for the purpose of retaliating against the lessee
because the lessee has a COVID-19 rental debt. In an action
brought by or against the lessee pursuant to this subdivision, the
lessee shall bear the burden of producing evidence that the lessor’s
conduct was, in fact, retaliatory.
(e) To report, or to threaten to report, the lessee or individuals
known to the landlord to be associated with the lessee to
immigration authorities is a form of retaliatory conduct prohibited
under subdivision (d). This subdivision shall in no way limit the
definition of retaliatory conduct prohibited under this section.
(f) This section does not limit in any way the exercise by the
lessor of the lessor’s rights under any lease or agreement or any
law pertaining to the hiring of property or the lessor’s right to do
any of the acts described in subdivision (a) or (d) for any lawful
cause. Any waiver by a lessee of the lessee’s rights under this
section is void as contrary to public policy.
(g) Notwithstanding subdivisions (a) to (f), inclusive, a lessor
may recover possession of a dwelling and do any of the other acts
described in subdivision (a) within the period or periods prescribed
therein, or within subdivision (d), if the notice of termination, rent
increase, or other act, and any pleading or statement of issues in
an arbitration, if any, states the ground upon which the lessor, in
good faith, seeks to recover possession, increase rent, or do any
of the other acts described in subdivision (a) or (d). If the statement
is controverted, the lessor shall establish its truth at the trial or
other hearing.
(h) Any lessor or agent of a lessor who violates this section shall
be liable to the lessee in a civil action for all of the following:
1. The actual damages sustained by the lessee.

2. Punitive damages in an amount of not less than one hundred dollars ($100) nor more than two thousand dollars ($2,000) for each retaliatory act where the lessor or agent has been guilty of fraud, oppression, or malice with respect to that act.

(i) In any action brought for damages for retaliatory eviction, the court shall award reasonable attorney’s fees to the prevailing party if either party requests attorney’s fees upon the initiation of the action.

(j) The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

(k) A lessor does not violate subdivision (c) or (e) by complying with any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant.

(l) This section shall remain in effect until January 1, 2022, and as of that date is repealed.

SEC. 8. Section 1942.5 of the Civil Code, as added by Section 7 of Chapter 37 of the Statutes of 2020, is amended to read:

1942.5. (a) If the lessor retaliates against the lessee because of the exercise by the lessee of the lessee’s rights under this chapter or because of the lessee’s complaint to an appropriate agency as to tenability of a dwelling, and if the lessee of a dwelling is not in default as to the payment of rent, the lessor may not recover possession of a dwelling in any action or proceeding, cause the lessee to quit involuntarily, increase the rent, or decrease any services within 180 days of any of the following:

(1) After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, has provided notice of a suspected bed bug infestation, or has made an oral complaint to the lessor regarding tenability.

(2) After the date upon which the lessee, in good faith, has filed a written complaint, or an oral complaint which is registered or otherwise recorded in writing, with an appropriate agency, of which the lessor has notice, for the purpose of obtaining correction of a condition relating to tenability.

(3) After the date of an inspection or issuance of a citation, resulting from a complaint described in paragraph (2) of which the lessor did not have notice.
(4) After the filing of appropriate documents commencing a judicial or arbitration proceeding involving the issue of tenantability.

(5) After entry of judgment or the signing of an arbitration award, if any, when in the judicial proceeding or arbitration the issue of tenantability is determined adversely to the lessor.

In each instance, the 180-day period shall run from the latest applicable date referred to in paragraphs (1) to (5), inclusive.

(b) A lessee may not invoke subdivision (a) more than once in any 12-month period.

(c) To report, or to threaten to report, the lessee or individuals known to the landlord to be associated with the lessee to immigration authorities is a form of retaliatory conduct prohibited under subdivision (a). This subdivision shall in no way limit the definition of retaliatory conduct prohibited under this section.

(d) Notwithstanding subdivision (a), it is unlawful for a lessor to increase rent, decrease services, cause a lessee to quit involuntarily, bring an action to recover possession, or threaten to do any of those acts, for the purpose of retaliating against the lessee because the lessee has lawfully organized or participated in a lessees’ association or an organization advocating lessees’ rights or has lawfully and peaceably exercised any rights under the law.

In an action brought by or against the lessee pursuant to this subdivision, the lessee shall bear the burden of producing evidence that the lessor’s conduct was, in fact, retaliatory.

(e) To report, or to threaten to report, the lessee or individuals known to the landlord to be associated with the lessee to immigration authorities is a form of retaliatory conduct prohibited under subdivision (d). This subdivision shall in no way limit the definition of retaliatory conduct prohibited under this section.

(f) This section does not limit in any way the exercise by the lessor of the lessor’s rights under any lease or agreement or any law pertaining to the hiring of property or the lessor’s right to do any of the acts described in subdivision (a) or (d) for any lawful cause. Any waiver by a lessee of the lessee’s rights under this section is void as contrary to public policy.

(g) Notwithstanding subdivisions (a) to (f), inclusive, a lessor may recover possession of a dwelling and do any of the other acts described in subdivision (a) within the period or periods prescribed therein, or within subdivision (d), if the notice of termination, rent
increase, or other act, and any pleading or statement of issues in
an arbitration, if any, states the ground upon which the lessor, in
good faith, seeks to recover possession, increase rent, or do any
of the other acts described in subdivision (a) or (d). If the statement
is controverted, the lessor shall establish its truth at the trial or
other hearing.
(h) Any lessor or agent of a lessor who violates this section shall
be liable to the lessee in a civil action for all of the following:
(1) The actual damages sustained by the lessee.
(2) Punitive damages in an amount of not less than one hundred
dollars ($100) nor more than two thousand dollars ($2,000) for
each retaliatory act where the lessor or agent has been guilty of
fraud, oppression, or malice with respect to that act.
(i) In any action brought for damages for retaliatory eviction,
the court shall award reasonable attorney’s fees to the prevailing
party if either party requests attorney’s fees upon the initiation of
the action.
(j) The remedies provided by this section shall be in addition
to any other remedies provided by statutory or decisional law.
(k) A lessor does not violate subdivision (c) or (e) by complying
with any legal obligation under any federal government program
that provides for rent limitations or rental assistance to a qualified
tenant.
(l) This section shall become operative on January 1, 2022.

SEC. 9. Section 1942.5.5 is added to the Civil Code, to read:
1942.5.5. A landlord shall not, with respect to a tenant who
has COVID-19 rental debt, as defined in Section 1179.02 of the
Code of Civil Procedure, do any of the following:
(1) Charge a tenant, or attempt to collect from a tenant, fees
assessed for late payment of COVID-19 rental debt or interest on
COVID-19 rental debt.
(2) Increase fees charged to the tenant or charge the tenant fees
for services previously provided by the landlord without charge.
(3) Provide different terms or conditions of tenancy or withhold
a service or amenity based on whether a tenant has COVID-19
rental debt.
(4) Harass, threaten, or seek to intimidate a tenant in order to
obtain a tenant’s payment or agreement to pay any COVID-19
rental debt.
(5) Terminate a tenancy, or threaten to terminate a tenancy, in retaliation against a tenant for having COVID-19 rental debt.

SEC. 10. Section 2924.15 of the Civil Code, as amended by Section 11 of Chapter 37 of the Statutes of 2020, is amended to read:

2924.15. (a) Unless otherwise provided, paragraph (5) of subdivision (a) of Section 2924, and Sections 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18 shall apply only to a first lien mortgage or deed of trust that meets either of the following criteria:

(1) (A) The first lien mortgage or deed of trust is secured by owner-occupied residential real property containing no more than four dwelling units.

(B) For purposes of this paragraph, “owner-occupied” means that the property is the principal residence of the borrower and is security for a loan made for personal, family, or household purposes.

(2) The first lien mortgage or deed of trust is secured by residential real property that is occupied by a tenant, contains no more than four dwelling units, and meets all of the conditions described in subparagraph (B).

(A) For the purposes of this paragraph:

(i) “Applicable lease” means a lease entered pursuant to an arm’s length transaction before, and in effect on, March 4, 2020.

(ii) “Arm’s length transaction” means a lease entered into in good faith and for valuable consideration that reflects the fair market value in the open market between informed and willing parties.

(iii) “Occupied by a tenant” means that the property is the principal residence of a tenant.

(B) To meet the conditions of this subdivision, subparagraph, a first lien mortgage or deed of trust shall have all of the following characteristics:

(i) The property is owned by an individual who owns no more than three residential real properties, or by one or more individuals who together own no more than three residential real properties, each of which contains no more than four dwelling units.

(ii) The property is occupied by a tenant pursuant to an applicable lease.
(iii) A tenant occupying the property is unable to pay rent due to a reduction in income resulting from the novel coronavirus.

(C) Relief shall be available pursuant to subdivision (a) of Section 2924 and Sections 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18 for so long as the property remains occupied by a tenant pursuant to a lease entered in an arm’s length transaction.

(b) This section shall remain in effect until January 1, 2023, and as of that date is repealed.

SEC. 11. Section 2924.15 of the Civil Code, as added by Section 12 of Chapter 37 of the Statutes of 2020, is amended to read:

2924.15. (a) Unless otherwise provided, paragraph (5) of subdivision (a) of Section 2924 and Sections 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18 shall apply only to a first lien mortgage or deed of trust that meets either of the following conditions:

(1) (A) The first lien mortgage or deed of trust is secured by owner-occupied residential real property containing no more than four dwelling units.

(b) As used in this section, (B) For purposes of this paragraph, “owner-occupied” means that the property is the principal residence of the borrower and is security for a loan made for personal, family, or household purposes.

(2) The first lien mortgage or deed of trust is secured by residential real property that is occupied by a tenant and that contains no more than four dwelling units and meets all of the conditions described in subparagraph (B) and one of the conditions described in subparagraph (C).

(A) For purposes of this paragraph:

(i) “Applicable lease” means a lease entered pursuant to an arm’s length transaction before, and in effect on, March 4, 2020.

(ii) “Arm’s length transaction” means a lease entered into in good faith and for valuable consideration that reflects the fair market value in the open market between informed and willing parties.

(iii) “Occupied by a tenant” means that the property is the principal residence of a tenant.
(B) To meet the conditions of this paragraph, a first lien mortgage or deed of trust shall have all of the following characteristics:

(i) The property is owned by an individual who owns no more than three residential real properties, each of which contains no more than four dwelling units.

(ii) The property shall have been occupied by a tenant pursuant to an applicable lease.

(iii) A tenant occupying the property shall have been unable to pay rent due to a reduction in income resulting from the novel coronavirus.

(C) For a first lien mortgage or deed of trust to meet the conditions of this paragraph, the borrower shall satisfy one of the following characteristics:

(i) The borrower has been approved in writing for a first lien loan modification or other foreclosure prevention alternative.

(ii) The borrower submits a completed application for a first lien loan modification before January 1, 2023, and, as of January 1, 2023, either the mortgage servicer has not yet determined whether the applicant is eligible for a first lien loan modification, or the appeal period for the mortgage servicer’s denial of the application has not yet expired.

(D) Relief shall be available pursuant to subdivision (a) of Section 2924 and Sections 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18 for so long as the property remains occupied by a tenant pursuant to a lease entered in an arm’s length transaction.

(b) This section shall become operative on January 1, 2023.

SEC. 12. Section 116.223 of the Code of Civil Procedure is amended to read:

116.223. (a) The Legislature hereby finds and declares as follows:

(1) There is anticipated to be an unprecedented number of claims arising out of nonpayment of residential rent that occurred between March 1, 2020, and January 31, 2021, related to the COVID-19 pandemic.

(2) These disputes are of special importance to the parties and of significant social and economic consequence collectively as the
people of the State of California grapple with the health, economic, and social impacts of the COVID-19 pandemic.

(3) It is essential that the parties have access to a judicial forum to resolve these disputes expeditiously, inexpensively, and fairly.

(4) It is the intent of the Legislature that landlords of residential real property and their tenants have the option to litigate disputes regarding rent which is unpaid for the time period between March 1, 2020, and December 31, 2021, in the small claims court.

It is the intent of the Legislature that the jurisdictional limits of the small claims court not apply to these disputes over COVID-19 rental debt.

(b) (1) Notwithstanding paragraph (1) of subdivision (a) Section 116.220, Section 116.221, or any other law, the small claims court has jurisdiction in any action for recovery of COVID-19 rental debt, as defined in Section 1179.02, and any defenses thereto, regardless of the amount demanded.

(2) In an action described in paragraph (1), the court shall reduce the damages awarded for any amount of COVID-19 rental debt sought by payments made to the landlord to satisfy the COVID-19 rental debt, including payments by the tenant, rental assistance programs, or another third party pursuant to paragraph (3) of subdivision (a) of Section 1947.3 of the Civil Code. If the landlord refused to accept payments on behalf of the tenant from any governmental or private entity, or refused to cooperate with the tenant’s efforts to obtain rental assistance from any governmental or private entity, the damages awarded shall also be reduced by the amount of payments refused.

(3) An action to recover COVID-19 rental debt, as defined in Section 1179.02, brought pursuant to this subdivision shall not be commenced before March 1, 2021, January 1, 2022, or before the end of a local jurisdiction’s repayment period, whichever is later.

(c) Any claim for recovery of COVID-19 rental debt, as defined in Section 1179.02, shall not be subject to Section 116.231, notwithstanding the fact that a landlord of residential rental property may have brought two or more small claims actions in which the amount demanded exceeded two thousand five hundred dollars ($2,500) in any calendar year.

(d) This section shall remain in effect until February 1, 2025, January 1, 2026, and as of that date is repealed.
SEC. 13. Section 1161 of the Code of Civil Procedure, as amended by Section 15 of Chapter 37 of the Statutes of 2020, is amended to read:

1161. A tenant of real property, for a term less than life, or the executor or administrator of the tenant’s estate heretofore qualified and now acting or hereafter to be qualified and act, is guilty of unlawful detainer:

1. When the tenant continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to the tenant; provided the expiration is of a nondefault nature however brought about without the permission of the landlord, or the successor in estate of the landlord, if applicable; including the case where the person to be removed became the occupant of the premises as a servant, employee, agent, or licensee and the relation of master and servant, or employer and employee, or principal and agent, or licensor and licensee, has been lawfully terminated or the time fixed for occupancy by the agreement between the parties has expired; but nothing in this subdivision shall be construed as preventing the removal of the occupant in any other lawful manner; but in case of a tenancy at will, it shall first be terminated by notice, as prescribed in the Civil Code.

2. When the tenant continues in possession, in person or by subtenant, without the permission of the landlord, or the successor in estate of the landlord, if applicable, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days’ notice, excluding Saturdays and Sundays and other judicial holidays, in writing, requiring its payment, stating the amount that is due, the name, telephone number, and address of the person to whom the rent payment shall be made, and, if payment may be made personally, the usual days and hours that person will be available to receive the payment (provided that, if the address does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name and address provided, the notice or rent is deemed received by the owner on the date posted, if the tenant can show proof of mailing to the name and address provided by the owner), or the number of an account in a financial institution into which the rental payment may be made, and the name and street address of the institution (provided that the
institution is located within five miles of the rental property), or
if an electronic funds transfer procedure has been previously
established, that payment may be made pursuant to that procedure,
or possession of the property, shall have been served upon the
tenant and if there is a subtenant in actual occupation of the
premises, also upon the subtenant.
The notice may be served at any time within one year after the
rent becomes due. In all cases of tenancy upon agricultural lands,
if the tenant has held over and retained possession for more than
60 days after the expiration of the term without any demand of
possession or notice to quit by the landlord or the successor in
estate of the landlord, if applicable, the tenant shall be deemed to
be holding by permission of the landlord or successor in estate of
the landlord, if applicable, and shall be entitled to hold under the
terms of the lease for another full year, and shall not be guilty of
an unlawful detainer during that year, and the holding over for that
period shall be taken and construed as a consent on the part of a
tenant to hold for another year.
An unlawful detainer action under this paragraph shall be subject
to the COVID-19 Tenant Relief Act of 2020 (Chapter 5
(commencing with Section 1179.01)) if the default in the payment
of rent is based upon the COVID-19 rental debt.
3. When the tenant continues in possession, in person or by
subtenant, after a neglect or failure to perform other conditions or
covenants of the lease or agreement under which the property is
held, including any covenant not to assign or sublet, than the one
for the payment of rent, and three days’ notice, excluding Saturdays
and Sundays and other judicial holidays, in writing, requiring the
performance of those conditions or covenants, or the possession
of the property, shall have been served upon the tenant, and if there
is a subtenant in actual occupation of the premises, also, upon the
subtenant. Within three days, excluding Saturdays and Sundays
and other judicial holidays, after the service of the notice, the
tenant, or any subtenant in actual occupation of the premises, or
any mortgagee of the term, or other person interested in its
continuance, may perform the conditions or covenants of the lease
or pay the stipulated rent, as the case may be, and thereby save the
lease from forfeiture; provided, if the conditions and covenants of
the lease, violated by the lessee, cannot afterward be performed,
then no notice, as last prescribed herein, need be given to the lessee
or the subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to a subtenant or held by a servant, employee, agent, or licensee, in case of that person's unlawful detention of the premises underlet to or held by that person.

An unlawful detainer action under this paragraph shall be subject to the COVID-19 Tenant Relief Act of 2020 (Chapter 5 (commencing with Section 1179.01)) if the neglect or failure to perform other conditions or covenants of the lease or agreement is based upon the COVID-19 rental debt.

4. Any tenant, subtenant, or executor or administrator of that person's estate heretofore qualified and now acting, or hereafter to be qualified and act, assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of the lease, or maintaining, committing, or permitting the maintenance or commission of a nuisance upon the demised premises or using the premises for an unlawful purpose, thereby terminates the lease, and the landlord, or the landlord's successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of the demised premises under this chapter. For purposes of this subdivision, a person who commits or maintains a public nuisance as described in Section 3482.8 of the Civil Code, or who commits an offense described in subdivision (c) of Section 3485 of the Civil Code, or subdivision (c) of Section 3486 of the Civil Code, or uses the premises to further the purpose of that offense shall be deemed to have committed a nuisance upon the premises.

5. When the tenant gives written notice as provided in Section 1946 of the Civil Code of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender which is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice, without the permission of the landlord, or the successor in estate of the landlord, if applicable.

6. As used in this section:
'COVID-19 rental debt' has the same meaning as defined in Section 1179.02.
“Tenant” includes any person who hires real property except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.

7. This section shall remain in effect until February 1, 2025, January 1, 2026, and as of that date is repealed.

SEC. 14. Section 1161 of the Code of Civil Procedure, as added by Section 16 of Chapter 37 of the Statutes of 2020, is amended to read:

1161. A tenant of real property, for a term less than life, or the executor or administrator of the tenant’s estate heretofore qualified and now acting or hereafter to be qualified and act, is guilty of unlawful detainer:

1. When the tenant continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to the tenant; provided the expiration is of a nondefault nature however brought about without the permission of the landlord, or the successor in estate of the landlord, if applicable; including the case where the person to be removed became the occupant of the premises as a servant, employee, agent, or licensee and the relation of master and servant, or employer and employee, or principal and agent, or licensor and licensee, has been lawfully terminated or the time fixed for occupancy by the agreement between the parties has expired; but nothing in this subdivision shall be construed as preventing the removal of the occupant in any other lawful manner; but in case of a tenancy at will, it shall first be terminated by notice, as prescribed in the Civil Code.

2. When the tenant continues in possession, in person or by subtenant, without the permission of the landlord, or the successor in estate of the landlord, if applicable, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days’ notice, excluding Saturdays and Sundays and other judicial holidays, in writing, requiring its payment, stating the amount that is due, the name, telephone number, and address of the person to whom the rent payment shall be made, and, if payment may be made personally, the usual days and hours that person will be available to receive the payment (provided that, if the address does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name and address provided, the
notice or rent is deemed received by the owner on the date posted, if the tenant can show proof of mailing to the name and address provided by the owner), or the number of an account in a financial institution into which the rental payment may be made, and the name and street address of the institution (provided that the institution is located within five miles of the rental property), or if an electronic funds transfer procedure has been previously established, that payment may be made pursuant to that procedure, or possession of the property, shall have been served upon the tenant and if there is a subtenant in actual occupation of the premises, also upon the subtenant.

The notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, if the tenant has held over and retained possession for more than 60 days after the expiration of the term without any demand of possession or notice to quit by the landlord or the successor in estate of the landlord, if applicable, the tenant shall be deemed to be holding by permission of the landlord or successor in estate of the landlord, if applicable, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during that year, and the holding over for that period shall be taken and construed as a consent on the part of a tenant to hold for another year.

3. When the tenant continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, excluding Saturdays and Sundays and other judicial holidays, in writing, requiring the performance of those conditions or covenants, or the possession of the property, shall have been served upon the tenant, and if there is a subtenant in actual occupation of the premises, also, upon the subtenant. Within three days, excluding Saturdays and Sundays and other judicial holidays, after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture; provided, if the conditions and covenants of the lease, violated by the lessee, cannot afterward be performed,
then no notice, as last prescribed herein, need be given to the lessee or the subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to a subtenant or held by a servant, employee, agent, or licensee, in case of that person’s unlawful detention of the premises underlet to or held by that person.

4. Any tenant, subtenant, or executor or administrator of that person’s estate heretofore qualified and now acting, or hereafter to be qualified and act, assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of the lease, or maintaining, committing, or permitting the maintenance or commission of a nuisance upon the demised premises or using the premises for an unlawful purpose, thereby terminates the lease, and the landlord, or the landlord’s successor in estate, shall upon service of three days’ notice to quit upon the person or persons in possession, be entitled to restitution of possession of the demised premises under this chapter. For purposes of this subdivision, a person who commits or maintains a public nuisance as described in Section 3482.8 of the Civil Code, or who commits an offense described in subdivision (c) of Section 3485 of the Civil Code, or subdivision (c) of Section 3486 of the Civil Code, or uses the premises to further the purpose of that offense shall be deemed to have committed a nuisance upon the premises.

5. When the tenant gives written notice as provided in Section 1946 of the Civil Code of the tenant’s intention to terminate the hiring of the real property, or makes a written offer to surrender which is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice, without the permission of the landlord, or the successor in estate of the landlord, if applicable.

6. As used in this section, “tenant” includes any person who hires real property except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.

7. This section shall become operative on January 1, 2025.
SEC. 15. Section 1161.2 of the Code of Civil Procedure, as amended by Section 17 of Chapter 37 of the Statutes of 2020, is amended to read:

1161.2. (a) (1) The clerk shall allow access to limited civil case records filed under this chapter, including the court file, index, and register of actions, only as follows:

(A) To a party to the action, including a party’s attorney.

(B) To a person who provides the clerk with the names of at least one plaintiff and one defendant and the address of the premises, including the apartment or unit number, if any.

(C) To a resident of the premises who provides the clerk with the name of one of the parties or the case number and shows proof of residency.

(D) To a person by order of the court, which may be granted ex parte, on a showing of good cause.

(E) Except as provided in subparagraph (G), to any person by order of the court if judgment is entered for the plaintiff after trial more than 60 days since the filing of the complaint. The court shall issue the order upon issuing judgment for the plaintiff.

(F) Except as provided in subparagraph (G), to any other person 60 days after the complaint has been filed if judgment against all defendants has been entered for the plaintiff prevails in the action within 60 days of the filing of the complaint, in which case the clerk shall allow access to any court records in the action. If a default or default judgment is set aside more than 60 days after the complaint has been filed, this section shall apply as if the complaint had been filed on the date the default or default judgment is set aside.

(G) (i) In the case of a complaint involving residential property based on Section 1161a as indicated in the caption of the complaint, as required in subdivision (c) of Section 1166, to any other person, if 60 days have elapsed since the complaint was filed with the court, and, as of that date, judgment against all defendants has been entered for the plaintiff, after a trial.

(ii) Subparagraphs (E) and (F) shall not apply if the plaintiff filed the action between March 4, 2020, and December 31, 2021, and the action is based on an alleged default in the payment of rent.
(2) This section shall not be construed to prohibit the court from
issuing an order that bars access to the court record in an action
filed under this chapter if the parties to the action so stipulate.
(b) (1) For purposes of this section, “good cause” includes, but
is not limited to, both of the following:
(A) The gathering of newsworthy facts by a person described
in Section 1070 of the Evidence Code.
(B) The gathering of evidence by a party to an unlawful detainer
action solely for the purpose of making a request for judicial notice
pursuant to subdivision (d) of Section 452 of the Evidence Code.
(2) It is the intent of the Legislature that a simple procedure be
established to request the ex parte order described in subparagraph
(D) of paragraph (1) of subdivision (a).
(c) Upon the filing of a case so restricted, the court clerk shall
mail notice to each defendant named in the action. The notice shall
be mailed to the address provided in the complaint. The notice
shall contain a statement that an unlawful detainer complaint
(eviction action) has been filed naming that party as a defendant,
and that access to the court file will be delayed for 60 days except
to a party, an attorney for one of the parties, or any other person
who (1) provides to the clerk the names of at least one plaintiff
and one defendant in the action and provides to the clerk the
address, including any applicable apartment, unit, or space number,
of the subject premises, or (2) provides to the clerk the name of
one of the parties in the action or the case number and can establish
through proper identification that the person lives at the subject
premises. The notice shall also contain a statement that access to
the court index, register of actions, or other records is not permitted
until 60 days after the complaint is filed, except pursuant to an
order upon a showing of good cause for access. The notice shall
contain on its face the following information:
(1) The name and telephone number of the county bar
association.
(2) The name and telephone number of any entity that requests
inclusion on the notice and demonstrates to the satisfaction of the
court that it has been certified by the State Bar of California as a
lawyer referral service and maintains a panel of attorneys qualified
in the practice of landlord-tenant law pursuant to the minimum
standards for a lawyer referral service established by the State Bar
of California and Section 6155 of the Business and Professions Code.

(3) The following statement:

“The State Bar of California certifies lawyer referral services in California and publishes a list of certified lawyer referral services organized by county. To locate a lawyer referral service in your county, go to the State Bar’s internet website at www.calbar.ca.gov or call 1-866-442-2529.”

(4) The name and telephone number of an office or offices funded by the federal Legal Services Corporation or qualified legal services projects that receive funds distributed pursuant to Section 6216 of the Business and Professions Code that provide legal services to low-income persons in the county in which the action is filed. The notice shall state that these telephone numbers may be called for legal advice regarding the case. The notice shall be issued between 24 and 48 hours of the filing of the complaint, excluding weekends and holidays. One copy of the notice shall be addressed to “all occupants” and mailed separately to the subject premises. The notice shall not constitute service of the summons and complaint.

(d) Notwithstanding any other law, the court shall charge an additional fee of fifteen dollars ($15) for filing a first appearance by the plaintiff. This fee shall be added to the uniform filing fee for actions filed under this chapter.

(e) This section does not apply to a case that seeks to terminate a mobilehome park tenancy if the statement of the character of the proceeding in the caption of the complaint clearly indicates that the complaint seeks termination of a mobilehome park tenancy.

(f) This section does not alter any provision of the Evidence Code.

(g) This section shall remain in effect until January 1, 2022, and as of that date is repealed.

SEC. 16. Section 1161.2 of the Code of Civil Procedure, as added by Section 18 of Chapter 37 of the Statutes of 2020, is amended to read:

1161.2. (a) (1) The clerk shall allow access to limited civil case records filed under this chapter, including the court file, index, and register of actions, only as follows:
(A) To a party to the action, including a party's attorney.

(B) To a person who provides the clerk with the names of at least one plaintiff and one defendant and the address of the premises, including the apartment or unit number, if any.

(C) To a resident of the premises who provides the clerk with the name of one of the parties or the case number and shows proof of residency.

(D) To a person by order of the court, which may be granted ex parte, on a showing of good cause.

(E) To any person by order of the court if judgment is entered for the plaintiff after trial more than 60 days since the filing of the complaint. The court shall issue the order upon issuing judgment for the plaintiff.

(F) Except as provided in subparagraph (G), to any other person 60 days after the complaint has been filed if judgment against all defendants has been entered for the plaintiff prevails in the action within 60 days of the filing of the complaint, in which case the clerk shall allow access to any court records in the action. If a default or default judgment is set aside more than 60 days after the complaint has been filed, this section shall apply as if the complaint had been filed on the date the default or default judgment is set aside.

(G) In the case of a complaint involving residential property based on Section 1161a as indicated in the caption of the complaint, as required in subdivision (c) of Section 1166, to any other person, if 60 days have elapsed since the complaint was filed with the court, and, as of that date, judgment against all defendants has been entered for the plaintiff, after a trial.

(2) This section shall not be construed to prohibit the court from issuing an order that bars access to the court record in an action filed under this chapter if the parties to the action so stipulate.

(b) (1) For purposes of this section, “good cause” includes, but is not limited to, both of the following:

(A) The gathering of newsworthy facts by a person described in Section 1070 of the Evidence Code.

(B) The gathering of evidence by a party to an unlawful detainer action solely for the purpose of making a request for judicial notice pursuant to subdivision (d) of Section 452 of the Evidence Code.
(2) It is the intent of the Legislature that a simple procedure be established to request the ex parte order described in subparagraph (D) of paragraph (1) of subdivision (a).

(c) Upon the filing of a case so restricted, the court clerk shall mail notice to each defendant named in the action. The notice shall be mailed to the address provided in the complaint. The notice shall contain a statement that an unlawful detainer complaint (eviction action) has been filed naming that party as a defendant, and that access to the court file will be delayed for 60 days except to a party, an attorney for one of the parties, or any other person who (1) provides to the clerk the names of at least one plaintiff and one defendant in the action and provides to the clerk the address, including any applicable apartment, unit, or space number, of the subject premises, or (2) provides to the clerk the name of one of the parties in the action or the case number and can establish through proper identification that the person lives at the subject premises. The notice shall also contain a statement that access to the court index, register of actions, or other records is not permitted until 60 days after the complaint is filed, except pursuant to an order upon a showing of good cause for access. The notice shall contain on its face the following information:

(1) The name and telephone number of the county bar association.

(2) The name and telephone number of any entity that requests inclusion on the notice and demonstrates to the satisfaction of the court that it has been certified by the State Bar of California as a lawyer referral service and maintains a panel of attorneys qualified in the practice of landlord-tenant law pursuant to the minimum standards for a lawyer referral service established by the State Bar of California and Section 6155 of the Business and Professions Code.

(3) The following statement:

“The State Bar of California certifies lawyer referral services in California and publishes a list of certified lawyer referral services organized by county. To locate a lawyer referral service in your county, go to the State Bar’s internet website at www.calbar.ca.gov or call 1-866-442-2529.”

(4) The name and telephone number of an office or offices funded by the federal Legal Services Corporation or qualified legal services projects that receive funds distributed pursuant to Section
6216 of the Business and Professions Code that provide legal services to low-income persons in the county in which the action is filed. The notice shall state that these telephone numbers may be called for legal advice regarding the case. The notice shall be issued between 24 and 48 hours of the filing of the complaint, excluding weekends and holidays. One copy of the notice shall be addressed to “all occupants” and mailed separately to the subject premises. The notice shall not constitute service of the summons and complaint.

(d) Notwithstanding any other law, the court shall charge an additional fee of fifteen dollars ($15) for filing a first appearance by the plaintiff. This fee shall be added to the uniform filing fee for actions filed under this chapter.

(e) This section does not apply to a case that seeks to terminate a mobilehome park tenancy if the statement of the character of the proceeding in the caption of the complaint clearly indicates that the complaint seeks termination of a mobilehome park tenancy.

(f) This section does not alter any provision of the Evidence Code.

(g) This section shall become operative on February 1, 2021.

January 1, 2022.

SEC. 17. Section 1161.2.5 of the Code of Civil Procedure, as added by Section 19 of Chapter 37 of the Statutes of 2020, is amended to read:

1161.2.5. (a) (1) Except as provided in Section 1161.2, the clerk shall allow access to civil case records for actions seeking recovery of COVID-19 rental debt, as defined in Section 1179.02, including the court file, index, and register of actions, only as follows:

(A) To a party to the action, including a party’s attorney.

(B) To a person who provides the clerk with the names of at least one plaintiff and one defendant.

(C) To a resident of the premises for which the COVID-19 rental debt is owed who provides the clerk with the name of one of the parties or the case number and shows proof of residency.

(D) To a person by order of the court, which may be granted ex parte, on a showing of good cause.

(2) To give the court notice that access to the records in an action is limited, any complaint or responsive pleading in a case subject to this section shall include on either the first page of the pleading
or a cover page, the phrase “ACTION FOR RECOVERY OF COVID-19 RENTAL DEBT AS DEFINED UNDER SECTION 1179.02” in bold, capital letters, in 12 point or larger font.

(b) (1) For purposes of this section, “good cause” includes, but is not limited to, both of the following:

(A) The gathering of newsworthy facts by a person described in Section 1070 of the Evidence Code.

(B) The gathering of evidence by a party to a civil action solely for the purpose of making a request for judicial notice pursuant to subdivision (d) of Section 452 of the Evidence Code.

(2) It is the intent of the Legislature that a simple procedure be established to request the ex parte order described in subparagraph (D) of paragraph (1) of subdivision (a).

(c) This section does not alter any provision of the Evidence Code.

(d) This section shall remain in effect until January 1, 2022, and as of that date is repealed.

SEC. 18. Section 1179.02 of the Code of Civil Procedure is amended to read:

1179.02. For purposes of this chapter:

(a) “Covered time period” means the time period between March 1, 2020, and January 31, December 31, 2021.

(b) “COVID-19-related financial distress” means any of the following:

(1) Loss of income caused by the COVID-19 pandemic.

(2) Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.

(3) Increased expenses directly related to the health impact of the COVID-19 pandemic.

(4) Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit a tenant’s ability to earn income.

(5) Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.

(6) Other circumstances related to the COVID-19 pandemic that have reduced a tenant’s income or increased a tenant’s expenses.
(c) “COVID-19 rental debt” means unpaid rent or any other unpaid financial obligation of a tenant under the tenancy that came due during the covered time period.

(d) “Declaration of COVID-19-related financial distress” means the following written statement:

I am currently unable to pay my rent or other financial obligations under the lease in full because of one or more of the following:

2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to health impacts of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.
5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
6. Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

Any public assistance, including unemployment insurance, pandemic unemployment assistance, state disability insurance (SDI), or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of income and/or increased expenses.

Signed under penalty of perjury:

Dated:

(e) “Landlord” includes all of the following or the agent of any of the following:

(1) An owner of residential real property.
(2) An owner of a residential rental unit.
(3) An owner of a mobilehome park.
(4) An owner of a mobilehome park space or lot.

(f) “Protected time period” means the time period between March 1, 2020, and August 31, 2020.

(g) “Rental payment” means rent or any other financial obligation of a tenant under the tenancy.

(h) “Tenant” means any natural person who hires real property except any of the following:
(1) Tenants of commercial property, as defined in subdivision (c) of Section 1162 of the Civil Code.
(2) Those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.
   (i) "Transition time period" means the time period between September 1, 2020, and January 31, December 31, 2021.
SEC. 19. Section 1179.02.5 of the Code of Civil Procedure is amended to read:
   1179.02.5. (a) For purposes of this section:
   (1) (A) "High-income tenant" means a tenant with an annual household income of 130 percent of the median income, as published by the Department of Housing and Community Development in the Official State Income Limits for 2020, for the county in which the residential rental property is located.
           (B) For purposes of this paragraph, all lawful occupants of the residential rental unit, including minor children, shall be considered in determining household size.
           (C) "High-income tenant" shall not include a tenant with a household income of less than one hundred thousand dollars ($100,000).
   (2) "Proof of income" means any of the following:
           (A) A tax return.
           (B) A W-2.
           (C) A written statement from a tenant’s employer that specifies the tenant’s income.
           (D) Pay stubs.
           (E) Documentation showing regular distributions from a trust, annuity, 401k, pension, or other financial instrument.
           (F) Documentation of court-ordered payments, including, but not limited to, spousal support or child support.
           (G) Documentation from a government agency showing receipt of public assistance benefits, including, but not limited to, social security, unemployment insurance, disability insurance, or paid family leave.
           (H) A written statement signed by the tenant that states the tenant’s income, including, but not limited to, a rental application.
(b) (1) This section shall apply only if the landlord has proof of income in the landlord’s possession before the service of the notice showing that the tenant is a high-income tenant.
(2) This section does not do any of the following:
(A) Authorize a landlord to demand proof of income from the tenant.

(B) Require the tenant to provide proof of income for the purposes of determining whether the tenant is a high-income tenant.

(C) (i) Entitle a landlord to obtain, or authorize a landlord to attempt to obtain, confidential financial records from a tenant’s employer, a government agency, financial institution, or any other source.

(ii) Confidential information described in clause (i) shall not constitute valid proof of income unless it was lawfully obtained by the landlord with the tenant’s consent during the tenant screening process.

(3) Paragraph (2) does not alter a party’s rights under Title 4 (commencing with Section 2016.010), Chapter 4 (commencing with Section 708.010) of Title 9, or any other law.

(c) A landlord may require a high-income tenant that is served a notice pursuant to subdivision (b) or (c) of Section 1179.03 to submit, in addition to and together with a declaration of COVID-19-related financial distress, documentation supporting the claim that the tenant has suffered COVID-19-related financial distress. Any form of objectively verifiable documentation that demonstrates the COVID-19-related financial distress the tenant has experienced is sufficient to satisfy the requirements of this subdivision, including the proof of income, as defined in subparagraphs (A) to (G), inclusive, of paragraph (2) of subdivision (a), a letter from an employer, or an unemployment insurance record.

(d) (1) A high-income tenant is required to comply with the requirements of subdivision (c) only if the landlord has included the following language on the notice served pursuant to subdivision (b) or (c) of Section 1179.03 in at least 12-point font:

“Proof of income on file with your landlord indicates that your household makes at least 130 percent of the median income for the county where the rental property is located, as published by the Department of Housing and Community Development in the Official State Income Limits for 2020. As a result, if you claim that you are unable to pay the amount demanded by this notice because you have suffered COVID-19-related financial distress, you are required to submit to your landlord documentation supporting your claim together with the completed declaration of
COVID-19-related financial distress provided with this notice. If you fail to submit this documentation together with your declaration of COVID-19-related financial distress, and you do not either pay the amount demanded in this notice or deliver possession of the premises back to your landlord as required by this notice, you will not be covered by the eviction protections enacted by the California Legislature as a result of the COVID-19 pandemic, and your landlord can begin eviction proceedings against you as soon as this 15-day notice expires.”

(2) A tenant shall not be considered a high-income tenant and shall not be required to comply with the requirements of subdivision (c) unless the landlord has included a copy of the proof of income described in paragraph (1) that demonstrates that the tenant qualifies as a high-income tenant with the notice served pursuant to subdivision (b) or (c) of Section 1179.03.

(c) A high-income tenant that fails to comply with subdivision (c) shall not be subject to the protections of subdivision (g) of Section 1179.03.

(f) (1) A landlord shall be required to plead compliance with this section in any unlawful detainer action based upon a notice that alleges that the tenant is a high-income tenant. If that allegation is contested, the landlord shall be required to submit to the court the proof of income upon which the landlord relied at the trial or other hearing, and the tenant shall be entitled to submit rebuttal evidence.

(2) If the court in an unlawful detainer action based upon a notice that alleges that the tenant is a high-income tenant determines that at the time the notice was served the landlord did not have proof of income establishing that the tenant is a high-income tenant, the court shall award attorney’s fees to the prevailing tenant.

SEC. 20. Section 1179.03 of the Code of Civil Procedure is amended to read:

1179.03. (a) (1) Any notice that demands payment of COVID-19 rental debt served pursuant to subdivision (e) of Section 798.56 of the Civil Code or paragraph (2) or (3) of Section 1161 shall be modified as required by this section. A notice which does not meet the requirements of this section, including by modifying or adding to the language of the notice, regardless of when the
notice was issued, shall not be sufficient to establish a cause of
action for unlawful detainer or a basis for default judgment.

(2) Any case based solely on a notice that demands payment of
COVID-19 rental debt served pursuant to subdivision (c) of Section
798.56 of the Civil Code or paragraph (2) or (3) of Section 1161
may be dismissed if the notice does not meet the requirements of
this section, regardless of when the notice was issued.

(3) Notwithstanding paragraphs (1) and (2), this section shall
have no effect if the landlord lawfully regained possession of the
property or obtained a judgment for possession of the property
before the operative date of this section.

(b) If the notice demands payment of rent that came due during
the protected time period, as defined in Section 1179.02, the notice
shall comply with all of the following:

(1) The time period in which the tenant may pay the amount
due or deliver possession of the property shall be no shorter than
15 days, excluding Saturdays, Sundays, and other judicial holidays.

(2) The notice shall set forth the amount of rent demanded and
the date each amount became due.

(3) The notice shall advise the tenant that the tenant cannot be
evicted for failure to comply with the notice if the tenant delivers
a signed declaration of COVID-19-related financial distress to the
landlord on or before the date that the notice to pay rent or quit or
notice to perform covenants or quit expires, by any of the methods
specified in subdivision (f).

(4) The notice shall include the following text in at least 12-point
font:

“NOTICE FROM THE STATE OF CALIFORNIA: If you are
unable to pay the amount demanded in this notice, and have
decreased income or increased expenses due to COVID-19, your
landlord will not be able to evict you for this missed payment if
you sign and deliver the declaration form included with your notice
to your landlord within 15 days, excluding Saturdays, Sundays,
and other judicial holidays, but you will still owe this money to
your landlord. If you do not sign and deliver the declaration within
this time period, you may lose the eviction protections available
to you. You must return this form to be protected. You should keep
a copy or picture of the signed form for your records.

You will still owe this money to your landlord and can be sued
for the money, but you cannot be evicted from your home if you
comply with these requirements. You do not need to enter into a repayment agreement or any other agreement with your landlord to have these protections. You should keep careful track of what you have paid and any amount you still owe to protect your rights and avoid future disputes. Failure to respond to this notice may result in an unlawful detainer action (eviction) being filed against you.

For information about legal resources that may be available to you, visit lawhelpca.org.”

(5) Any language that is altered or added to the notice provided in paragraph (4) shall be void and nonbinding as a matter of public policy.

(c) If the notice demands payment of rent that came due during the transition time period, as defined in Section 1179.02, the notice shall comply with all of the following:

(1) The time period in which the tenant may pay the amount due or deliver possession of the property shall be no shorter than 15 days, excluding Saturdays, Sundays, and other judicial holidays.

(2) The notice shall set forth the amount of rent demanded and the date each amount became due.

(3) The notice shall advise the tenant that the tenant will not be evicted for failure to comply with the notice, except as allowed by this chapter, if the tenant delivers a signed declaration of COVID-19-related financial distress to the landlord on or before the date the notice to pay rent or quit or notice to perform covenants or quit expires, by any of the methods specified in subdivision (f).

(4) The notice shall include the following text in at least 12-point font:

“NOTICE FROM THE STATE OF CALIFORNIA: If you are unable to pay the amount demanded in this notice, and have decreased income or increased expenses due to COVID-19, you may sign and deliver the declaration form included with your notice to your landlord within 15 days, excluding Saturdays, Sundays, and other judicial holidays, and your landlord will not be able to evict you for this missed payment so long as you make the minimum payment (see below). You will still owe this money to your landlord. You should keep a copy or picture of the signed form for your records.

If you provide the declaration form to your landlord as described above AND, on or before January 31, 2021, you
pay an amount that equals at least 25 percent of each rental payment that came due or will come due during the period between September 1, 2020, and January 31, December 31, 2021, that you were unable to pay as a result of decreased income or increased expenses due to COVID-19, your landlord cannot evict you. Your landlord may require you to submit a new declaration form for each rental payment that you do not pay that comes due between September 1, 2020, and January 31, December 31, 2021.

For example, if you provided a declaration form to your landlord regarding your decreased income or increased expenses due to COVID-19 that prevented you from making your rental payment in September and October of 2020, your landlord could not evict you if, on or before January 31, December 31, 2021, you made a payment equal to 25 percent of September’s and October’s rental payment (i.e., half a month’s rent). If you were unable to pay any of the rental payments that came due between September 1, 2020, and January 31, December 31, 2021, and you provided your landlord with the declarations in response to each 15-day notice your landlord sent to you during that time period, your landlord could not evict you if, on or before January 31, December 31, 2021, you paid your landlord an amount equal to 25 percent of all the rental payments due from September of 2020 through January December of 2021 (i.e., one and a quarter month’s rent).

You will still owe the full amount of the rent to your landlord, but you cannot be evicted from your home if you comply with these requirements. You should keep careful track of what you have paid and any amount you still owe to protect your rights and avoid future disputes. Failure to respond to this notice may result in an unlawful detainer action (eviction) being filed against you. For information about legal resources that may be available to you, visit lawhelpca.org.”

(d) An unsigned copy of a declaration of COVID-19-related financial distress shall accompany each notice delivered to a tenant to which subdivision (b) or (c) is applicable. If the landlord was required, pursuant to Section 1632 of the Civil Code, to provide a translation of the rental contract or agreement in the language in which the contract or agreement was negotiated, the landlord shall also provide the unsigned copy of a declaration of COVID-19-related financial distress to the tenant in the language in which the contract or agreement was negotiated. The Department
of Real Estate shall make available an official translation of the
text required by paragraph (4) of subdivision (b) and paragraph
(4) of subdivision (c), as it read on August 31, 2020, in the
languages specified in Section 1632 of the Civil Code by no later
than September 15, 2020. The Department of Real Estate shall
make available an official translation of the text required by
paragraph (4) of subdivision (c), as it read on the effective date
of the act that added this sentence, in the languages specified in
Section 1632 of the Civil Code, within 15 days of the effective date
of the act that added this sentence.

(e) If a tenant owes a COVID-19 rental debt to which both
subdivisions (b) and (c) apply, the landlord shall serve two separate
notices that comply with subdivisions (b) and (c), respectively.

(f) A tenant may deliver the declaration of COVID-19-related
financial distress to the landlord by any of the following methods:

(1) In person, if the landlord indicates in the notice an address
at which the declaration may be delivered in person.

(2) By electronic transmission, if the landlord indicates an email
address in the notice to which the declaration may be delivered.

(3) Through United States mail to the address indicated by the
landlord in the notice. If the landlord does not provide an address
pursuant to subparagraph (1), then it shall be conclusively
presumed that upon the mailing of the declaration by the tenant to
the address provided by the landlord, the declaration is deemed
received by the landlord on the date posted, if the tenant can show
proof of mailing to the address provided by the landlord.

(4) Through any of the same methods that the tenant can use to
deliver the payment pursuant to the notice if delivery of the
declaration by that method is possible.

(g) Except as provided in Section 1179.02.5, the following shall
apply to a tenant who, within 15 days of service of the notice
specified in subdivision (b) or (c), excluding Saturdays, Sundays,
and other judicial holidays, demanding payment of COVID-19
rental debt delivers a declaration of COVID-19-related financial
distress to the landlord by any of the methods provided in
subdivision (f):

(1) With respect to a notice served pursuant to subdivision (b),
the tenant shall not then or thereafter be deemed to be in default
with regard to that COVID-19 rental debt for purposes of
subdivision (e) of Section 798.56 of the Civil Code or paragraphs (2) and (3) of Section 1161.

(2) With respect to a notice served pursuant to subdivision (c), the following shall apply:

(A) Except as provided by subparagraph (B), the landlord may not initiate an unlawful detainer action before February 1, 2022.

(B) A tenant shall not be guilty of unlawful detainer, now or in the future, based upon nonpayment of COVID-19 rental debt that came due during the transition period if, on or before January 31, 2021, at any point before the end of the transition period, the tenant tenders one or more payments that, when taken together, are of an amount equal to or not less than 25 percent of each transition period rental payment demanded in one or more notices served pursuant to subsection (c) and for which the tenant complied with this subdivision by timely delivering a declaration of COVID-19-related financial distress to the landlord.

(h) (1) (A) Within the time prescribed in Section 1167, a tenant shall be permitted to file with the court a signed declaration of COVID-19-related financial distress, as defined in subdivision (d) of Section 1179.02. If the case is based on multiple notices, one declaration shall be sufficient for purposes of this subdivision.

(B) If the tenant files a signed declaration of COVID-19-related financial distress with the court pursuant to this subdivision, the court shall dismiss the case, pursuant to paragraph (2), if the court finds, after a noticed hearing on the matter, that the tenant’s failure to return provide a declaration of COVID-19-related financial distress within the time required by subdivision (e) (f) was the result of mistake, inadvertence, surprise, or excusable neglect, as those terms have been interpreted under subdivision (b) of Section 473.

(C) The noticed hearing required by this paragraph shall be held with not less than five days’ notice and not more than 10 days’ notice, to be given by the court, and may be held separately or in conjunction with any regularly noticed hearing in the case, other than a trial.

(2) If the court dismisses the case pursuant to paragraph (1), that dismissal shall be without prejudice as follows:
(A) If the case was based in whole or in part upon a notice served pursuant to subdivision (b), the court shall dismiss any cause of action based on the notice served pursuant to subdivision (b).

(B) Before January 1, 2022, if the case is based in whole or in part on a notice served pursuant to subdivision (c), the court shall dismiss any cause of action based on the notice served pursuant to subdivision (c).

(C) On or after January 1, 2022, if the case is based in whole or in part on a notice served pursuant to subdivision (c), the court shall dismiss any cause of action based upon the notice served pursuant to subdivision (c) if the tenant, within five days of the court’s order to do so, makes the payment required by subparagraph (B) of paragraph (1) of subdivision (g), provided that if the fifth day falls on a Saturday, Sunday, or judicial holiday the last day to pay shall be extended to the next court day.

(3) If the court dismisses the case pursuant to this subdivision, the tenant shall not be considered the prevailing party for purposes of Section 1032, any attorney’s fee provision appearing in contract or statute, or any other law.

(i) Notwithstanding any other law, a notice which is served pursuant to subdivision (b) or (c) that complies with the requirements of this chapter and subdivision (e) of Section 798.56 of the Civil Code or paragraphs (2) and (3) of Section 1161, as applicable, need not include specific language required by any ordinance, resolution, regulation, or administrative action adopted by a city, county, or city and county.

SEC. 21. Section 1179.03.5 of the Code of Civil Procedure is amended to read:

1179.03.5. (a) Before January 1, 2022, a court may not find a tenant guilty of an unlawful detainer unless it finds that one of the following applies:

(1) The tenant was guilty of the unlawful detainer before March 1, 2020.

(2) In response to service of a notice demanding payment of COVID-19 rental debt pursuant to subdivision (e) of Section 798.56 of the Civil Code or paragraph (2) or (3) of Section 1161, the tenant failed to comply with the requirements of Section 1179.03.

(3) (A) The unlawful detainer arises because of a termination of tenancy for any of the following:
(i) An at-fault just cause, as defined in paragraph (1) of subdivision (b) of Section 1946.2 of the Civil Code.

(ii) (I) A no-fault just cause, as defined in paragraph (2) of subdivision (b) of Section 1946.2 of the Civil Code, other than intent to demolish or to substantially remodel the residential real property, as defined in subparagraph (D) of paragraph (2) of subdivision (b) of Section 1946.2.

(II) Notwithstanding subclause (I), termination of a tenancy based on intent to demolish or to substantially remodel the residential real property shall be permitted if necessary to maintain compliance with the requirements of Section 1941.1 of the Civil Code, Section 17920.3 or 17920.10 of the Health and Safety Code, or any other applicable law governing the habitability of residential rental units.

(iii) The owner of the property has entered into a contract for the sale of that property with a buyer who intends to occupy the property, and all the requirements of paragraph (8) of subdivision (e) of Section 1946.2 of the Civil Code have been satisfied.

(B) In an action under this paragraph, other than an action to which paragraph (2) also applies, the landlord shall be precluded from recovering COVID-19 rental debt in connection with any award of damages.

(b) (1) This section does not require a landlord to assist the tenant to relocate through the payment of relocation costs if the landlord would not otherwise be required to do so pursuant to Section 1946.2 of the Civil Code or any other law.

(2) A landlord who is required to assist the tenant to relocate pursuant to Section 1946.2 of the Civil Code or any other law, may offset the tenant’s COVID-19 rental debt against their obligation to assist the tenant to relocate.

SEC. 22. Section 1179.04.5 is added to the Code of Civil Procedure, to read:

1179.04.5. Notwithstanding Sections 1470, 1947, and 1950 of the Civil Code, or any other law, for the duration of any tenancy that existed during the covered time period, a landlord shall not do either of the following:

(a) Apply a security deposit to satisfy COVID-19 rental debt unless the tenant has agreed in writing to allow the deposit to be so applied. Nothing in this paragraph shall prohibit a landlord from applying a security deposit to satisfy COVID-19 rental debt after
the tenancy ends, in accordance with Section 1950.5 of the Civil Code.

(b) Apply a monthly rental payment to any COVID-19 rental debt other than the prospective month’s rent, unless the tenant has agreed in writing to allow the payment to be so applied.

SEC. 23. Section 1179.07 of the Code of Civil Procedure is amended to read:

1179.07. This chapter shall remain in effect until February 1, 2025, January 1, 2026, and as of that date is repealed.

SEC. 24. 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. 25. 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:

To avert economic and social harm by providing a structure for temporary relief to financially distressed tenants, homeowners, and small landlords during the public health emergency, it is necessary that this act take effect immediately.
Item B-8
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 16 - Tenancies: COVID-19 Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021 (AB 16) involves a policy matter that does not have a nexus to the City’s adopted Legislative Platform language. However, the City has traditionally reviewed and taken positions on various legislation as related to tenants, evictions, and tenant rights.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 16 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 16, the Liaisons may recommend the following actions:

1) Oppose AB 16;  
2) Support AB 16;  
3) Oppose unless Amended;  
4) Support if Amended;  
5) Remain neutral; or  
6) Provide other direction to City staff.

Should the Liaisons recommend a position then the item will be placed on a future City Council agenda for concurrence.
Attachment 1
January 20, 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


Introduction and Background
In response to the COVID-19 pandemic, Assemblymember David Chiu introduced AB 3088 last year, an urgency measure that bars evictions as long as renters pay 25 percent of their rent and attest to financial hardship. This bill was intended to provide a pathway for tenants enduring financial hardship due to the COVID-19 pandemic to remain in their homes through the end of January 2021. This urgency measure was signed by Governor Newsom and was supported by the California State Council of Services Employees International Union, California YIMBY, and California for Rural Housing.

Given that the COVID-19 pandemic is at its peak, Assemblymember David Chiu introduced AB 16, which would establish the Tenant, Small Landlord, and Affordable Housing Provider Stabilization Program. AB 16 is intended to be a vehicle to provide rental assistance for low-income renters and their landlords who have accumulated massive rent debt. Additionally, AB 16 is intended to be a financial mechanism to compliment the work done by AB 3088. Please note, Assemblymember Chiu introduced an extension of AB 3088 this year; AB 15, which would require tenants to pay 25 percent of their rent owed between Sept. 1, 2020, and Dec. 31, 2021, to avoid eviction.

Specifically, AB 16 would:

- Authorize the Director of Housing and Community Development to direct an existing office or program within the Department of Housing and Community Development to implement the program.
- Establish in the State Treasury the COVID-19 Tenant, Small Landlord, and Affordable Housing Providers Stabilization Fund, and, upon appropriations by the Legislature, distribute all moneys in the fund to the department to carry out the purpose of the program.
- Require the program will be implemented only to the extent that funding is made available through the Budget act.
- Specify that it is the intent of the Legislature to prioritize the use of available federal funds before using General Fund moneys for the program.

Status of Legislation
The bill is currently in Assembly Housing and Community Development Committee. Hearing date as not been set.
Support
None listed at this time.

Opposition
None listed at this time.
Attachment 2
Introduced by Assembly Member Chiu

December 7, 2020

An act to add Chapter 2.9 (commencing with Section 50495) to Part 2 of Division 31 of the Health and Safety Code, relating to tenancies.

LEGISLATIVE COUNSEL’S DIGEST


Existing law, the COVID-19 Tenant Relief Act of 2020, establishes certain procedural requirements and limitations on evictions for nonpayment of rent due to COVID-19 rental debt, as defined. The act prohibits a tenant that delivers a declaration of COVID-19-related financial distress from being deemed in default with regard to the COVID-19 rental debt, as specified. Existing law defines COVID-19 rental debt as unpaid rent or any other unpaid financial obligation of a tenant that came due between March 1, 2020, and January 31, 2021. Existing law repeals the act on February 1, 2025.

This bill would state the intent of the Legislature to enact the Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021 to address the long-term financial impacts of the COVID-19 pandemic on renters, small landlords, and affordable housing providers; ensure ongoing housing stability for tenants at risk of eviction, and stabilize rental properties at risk of foreclosure. This bill would include legislative findings and declarations in support of the intended legislation.
This bill would establish the Tenant, Small Landlord, and Affordable Housing Provider Stabilization Program. The bill would authorize the Director of Housing and Community Development to direct an existing office or program within the Department of Housing and Community Development to implement the program. The bill would establish in the State Treasury the COVID-19 Tenant, Small Landlord, and Affordable Housing Provider Stabilization Fund, and, upon appropriation by the Legislature, distribute all moneys in the fund to the department to carry out the purposes of the program. The bill would require the program be implemented only to the extent that funding is made available through the Budget Act. The bill would specify that it is the intent of the Legislature to prioritize the use of available federal funds before using General Fund moneys for the program.


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

SECTION 1. The Legislature finds and declares all of the following:
(a) On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency in response to the COVID-19 pandemic. Measures necessary to contain the spread of COVID-19 have brought about widespread economic and societal disruption, placing the state in unprecedented circumstances.
(b) In response to the COVID-19 pandemic, on August 31, 2020, the Legislature passed and the Governor signed into law Assembly Bill 3088 (Chapter 37 of the Statutes of 2020) which created the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020 (hereafter “the Act”). While the Act provided much-needed temporary protections for renters and property owners, the economic repercussions of the pandemic and the necessary public health response on tenants, small landlords, and affordable housing providers may last for years to come, and have disproportionately impacted people and communities of color, exacerbating California’s racial justice challenges.
(c) The pandemic, its disproportionate effects, and responses to it have also laid bare and exacerbated structural issues related to the planning, development, and disposition of housing that
threaten to impede our state’s recovery and leave some groups behind.

(d) Whereas in response to the COVID-19 emergency, some local governments have dedicated funds to rental assistance and debt relief for tenants and property owners, a coordinated statewide program does not yet exist.

(e) In order to ensure a just recovery from the COVID-19 pandemic, it is therefore necessary to invest public funds to stabilize renters, small landlords, and affordable housing providers. Such funds must be accompanied by policies that address the factors displacing tenants from their homes and communities, which create additional risk of exposure, threaten public health, and threaten to delay recovery if not addressed. A failure to do so could threaten the state’s ability to curb transmission of COVID-19 while also creating long-term consequences for the financial stability of all parties.

(f) It is, therefore, the intent of the Legislature and the State of California to establish through statute a framework for distributing financial support to ensure long-term stability for renters, small landlords, and affordable housing providers, protect tenants from displacement during the ongoing public health crisis, and ensure an equitable, broadly shared recovery.

SEC. 2. This act shall be known, and may be cited, as the Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021.

SEC. 3. It is the intent of the Legislature to subsequently amend this measure and enact the Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021 to address the long-term financial impacts of the COVID-19 pandemic on renters, small landlords, and affordable housing providers, ensure ongoing housing stability for tenants at risk of eviction, and stabilize rental properties at risk of foreclosure.

SEC. 2. Chapter 2.9 (commencing with Section 50495) is added to Part 2 of Division 31 of the Health and Safety Code, to read:
CHAPTER 2.9. COVID-19 TENANT, SMALL LANDLORD, AND AFFORDABLE HOUSING PROVIDER STABILIZATION PROGRAM

50495. This chapter shall be known, and may be cited, as the COVID-19 Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021.

50495.1. (a) There is hereby established the COVID-19 Tenant, Small Landlord, and Affordable Housing Provider Stabilization Program, which shall be administered pursuant to this chapter.

(b) The director may direct an existing office or program within the department to implement this chapter.

(c) Any guidelines or policies that the department adopts to implement this chapter shall not be subject to 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).

50495.2. For purposes of this chapter:

(a) “Department” means the Department of Housing and Community Development.

(b) “Director” means the Director of Housing and Community Development.

(c) “Program” means the COVID-19 Tenant, Small Landlord, and Affordable Housing Provider Stabilization Program created by this chapter.

50495.3. (a) There is hereby created in the State Treasury the COVID-19 Tenant, Small Landlord, and Affordable Housing Provider Stabilization Fund. Upon appropriation by the Legislature, all moneys in the fund shall be distributed to the department to carry out the purposes of this chapter. Any repayments, interest, or new appropriations shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except to the Surplus Money Investment Fund.

(b) The program shall be implemented to the extent funding is made available through the Budget Act. It is the intent of the
Legislature to prioritize the use of available federal funds before using General Fund moneys.
Item B-9
The creation of affordable housing has been a focus of the state legislature for several years. In a proactive approach, the California Contract Cities Association (CCCA) has drafted legislation to establish regional housing trust funds (Attachment 1). Additionally, the legislation would create a regional affordable housing funding program. This proposal has garnered the support of the members of the CCCA and they are now actively looking for an elected state official to introduce the legislation.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for CCCA’s proposal for the City (Attachment 2) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of the CCCA’s proposal, the Liaisons may recommend the following actions:

1) Support the Regional Housing Trust Fund Proposal by the CCCA;
2) Oppose Regional Housing Trust Fund Proposal by the CCCA;
3) Remain neutral;
4) Direct staff to bring the item back at a future meeting for a recommendation should legislation be introduced; or
5) Provide any other direction to City staff.

Should the Liaisons recommend a position then the item will be placed on a future City Council agenda for concurrence.
Attachment 1
Housing Subcommittee Proposal
The Establishment of Regional Housing Trust Funds
and Creating a Regional Affordable Housing Funding Program

Overview
Housing is one of the most consequential equity issues in California today. Housing in itself impacts a wide range of political, public health, and socioeconomic issues. To best address the ongoing crisis, Contract Cities calls for a local yet regional solution that focuses legislation on improving financing for affordable housing development. The Contract Cities’ Housing Proposal (Proposal) would require all local governments to participate in a regional housing trust fund. Additionally, the Proposal would establish guidelines for a new tool that local governments can utilize with other local governments in a regional housing trust fund to spur affordable housing in their region.

The Proposal would mandate each local government to participate in a regional Housing Trust Fund. Housing Trusts are defined by California Health and Safety Code Section 50842. These Housing Trusts will be governed and provide oversight by local governments to a regional body, such as a joint powers authority and/or a council of government. Housing Trusts are not new concepts and have been in existence for years, allowing for regional collaboration to fund affordable housing developments.

The second component of the Proposal is the establishment of a Regional Housing Needs Assessment (RHNA) Exchange Program (Exchange). The Proposal sets up standards and guidelines for local governments in a regional Housing Trust to collect fees and fund local affordable housing projects in the region. This would be accomplished by an exchange of funding for RHNA between local governments participating in the Exchange. The Exchange is independent of the mandate; however, it does not require a local government to participate in the exchange. The Exchange is voluntary and would require a local government to agree to the terms of the program before participating in the Exchange.

The Exchange would require that each participating local government would pay a reoccurring fee into the Exchange. The fee would be defined by the Housing Trust as any monetary contribution that a local government would contribute, such as existing impact fee and/or general fund contribution, or an agreement to participate in a regional affordable housing impact fee collection that would be established by the Housing Trust. The Housing Trust would account for each contribution made by each local government. These fees would then be used to support new affordable housing project in the region through a tiered funding system set up by the Housing Trust and as outlined by the Proposal. A base funding would be provided by the local government where the affordable housing project applicant is located, followed by a base funding from each agency participating in the Exchange.
If additional funding is needed to move the applicant’s project forward, the applicant’s city of jurisdiction may request additional funding from other local governments in the Housing Trust. Only participating agencies in the Exchange may be allowed to answer the request, notwithstanding limits and restrictions set by the Proposal and each regional Housing Trusts, and if a city of jurisdiction agrees to the terms. The city of jurisdiction has the right to reject the offer.

A continuous and sustainable source of funding is needed to accelerate the production of affordable housing. Existing efforts, including inclusionary zoning requirements, often face lackluster success in generating affordable housing, especially in an attempt to create mixed-income projects. The goal of the Proposal would help expand the supply of funding for affordable housing and expand the housing stock. Moreover, it would create more successful opportunities for local governments to address equity in housing and meet the objectives of RHNA.

**Objectives**

I. Preserve existing affordable housing  
II. Create new affordable housing  
III. Support local government’s efforts with Regional Housing Needs Allocation  
IV. Address the needs of individual local governments  

**The Proposal**

I. **Mandate**

Requires all local governments to participate in a regional Housing Trust Fund. Existing statute governing Housing Trust Funds would remain the same, allowing a trust to seek funding for affordable housing programs by bonding for money, providing loans, and seek other funding sources, including public and private funding that would support affordable housing.

A region would be defined as two or more jurisdictions that would share common characteristics, including but not limited to a contiguous border, proximity to another city, planning, or shared issues of mutual concern. The ultimate goal of the definition is to align regions with existing council of governments. Local governments do not necessarily have to create a trust through a joint power agreement, as some local governments have elected to create a non-profit benefit corporation to support these activities.
II. Program

By establishing a regional Housing Trust Fund, local governments, as member agencies of a regional body, would be allowed to establish an affordable housing funding exchange program and collect a regional housing development fee:

A. Allow for the creation of a regional affordable housing fee that would apply to all member agencies participating in the exchange program. A fee should be equitably weighted amongst participating members in the exchange program. A fee could be interpreted as, but not limited to:

   1. An impact fee that is charged on all new market rate residential and/or commercial developments (i.e., per square footage fee, in-lieu fees, etc.).

   2. A reoccurring monetary contribution from member agencies with existing local affordable housing impact fee or general fund dollars that can be equally weighted to the contributions of participating member agencies.

B. If a fee is established by a regional body, member agencies may voluntarily participate in the exchange program. Member agencies are not required to participate in the program.

C. Authorize the regional body to collect the fees from member agencies, provide accounting of fees collected by each local government, and administer funds for qualifying projects.

D. Establish a formula for qualifying affordable housing projects to receive funds from the Trust Fund.

E. Establish a secondary funding formula for local governments to receive additional funding from the Trust, based on a member agency’s contributions (shares) of Trust Fund dollars and create a “cap and trade” exchange funding program between local governments, based on a rate of RHNA for “x” dollars.

F. Affordable housing multi-family developments would be exempt from the regional impact fee.

III. Projects must meet a minimum percentage of affordable housing units, as established by the regional body, would be granted expedited CEQA Review.
IV. Requirements for Funding an Affordable Housing Development

Regional bodies, in partnership with member agencies, may establish additional guidelines to expand the success of the program and are in addition to the guidelines set forth below:

A. Funding would be available to all types of projects, including but not limited to city-built projects, private development projects, public-private partnerships.

B. A regional body, in partnership with member agencies, may establish a list of compatible affordable housing projects that would qualify for funding from the Trust Fund, including but not limited to front-end costs for new affordable projects, mixed-use developments, accessory dwelling units, for-rent, for-sale, and projects in inclusionary zoning.

C. Projects must meet local development standards, local housing elements, and zoning requirements, as established by a member agency’s jurisdiction, including but not limited to objective design standards, heights, and F.A.R ratio.

1. Project applicant can only receive funding from the Trust program through a request made by a member agency where the project is located.

V. Funding Formula Requirements and Processes

A. Each project applicant may qualify for a tiered-base funding, which consist of a base-layer funding from an applicant’s city of jurisdiction, followed by a nominal contribution from other member agencies in the Exchange program. If additional funding is needed to meet the project costs for affordability, a project applicant and the city of jurisdiction may request additional funding from other member agencies in the Exchange through an exchange of RHNA numbers.

B. A base amount of funding shall be centered on certain criteria, established by the regional body, which would encompass the following requirements:

1. Must meet a minimum percentage of a member agency’s share of RHNA, specifically for low- to very low-income housing.

   a. A formula for project funding would be based on, but not limited to:

      a. A base percentage of the member agency’s shares of Trust Fund dollars (i.e. 20% of the member agency’s Trust Fund dollars).
C. A second set of funding will be based on other Exchange member agencies’ share of Trust Fund dollars, less than the member agency’s shares (i.e. 5% each).

1. Establish a minimum and maximum limit to funding, based on a per-unit limit (i.e. project can receive funding for up to 20% of an affordable housing unit’s costs)

D. A project may also seek additional funding from the Housing Trust Fund, specifically through a “cap and trade” exchange, if another member agency is willing to exchange its share of dollars from the Trust Fund, in exchange for a credit toward its RHNA.

1. The exchange of RHNA for funding will be created by the regional body based on a list of criteria that includes but not limited to:

a. Agencies participating in the Exchange must have built an “x” number of affordable housing units or percentage of their share of RHNA before they can participate in the RHNA Exchange.

b. Priority given to member agencies with a significant amount of unmet RHNA numbers.

c. Priority given to member agencies that have not participated in a recent project exchange.

d. Minimum RHNA count equated to a percentage of funding or a dollar amount (i.e., 1 RHNA for 10% of a unit’s costs, or $50,000).

e. Minimum and maximum limits to exchange RHNA. (i.e., Agencies can only contribute funding for up to 5 units)

f. All member agencies partied to the exchange must agree to exchange before funds can be accepted.

E. The project applicant would be required to provide all necessary documentation to establish a project as an affordable housing development (i.e., covenants, etc.).
VI. CEQA Expedited Review
Projects that meet certain requirements, established below, would be granted, at a minimum, expedited CEQA Review.

A. Meets qualifications established in California Code of Regulations 15192, 15193, and/or 15194, and

B. Meets a city’s zoning and objective design standards, and

C. Provides a minimum percentage of affordable housing, as established by the regional body.
Attachment 2
January 20, 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: Housing Trust Fund Proposal From CA Contract Cities Association

Summary
The California Contract Cities Association is developing a legislative proposal to establish a regional housing trust fund and authorize a regionally-based funding program for eligible housing projects. Specifically this proposal would:

1. Require all local governments to participate in a regional housing trust fund.

2. Authorize a new tool that local governments can utilize in collaboration with other local governments in a regional housing trust fund to spur affordable housing in their region.

3. Establish a Regional Housing Needs Assessment (RHNA) Exchange Program.

4. Set rules for local governments in a regional Housing Trust to collect fees and make funding available for local affordable housing projects in the region. This would be accomplished by an exchange of funding for RHNA between local governments participating in the RHNA Exchange Program. Under the proposal, each participating local government would be required to pay a reoccurring fee into the RHNA Exchange Program and administer funds for qualifying project.

5. Specify that the Housing Trust set a definition for the fee as any monetary contribution that a local government would contribute, including an existing impact fee, general fund contribution, or an agreement to participate in a regional affordable housing impact fee authorized by this proposal.

6. Direct that fees collected under this proposal be used to support new affordable housing projects in the region through a tiered funding system that would be established by the Housing Trust. Base funding would be provided by the local government where the affordable housing project applicant is located, followed by funding from each agency participating in the Exchange.

7. Specify that the fee should be equitably weighted among participating members in the exchange program. Establishes a formula for qualifying affordable housing projects to receive funds from the Trust Fund. If a fee is established by a regional body, member
agencies may voluntarily participate in the exchange program. Member agencies are not required to participate in the program.

8. Establish a secondary funding formula for local governments to receive additional funding from the Trust, based on a member agency’s contributions (shares) of Trust Fund dollars and create a “cap and trade”-style exchange funding program between local governments, based on a rate of RHNA for “x” dollars.

9. Specify that affordable housing multi-family developments would be exempt from the regional impact fee.

10. Authorize expedited CEQA Review for projects that meet a minimum percentage of affordable housing units, as established by the regional body.

**Background**

Housing Trust funds are distinct funds established by city, county or state governments that receive ongoing dedicated sources of public funding to support the preservation and production of affordable housing and increase opportunities for families and individuals to access decent affordable homes. Housing Trust funds systematically shift affordable housing funding from annual budget allocations to the commitment of dedicated public revenue. While Housing Trust funds can also be a repository for private donations, they are not public/private partnerships, nor are they endowed funds operating from interest and other earnings.

The local Housing Trust funds are a convenient tool communities can use to make affordable housing a reality for their residents. It provides local officials with a vehicle to coordinate a complex array of state and federal programs to fashion a housing strategy that is tailored to the community’s unique needs.

California has taken several steps to advance local funding of affordable homes. For years, California communities benefited from the availability of redevelopment agency tax increment funds. The state requirement was that 20 percent of these funds be committed to providing and preserving affordable housing. Governor Jerry Brown eliminated the redevelopment agencies in December 2011. A portion of the tax increment funds collected in redevelopment areas that originally went to the Redevelopment Agencies have now been redirected to each jurisdiction’s general fund.

Local housing trust funds typically share three common features:

- They receive ongoing revenues, usually from dedicated sources, and are not dependent exclusively on annual appropriations.
- Funds are designated to support affordable housing rather than other community needs.
- Finally, they include sources of funding in addition to those that are otherwise restricted or available to support housing.

Funds can be used to address priority needs or fill gaps not covered by other housing programs with more rigid rules or requirements. Having a dedicated source of revenue that comes in to the Trust Fund automatically means that funds for housing need not compete with other priorities when it comes time to approve the annual budget. These features allow local agencies to plan ahead and make investments with some confidence that the needed funding will be available in future years.
**Status/Next Steps**
This proposal has not been introduced as a formal bill at this time, but legislative offices have until Friday, February 19, 2021 to introduce bills for the 2021 legislative year. We will continue to monitor newly introduced bills and will reach out to advocates for the California Contract Cities Association for information about this proposal, potential authors and timing for release.
Item B-10
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: January 25, 2021
SUBJECT: Update on Actions taken to Correct Senate Bill 970 (Umberg)

ATTACHMENTS: 1. Summary Memo – Shaw Yoder Antwih Schmelzer & Lange
2. Letter of Support if Amended – SB 970

SB 970 (Umberg, 2020), changed the date of the statewide direct primary to the first Tuesday after the first Monday in June, in even-numbered, non-presidential primary years. The City lobbied for Senator Umberg to amend SB 970 to allow cities to extend their City Council terms beyond the current 12-month statutory limit until the June 2022 election can be certified and the installation of the elected officials can occur. However, this amendment was not made.

Since signing this bill into law, both City staff and the City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, have been working to have this legislation corrected as arguably, without a change to the legislation, the City may lack a quorum of its City Council beginning in March 2022 as the City is unable to extend the term the three current City Councilmembers who are up for reelection.

The City’s state lobbyist will provide a verbal update of the steps taken to have SB 970 correct and what the next steps are for the upcoming state legislative session.

After discussion of the CCCA’s proposal, the Liaisons may provide any direction to City staff based on the information received.
January 20, 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: Update on Pursuit of Cleanup Legislation to SB 970 (Umberg and Berman)

Background
The Legislature adopted SB 970 (Umberg and Berman) which was signed into law by Governor Gavin Newsom on September 18, 2020. This measure moved the date of the direct primary in gubernatorial election years from March to June beginning with the primary election in 2022 but did not extend the terms of local officials in jurisdictions who have moved the date of their local elections to March in even-numbered years.

Under the California Voter Participation Act of 2015, general law cities, among other political subdivisions, must hold their elections on a statewide election date. To comply, a number of cities changed their election dates from March of odd-numbered years to March of even-numbered years beginning with the March 2020 election. Some councilmembers elected in March 2017 had their terms extended for 12 months and will now expire in March 2022. However, 12 months is the maximum term extension allowed under current law (Section 10403.5(b) of the California Elections Code).

Without corrective legislation, the City of Beverly Hills and other jurisdictions will have councilmembers whose terms are set to expire pursuant to existing law prior to the next election for their council seat. Beverly Hills has no ability to adjust its council term to conform to a June 2022 election as the City already adjusted its City Council terms by 12 months.

The City of Beverly Hills adopted a Support if Amended Position with a request that the following amendment language be added to SB 970:

Notwithstanding subdivision (b) of Elections Code section 10403.5, any term of office set to expire in March or April 2022 may be extended to expire in June 2022 following the certification of election results and administration of oath of office to the newly elected office holder.

Working with the League of California Cities, we have identified at least three other local jurisdictions that appear to face similar negative impacts from SB 970:

- City of Lakewood
- City of San Dimas
- City of La Canada-Flintridge
Senator Umberg’s Office declined to add our proposed language to SB 970 before it reached Governor Newsom’s desk in 2020 but committed to work with us to enact cleanup legislation in 2021. The deadline to introduce new legislation for the 2021 legislative year is February 19, 2021.
Attachment 2
August 9, 2020

The Honorable Tom Umberg
California State Senate, 34th District
State Capitol, Room 3076
Sacramento, CA 95814

Re: SB 970 (Umberg) - Primary election date
   City of Beverly Hills - Support if Amended

Dear Senator Umberg:

On behalf of the City of Beverly Hills, I write to inform you of our City’s Support If Amended position on SB 970, your measure that would change the date of the statewide direct primary to the first Tuesday after the first Monday in June, in even-numbered, non-presidential primary years. We request that you amend SB 970 to allow cities to extend their City Council terms beyond the current 12-month statutory limit until the June 2022 election can be certified and the installation of the elected officials can occur. Arguably, without this amendment, the City of Beverly Hills will lack a quorum of its City Council beginning in March 2022 as the City is unable to extend the term the three current City Councilmembers who are up for reelection.

In 2015, the Legislature passed SB 415 (Hueso) the “California Voter Participation Rights Act,” which required cities to align their elections with statewide election dates. Subsequently, in 2017, the Legislature passed SB 568 (Lara), which changed the State’s primary election date to March.

Prior to SB 415 and SB 568, the City of Beverly Hills conducted elections in odd numbered years. In order to conform to SB 415 and SB 568, the City of Beverly Hills extended the terms of the City Council by one year, the maximum allowed under state law. The first election to conform to the change enacted by these two bills was in March 2020 for two of the five City Council seats. The next election for the remaining three seats will take place in March 2022.
SB 970 would change the date of the state’s primary election, in years not divisible by four, to the first Tuesday after the first Monday in June. As Beverly Hills has already extended the term of its City Councilmembers by the maximum allowed under state statute, the City is requesting SB 970 be amended to add the following:

Notwithstanding subdivision (b) of Elections Code section 10403.5, any term of office set to expire in March or April 2022 may be extended to expire in June 2022 following the certification of election results and administration of oath of office to the newly elected office holder.

If SB 970 becomes law without this amendment, arguably the City of Beverly Hills would not have the authority to adjust its council terms to conform to such a change. The City has exhausted its authority under current law to extend local City Council terms and there is no earlier date on which the City would be allowed to hold a City Council election pursuant to current law (as enacted by SB 415).

The City of Beverly Hills is not the only city in Los Angeles County or the state that is faced with this situation. For these reasons, the City of Beverly Hills respectfully requests SB 970 be amended to address this issue by providing cities a one-time exemption from the 12-month rule so they may change their election date from March to June in order to conform with the new election timeline proposed by SB 970 (Umberg). With this amendment, the City of Beverly Hills would be in full Support of SB 970.

Sincerely,

[Signature]

George Chavez
City Manager, City of Beverly Hills

cc: Members and Consultants, Assembly Elections and Redistricting Committee
Members and staff, Senate Elections and Constitutional Amendments Committee
Members and staff, Assembly Appropriations Committee
The Honorable Ben Allen, 26th Senate District
The Honorable Richard Bloom, 50th Assembly District
Mayor and City Councilmembers, City of Beverly Hills
Andrew K. Antwih, Shaw Yoder Antwih Schmelzer & Lange
Item B-11
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: January 25, 2021
SUBJECT: Letter to the League of California Cities Regarding Engagement with the State Legislature and Administration on Housing-Related Issues
ATTACHMENT: 1. Cupertino Letter to the League of California Cities

This item is a request by Councilmember Mirisch for the City to consider sending a letter to the League of California Cities (Cal Cities) similar to the letter sent by Cupertino (Attachment 1).

After discussion, the Liaisons may provide any direction to City staff based on the information received. Should the Liaisons recommend a letter be sent to Cal Cities then the item will be placed on a future City Council agenda for concurrence.
Attachment 1
Carolyn Coleman  
Executive Director  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95813

Dear Ms. Coleman:

I am writing on behalf of the City of Cupertino to express concern over how the League of California Cities has failed to advocate on behalf of its members in recent years on certain issues. Specifically, we are concerned with how the League has engaged with the Legislature and Administration on housing-related legislation.

The Mission Statement of the League is: “To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.” Unfortunately, when it comes to recent housing policy, the League has strayed from this mission. Last year, for instance, the Legislature considered a number of housing bills that eroded local decision-making authority, and the League failed to oppose several of these bills. Measures that dictated how cities must zone for housing, what projects must be ministerially approved, and how cities must utilize certain retail areas are just some examples. We respectfully request that the League honor its mission to expand and protect local control.

As locally elected officials, my colleagues and I represent our residents and voters in closest proximity to the issues directly affecting our jurisdictions. Our role in local land-use decisions is essential for ensuring viable and effective projects. When it comes to housing policy, the recent majority of legislation in Sacramento aims to remove local accountability and oversight in favor of policy that benefits developers looking to maximize profit. Yet the problem goes beyond this. In the name of purportedly trying to help the housing crisis, in recent years, developer-driven legislation has been imposed that in fact worsens the housing crisis while vilifying local jurisdictions acting in good faith to address the issues in the context of the specific needs, viewpoints and requirements of the local communities. Allowing this to happen is not democratic. Allowing it to happen when an organization’s charter is to preserve and defend the rights of localities to help effectuate representative input from their residents and voters not only is a derogation of organizational responsibility, it is also a fundamental erosion of our systemic principles in favor of profit-driven motives. This will ultimately serve no one’s purposes, as our
problems will then inevitably grow when the identified problems get worse as a result of poor policies brought about in part by the facilitation of opportunistic legislative maneuvering.

League advocacy must work with us to solve problems, not make them worse. The League’s affirmative support of legislation that will increase displacement and gentrification and that has discouraged the production of new affordable housing is highly problematic. Like many cities, Cupertino is struggling with increased homelessness and lack of affordable housing. Legislation that has the effect of worsening the housing crisis, such as SB-35, is a severe concern because it allows ministerial approval of projects that considerably worsen a city’s jobs to housing balance. In Cupertino, an approved SB-35 project will result in a housing deficit of between 3100 and 6300 units (depending on the density of the office component of the project). We need advocacy on behalf of policies that work. Property owners have delayed or canceled approved projects that have a percentage component of Below Market Rate Housing. Instead of promoting avenues to create projects that worsen the housing crisis, there should instead be focus upon motivating the development community to deliver, for instance, on inclusionary zoning requirements for projects that have gone through local approval processes.

Cupertino is not alone in our concern over the recent deviation from the League’s mission, and there have been significant conversations across the State as to whether continued participation makes sense if this mission continues to be not just disregarded but replaced by unsound policy that contravenes the League’s charter. And yet the issues raised here are remediable. Overall, we value our membership in the League. Essential to that membership is that the League represent the interests of its members in a manner that highlights the good-faith efforts of its membership and defends our common interests, rather than taking positions that, for the concerns raised here, erode local control in favor of developer profitability while, in effect, supporting policy that worsens the affordable housing crisis. This approach must be corrected for us to provide a comprehensive and effective solution to the lack of affordable housing.

We look forward to the new legislative session and a renewed focus on the issues that are impacting local governments throughout the State. Thank you for your time and consideration of the concerns raised here, and I hope that you have a safe and healthy 2021.

Sincerely,

Darcy Paul
Mayor
City of Cupertino
Item B-12
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: January 25, 2021
SUBJECT: Discussion of Hiring a Public Relations Firm to Help with Messaging Regarding Housing Legislation
ATTACHMENTS: None

This item is a request by Councilmember Mirisch for the City to consider working with other jurisdictions to hire a Public Relations firm to provide messaging regarding housing legislation to the community.

After discussion, the Liaisons may provide any direction to City staff based on the information received.
Item B-13
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: January 25, 2021
SUBJECT: State and Federal Legislative Updates
ATTACHMENT: 1. Summary of Governor's Proposed FY 21/22 Budget

Verbal updates on legislative issues will be presented by the City’s lobbyists.
Attachment 1
January 8, 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: Governor’s 2021-22 Proposed State Budget

OVERVIEW
Governor Gavin Newsom released his proposed State Budget for the 2021-2022 fiscal year entitled “Budget Built on Strong Fiscal Foundation.” The Governor’s proposed budget includes $227 billion spending plan includes a record level of expenditures for education and allocates large sums to help reverse the effects of COVID-19, presenting a considerable shift from the past June budget.

California’s budget is looking dramatically better than expected due to record stock market gains and tax growth from its most affluent residents. The overall proposed spending total for 2021-2022 is $5 billion higher than in last January’s budget, while the general fund amount is $11.5 billion higher.

The Governor stated today that compared to the $54.3 billion budget deficit the state experienced in 2020, California is currently seeing a $34 billion budget resiliency according to what we have in our reserves and surplus. The Governor stated that he is projecting $22 billion in reserves with $15.6 billion in the Rainy Day Fund, $3 billion in the School Stabilization Reserve, $2.9 billion in the operating reserve, and $450 million in the Safety Net Reserve. This year, the Governor is proposing $9.5 billion in retirement liabilities with $3 billion in additional payments in 2021-2022 and $6.5 billion over the next three years. The Governor projected a $15 billion surplus for this fiscal year.

However, risks to the forecast remain higher than usual, and economic inequality has intensified since the pandemic began. Budget resiliency will be critical to protecting programs in the future, as expenditures are projected to grow faster than revenues, with a structural deficit of $7.6 billion projected for 2022-23 that is forecast to grow to over $11 billion by 2024-25.

The Governor’s Budget Summary can be found [here](#).

The details of the proposed budget can be found [here](#).

Golden State Stimulus
Earlier this week, the Governor announced the inclusion of the Golden State Stimulus as part of the 2021-2022 Budget. The Golden State Stimulus would provide a $600 rapid cash support directly to roughly four million low-income Californians who, coupled with federal stimulus, could receive at least $1,200 of direct relief. The state’s
stimulus will also reach low-income Californians excluded from the federal stimulus, like undocumented households that file taxes with an Individual Taxpayer Identification Number (ITTN), including parents with U.S. citizen children.

**Eviction Protection**
Earlier this week, the Governor called for immediate action to protect more Californians from eviction by extending critical eviction protections enacted by AB 3088 and ensuring that California’s $2.6 billion share of federal rental assistance is distributed according to greatest need and with accountability. The Governor is proposing that the state quickly and accountably deploy all $2.6 billion in federal renter relief as early action—$1.4 billion of which is allocated directly to the state and $1.2 billion of which is allocated to entitlement jurisdictions—all targeting low-income California households while helping stabilize small property owners who are also struggling. Under this proposal, California renters who are experiencing financial

**Small Business Grants**
Prior to the pandemic, small businesses created two-thirds of new jobs and employed nearly half of all private-sector employees. California is home to 4.1 million small businesses that employ nearly half of the state’s total workforce. To help keep these businesses afloat, the Governor is proposing a total of $1.075 billion for the State’s Small Business COVID-19 Relief Grant Program.

The Governor has proposed immediate legislative action on $575 million in additional grants. The investment will add to the initial $500 million allocation announced in November. The Program offers grants up to $25,000 to micro and small businesses that have been impacted by the pandemic. These grants will be distributed across the state, with priority given to regions and industries impacted by the COVID-19 pandemic, disadvantaged communities, and underserved small business groups.

The $575 million Early Action Budget proposal includes $25 million for small cultural institutions, such as museums and art galleries, that have been constrained by the pandemic in their ability to educate the community and remain financially viable.

**California Jobs Initiative**
The budget proposes sustained investments to preserve California’s competitiveness. The California Jobs Initiative, a $777.5 million proposal, focuses on job creation and retention, regional development, small businesses, and climate innovation, including increased funding for: $430 million for CalCompetes, $100 million for the Extended Main Street Small Business Tax Credit, mitigating the SALT deduction limitation for S-corporation shareholders, $35 million for the California Dream Fund, $50 million for IBank, and $100 million for expanded sales tax exclusions through the Treasurer’s Office to reduce the cost of manufacturing equipment in order to promote innovation and meet the state’s climate goals.

This funding also includes $12.5 million allocated, in partnership with the Legislature, in late 2020 to fully capitalize the California Rebuilding Fund to support $125 million low-interest loans to underserved businesses.

**Workforce Development**
The budget proposes one-time and ongoing investments totaling $353 million to support California’s workers as they adapt to changes in the economy brought about by COVID-19. These investments lift up proven workforce development strategies like apprenticeship and High-Road Training Partnerships and encourage greater collaboration and coordination among California’s institutions of higher learning and local workforce partners. Demand-driven workforce programs can help California train the workforce of the future in key sectors, including health care and technology.
Fee Waivers
The budget proposes $70.6 million for fee waivers to individuals and businesses most impacted by the pandemic—including barbers, cosmetologists, manicurists, bars, and restaurants. These waivers will assist those who have not been able to operate or are operating at reduced capacity during the pandemic.

Deferred Maintenance
In recognition of the job-creating potential of infrastructure projects on state-owned properties, the budget includes a $300 million one-time General Fund for the most critical statewide deferred maintenance, including greening of state infrastructure. This proposal will help create jobs in California while achieving our state’s climate goals. Projects include the installation of electric vehicle charging stations at state-owned facilities.

Housing
Through the Infill Infrastructure Grant (IIG) Program, this budget proposes $500 million to create jobs and long-term housing developments to unlock more than 7,500 new permanently affordable homes for Californians. IIG grants to local governments and developers bring the cost down for new housing by defraying costs for things like sewers, roads, and site preparation, all while putting thousands of people to work in good jobs building this housing-related infrastructure. $250 million of these funds are proposed for early action.

Zero Emission Vehicles and Zero-Emission Vehicle Infrastructure
Building on California’s historic commitment to requiring sales of all new passenger vehicles to be zero-emission by 2035, this budget proposes an additional $1.5 billion investment to accelerate our state’s progress toward these goals while creating jobs. The proposal will support jobs and economic growth and provide air quality benefits and support for low-income Californians to purchase cleaner vehicles. Funds will support purchases of clean trucks, buses, and off-road freight equipment and Clean Cars 4 All programs. It will also support job-creating construction of electric charging and hydrogen fueling stations necessary to accelerate zero-emission vehicle adoption. The Budget proposal will leverage additional private sector capital to build the necessary infrastructure and create jobs to support California’s recovery.

Safe Schools for All
California’s Safe Schools for All framework to safe reopening of in-person instruction is built on four pillars:

1. Funding to Support Safe Reopening: The Budget will propose immediate action in January, $2 billion to support safety measures—including testing, ventilation, and PPE—for schools that have resumed in-person instruction or phasing in of in-person instruction by early spring.
2. Safety and Mitigation Measures for Classrooms: To further ensure health and safety in the classroom, the Administration will support the implementation of key health measures. This will include frequent testing for all students and staff, including weekly testing for communities with high rates of transmission; masks for all students and staff, including distribution of millions of surgical masks for school staff; improved coordination between school and health officials for contact tracing; and prioritization of school staff for vaccinations.
3. Hands-on Oversight and Assistance for Schools: Dr. Naomi Bardach, a UCSF pediatrician and expert on school safety, will lead the Safe Schools for All Team, a cross-agency team composed of dedicated staff from CDPH, Cal/OSHA, and educational agencies. The Team will provide hands-on support to help schools develop and implement their COVID-19 Safety Plans. These supports will include school visits and walk-throughs as needed, webinars and training materials, and ongoing technical assistance.
4. Transparency and Accountability for Families and Staff: A state dashboard will enable all Californians to see their school’s reopening status, level of available funding, and data on school outbreaks. Additionally, a web-based “hotline” will empower school staff and parents to report concerns to the Safe Schools for All Team, which will lead to escalating levels of intervention, beginning with technical assistance and ending with legal enforcement.

**Housing and Homelessness**

The budget proposes more resources to continue to address the housing availability and affordability crisis exacerbated by the COVID-19 pandemic, including:

- $500 million in one-time General Fund investments for infill infrastructure to accelerate housing development
- $500 million low-income housing tax credits to support low-income housing development
- $1.75 billion one-time General Fund monies to further the Project Homekey effort begun in 2020, including funds to purchase additional motels, develop short-term community mental health facilities, and purchase or preserve housing dedicated to seniors

The budget also proposes changes to the state’s Medi-Cal system to better support behavioral health and housing services that can help to prevent homelessness.

The Governor also proposes creating a new Housing Accountability Unit within the Department of Housing and Community Development (HCD), to provide technical assistance to local governments, and, in the words of the Governor, “to monitor city council meetings and meetings of board of supervisors and planning commissions” – to look for opportunities to work with those local governments and assist them in meeting their housing planning and production obligations, and, to enhance the Administration’s enforcement of those obligations.

The budget also proposes various HCD funding program application streamlining measures, and harmonization of existing state programs.

The budget proposes to provide resources for toxic site cleanup and incentives to clean up and develop these sites for future housing.

The Administration also seeks immediate extension of the law passed last year establishing renter eviction protections, AB 3088, past January 31, 2021.
The homelessness spending proposals are summarized here:

<table>
<thead>
<tr>
<th>Department</th>
<th>Program</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Housing and Community Development</td>
<td>Continued Homekey Acquisitions</td>
<td>$750.0</td>
</tr>
<tr>
<td></td>
<td>Federal Funded Programs for Homelessness</td>
<td>$43.0</td>
</tr>
<tr>
<td></td>
<td>Transitional Housing Program</td>
<td>$80.0</td>
</tr>
<tr>
<td>Office of Emergency Services</td>
<td>Various Homeless Youth Programs</td>
<td>$1.0</td>
</tr>
<tr>
<td></td>
<td>Youth Emergency Telephone Network</td>
<td>$0.6</td>
</tr>
<tr>
<td>Department of Social Services</td>
<td>Expanded Facilities to Support Housing</td>
<td>$250.0</td>
</tr>
<tr>
<td></td>
<td>CalWORKS Homeless Assistance Program</td>
<td>$38.5</td>
</tr>
<tr>
<td></td>
<td>Housing and Disability Advocacy Program</td>
<td>$25.0</td>
</tr>
<tr>
<td>Department of Health Care Services</td>
<td>Behavioral Health Continuum Infrastructure</td>
<td>$750.0</td>
</tr>
<tr>
<td></td>
<td>Project for Assistance in the Transition from Homelessness</td>
<td>$8.8</td>
</tr>
<tr>
<td>Department of Transportation</td>
<td>Homeless Encampment Cleanup on the State Highway System</td>
<td>$12.4</td>
</tr>
<tr>
<td>California Community Colleges</td>
<td>Basic Needs Funding - Student Hunger and Homelessness Programs</td>
<td>$100.0</td>
</tr>
<tr>
<td></td>
<td>Rapid Rehousing</td>
<td>$9.0</td>
</tr>
<tr>
<td>California State University</td>
<td>Basic Needs Funding - Student Hunger and Homelessness Programs</td>
<td>$15.0</td>
</tr>
<tr>
<td></td>
<td>Rapid Rehousing</td>
<td>$6.5</td>
</tr>
<tr>
<td>University of California</td>
<td>Basic Needs Funding - Student Hunger and Homelessness Programs</td>
<td>$15.0</td>
</tr>
<tr>
<td></td>
<td>Rapid Rehousing</td>
<td>$3.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$2,036.3</strong></td>
</tr>
</tbody>
</table>

1/ Of this amount, $250 million is proposed for early action in 2020-21, for continued Homekey acquisitions.

2/ This amount reflects programs that receive federal funds, such as the Emergency Solutions Grant program. Unawarded COVID-19 related relief funds (e.g., CARES Act) are not reflected.

3/ Amount reflects cost of recent policy changes, but not base funding since program expenditures are embedded within the overall CalWORKs grants expenditures and cannot be extracted.

4/ These programs support basic needs partnerships for low-income students facing housing or food insecurity. These amounts exclude basic needs funding provided to address student mental health and digital equity needs.
The Governor’s affordable housing spending proposals are summarized here:

### 2021-22 Affordable Housing Funding (Dollars in Millions)

<table>
<thead>
<tr>
<th>Department and Program</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Veterans and Affordable Housing Bond Act Programs (Prop 1)</td>
<td>$460.0</td>
</tr>
<tr>
<td>No Place Like Home Program</td>
<td>$400.0</td>
</tr>
<tr>
<td>Building Homes and Jobs Fund Programs (SB 2)</td>
<td>$777.0</td>
</tr>
<tr>
<td>Infill Infrastructure Grant Program Economic Recovery Investment</td>
<td>$500.0</td>
</tr>
<tr>
<td>Federal Funded Programs for Housing</td>
<td>$765.0</td>
</tr>
<tr>
<td>Veterans Housing and Homelessness Prevention</td>
<td>$75.9</td>
</tr>
<tr>
<td>Various</td>
<td>$17.3</td>
</tr>
<tr>
<td>Single Family First Mortgage Lending</td>
<td>$3,000.0</td>
</tr>
<tr>
<td>Multifamily Conduit Lending</td>
<td>$1,200.0</td>
</tr>
<tr>
<td>Multifamily Permanent Lending</td>
<td>$810.0</td>
</tr>
<tr>
<td>Mixed-Income Loan Program</td>
<td>$40.0</td>
</tr>
<tr>
<td>Single Family Down Payment Assistance</td>
<td>$95.9</td>
</tr>
<tr>
<td>Special Needs Housing Program</td>
<td>$15.3</td>
</tr>
<tr>
<td>Low Income Housing Tax Credits (State)</td>
<td>$402.7</td>
</tr>
<tr>
<td>Low Income Housing Tax Credits (Federal)</td>
<td>$300.9</td>
</tr>
<tr>
<td>Farmworker Housing Assistance Tax Credits</td>
<td>$4.2</td>
</tr>
<tr>
<td>Affordable Housing and Sustainable Communities</td>
<td>$26.0</td>
</tr>
<tr>
<td>CalVet Farm and Home Loan Program (Prop 1)</td>
<td>$170.0</td>
</tr>
<tr>
<td>Domestic Violence Housing First Program</td>
<td>$23.0</td>
</tr>
<tr>
<td>Transitions Housing Program</td>
<td>$16.0</td>
</tr>
<tr>
<td>Specialized Emergency Housing</td>
<td>$10.0</td>
</tr>
<tr>
<td>Domestic Violence Assistance, Equality in Prevention and Services, Human Trafficking Victim Assistance, North American Domestic Violence and Sexual Assault</td>
<td>-</td>
</tr>
<tr>
<td>Specialized Treatment of Optimized Programming, Parole Service Center, Day Reporting Center, Female Offender Treatment and Employment Program, Proposition 47 Grant Program</td>
<td>-</td>
</tr>
<tr>
<td>CalWORKS Housing Support Program</td>
<td>$85.3</td>
</tr>
<tr>
<td>CalWORKS Family Stabilization Housing Component</td>
<td>$6.4</td>
</tr>
<tr>
<td>Housing Opportunities for Persons with AIDS (HOPWA)</td>
<td>$5.0</td>
</tr>
<tr>
<td>Housing Plus Program</td>
<td>$1.0</td>
</tr>
<tr>
<td>HIV Care Program</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,359.8</strong></td>
</tr>
</tbody>
</table>

1/ Of the amount, $350 million is proposed for early action in 2020-21, for the Infill Infrastructure Grant Program to stimulate economic recovery.

2/ This amount reflects programs that receive federal funds, such as the Community Development Block Grant program. Unexercised COVID-19 related relief funds (e.g., CARES Act) are not included. Additional federal funds related to COVID-19 responses may become available in 2021-22.

3/ CalHFA is self-supporting and its single family and conduit lending programs do not rely on the state General Fund. Funding estimates are based on lending with fees from 2018-19 available program resources, volume cap allocation, and multifamily lending pipeline projections.

4/ Funding estimate represents voluntary allocations of local Proposition P3 funds from 15 participating counties.

5/ This represents the estimated 8 percent tax credits to be allocated in 2021 and the estimated amount of 4 percent credits to be awarded in 2021 based on current data and remaining bond cap. Most disaster credits were allocated in 2020 and excluded from 2021-22 percent tax credit estimate.

6/ The Affordable Housing and Sustainable Communities program amount reflects 20 percent of projected Cap and Trade revenues.

7/ The state provides a number of wrap-around supportive services through these programs including housing, which cannot be separated from the programs overall budget.

8/ Of the $405 million available for CalWORKS Family Stabilization in 2020-21, $39.4 million is estimated to be spent on housing.
The Governor’s COVID-19 response proposals can be found here:

<table>
<thead>
<tr>
<th>Cost Category</th>
<th>2020 Budget Act Estimate</th>
<th>2021 Governor’s Budget Estimate</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Response Operations</td>
<td>$589,128,000</td>
<td>$2,529,273,000</td>
<td>$1,940,145,000</td>
</tr>
<tr>
<td>State Hospitals</td>
<td>$0</td>
<td>$82,696,000</td>
<td>$82,696,000</td>
</tr>
<tr>
<td>Testing</td>
<td>$0</td>
<td>$37,102,000</td>
<td>$37,102,000</td>
</tr>
<tr>
<td>Surge Capacity (Norwalk)</td>
<td>$0</td>
<td>$2,568,000</td>
<td>$2,568,000</td>
</tr>
<tr>
<td>Other Staffing and Operational Costs</td>
<td>$0</td>
<td>$43,028,000</td>
<td>$43,028,000</td>
</tr>
<tr>
<td>National Guard</td>
<td>$0</td>
<td>$32,846,000</td>
<td>$32,846,000</td>
</tr>
<tr>
<td>Corrections and Rehabilitations</td>
<td>$17,300,000</td>
<td>$1,416,988,000</td>
<td>$1,401,688,000</td>
</tr>
<tr>
<td>Community Supervision</td>
<td>$2,971,000</td>
<td>$45,340,000</td>
<td>$42,369,000</td>
</tr>
<tr>
<td>Temporary Suspension of Prison Intake</td>
<td>$14,329,000</td>
<td>$240,895,000</td>
<td>$226,566,000</td>
</tr>
<tr>
<td>Reentry Housing</td>
<td>$0</td>
<td>$15,000,000</td>
<td>$15,000,000</td>
</tr>
<tr>
<td>Project Hope</td>
<td>$0</td>
<td>$1,929,000</td>
<td>$1,929,000</td>
</tr>
<tr>
<td>Personal Protective Equipment</td>
<td>$0</td>
<td>$89,296,000</td>
<td>$89,296,000</td>
</tr>
<tr>
<td>Medical Surge/Tents</td>
<td>$0</td>
<td>$240,741,000</td>
<td>$240,741,000</td>
</tr>
<tr>
<td>Testing (Employee)</td>
<td>$0</td>
<td>$378,926,000</td>
<td>$378,926,000</td>
</tr>
<tr>
<td>Testing (Inmate)</td>
<td>$0</td>
<td>$175,533,000</td>
<td>$175,533,000</td>
</tr>
<tr>
<td>Cleaning</td>
<td>$0</td>
<td>$29,180,000</td>
<td>$29,180,000</td>
</tr>
<tr>
<td>Other Staffing and Operational Costs</td>
<td>$0</td>
<td>$202,148,000</td>
<td>$202,148,000</td>
</tr>
<tr>
<td>Other State Agency Response Operations Costs</td>
<td>$571,828,000</td>
<td>$994,739,000</td>
<td>$422,911,000</td>
</tr>
<tr>
<td>Procurements</td>
<td>$4,363,764,000</td>
<td>$3,366,496,000</td>
<td>-$997,268,000</td>
</tr>
<tr>
<td>OES Masks Contract (Global Healthcare Product Solutions, LLC)</td>
<td>$1,567,500,000</td>
<td>$920,600,000</td>
<td>-$646,900,000</td>
</tr>
<tr>
<td>DGS and Other Procurements</td>
<td>$2,796,264,000</td>
<td>$2,445,896,000</td>
<td>-$350,368,000</td>
</tr>
<tr>
<td>Hospital and Medical Surge (to support 5,000 beds)</td>
<td>$1,325,023,000</td>
<td>$1,091,631,000</td>
<td>-$233,392,000</td>
</tr>
<tr>
<td>Staffing Costs</td>
<td>$854,523,000</td>
<td>$768,421,000</td>
<td>-$86,102,000</td>
</tr>
<tr>
<td>Facilities and Operating Costs</td>
<td>$470,500,000</td>
<td>$323,210,000</td>
<td>-$147,290,000</td>
</tr>
<tr>
<td>Hotels for Health Care Workers/Support Staff</td>
<td>$507,650,000</td>
<td>$368,957,000</td>
<td>-$138,693,000</td>
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<tr>
<td>Housing for the Harvest</td>
<td>$0</td>
<td>$9,623,000</td>
<td>$9,623,000</td>
</tr>
<tr>
<td>Vulnerable Populations and Other Support Services</td>
<td>$638,602,000</td>
<td>$1,888,547,000</td>
<td>$1,249,945,000</td>
</tr>
<tr>
<td>Project Roomkey</td>
<td>$100,000,000</td>
<td>$162,000,000</td>
<td>$62,000,000</td>
</tr>
<tr>
<td>Food Banks</td>
<td>$70,000,000</td>
<td>$165,500,000</td>
<td>$95,500,000</td>
</tr>
<tr>
<td>Support for Small Businesses</td>
<td>$50,000,000</td>
<td>$562,500,000</td>
<td>$512,500,000</td>
</tr>
<tr>
<td>Great Plates Delivered</td>
<td>$25,000,000</td>
<td>$25,000,000</td>
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<td>Community Engagement</td>
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<td><strong>Totals</strong></td>
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Proposition 47
Current estimate of savings at $114.8m (with 65% going to mental health and substance abuse programs, approximately $74.6m).

Police Use of Force Investigations
$13m to establish three teams, one in each of the northern, central, and southern regions of California, to conduct investigations pursuant to AB 1506 (Chapter 326, Statutes of 2020).

Greenhouse Gas Reduction Fund
The Cap and Trade Expenditure Plan proposes $1.369 billion Greenhouse Gas Reduction Fund ($624 million for Early Action in 2020-21 and $745 million in 2021-22) to provide funding for programs that reduce or sequester greenhouse gases (GHGs).

The proposed Expenditure Plan advances the state’s priorities on environmental justice and protects public health by delivering clean air and safe and affordable drinking water. The Expenditure Plan also promotes implementation of the Governor’s recent Climate Executive Orders N-79-20 and N-82-20, related to zero-emission vehicles and natural and working lands, respectively.

### Cap and Trade Expenditure Plan
(Dollars in Millions)

<table>
<thead>
<tr>
<th>Investment Category</th>
<th>Department</th>
<th>Program</th>
<th>Early Action 2020-21</th>
<th>Budget Year 2021-22</th>
<th>Total</th>
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<tr>
<td>Equity Programs</td>
<td>California Air Resources Board</td>
<td>AB 617 - Community Air Protection</td>
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<td>$140</td>
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<td>AB 617 - Local Air District Implementation</td>
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<td>Water Board</td>
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<td>Clean Trucks, Buses, &amp; Off-Road Freight Equipment</td>
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<td>Clean Cars &amp; All Transportation Equity Projects</td>
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<td>Natural &amp; Working Lands</td>
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<td>Healthy &amp; Resilient Forests (SB 8901) ($75 million included in 2020 Budget)</td>
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<td>Department of Food &amp; Agriculture</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$624</strong></td>
<td><strong>$745</strong></td>
<td><strong>$1,369</strong></td>
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</table>

**Equity Programs**
The Cap and Trade Expenditure Plan continues a focus on community air protection by providing $325 million to support the AB 617 program, which reduces exposure in communities with disproportionate exposure to air pollution through targeted air monitoring and community emissions reduction programs.

**California Air Resources Board, AB 617—Community Air Protection**—$125 million in 2020-21 and $140 million in 2021-22 ($265 million total) for incentive actions to reduce both stationary and mobile source emissions in communities identified as heavily impacted by air pollution.

**California Air Resources Board, AB 617—Local Air District Implementation**—$50M in 2021-222 to support local air districts’ implementation of AB 617, including establishing and coordinating community steering committees, emissions reduction program development, deployment of air monitoring within communities, and implementation of Best Available Retrofit Control Technologies (BARCT) requirements.

**California Air Resources Board, AB 617—Technical Assistance to Community Groups**—$10 million in 2021-22 for technical assistance grants to community-based organizations to participate in the AB 617 process, including for involvement and support of the development of community emission reduction plans.

**State Water Resources Control Board, Safe and Affordable Drinking Water**—$130 million to assist water systems in providing a safe and affordable supply of drinking water to communities. The focus of these funds is accelerating the implementation of short- and long-term solutions, funding consolidations, planning, technical assistance, administrators, replacement water, and operations and maintenance. Projects funded by the program will improve climate change adaptation and resiliency of disadvantaged communities.

**Low Carbon Transportation & ZEV Strategy**

To help the state meet the targets set in Executive Order N-79-20, the Cap and Trade Expenditure Plan includes $465 million to improve access to new and used zero-emission vehicles, including passenger cars and trucks, medium- and heavy-duty vehicles, and off-road equipment.

**California Air Resources Board, Clean Trucks, Buses, and Off-Road Freight Equipment**—$165 million in 2020-21 and $150 million in 2021-22 ($315 million total) for incentives for zero-emission trucks, transit buses, school buses, and freight equipment in the early stages of commercialization. These investments support the equitable transition of the transportation sector to zero-emission and provide critical air quality and health benefits to communities.

**California Air Resources Board, Clean Cars 4 All and Transportation Equity Projects**—$74 million in 2020-21 and $76 million in 2021-22 ($150 million total) for equity-focused investments that increase access to clean transportation for low-income households and disadvantaged communities. Projects include voluntary Clean Cars 4 All car scrap-and-replace incentives, financing assistance for low-income consumers, clean mobility options such as car sharing, community-based transportation equity projects, and rural school bus replacement.

**California Air Resources Board, Agricultural Diesel Engine Replacement & Upgrades**—$90 million in 2020-21 and $80 million in 2021-22 ($170 million total) for farmers and agricultural businesses to replace existing diesel, agricultural vehicles, and equipment with the cleanest available diesel or advanced technologies. Emissions from agricultural equipment are a significant source of air pollution, especially in the San Joaquin Valley. Reducing these emissions is critical for meeting health protective federal air quality standards.

**California Energy Commission, ZEV Infrastructure** – While not included in the Cap and Trade Expenditure Plan,
the budget includes $1 billion in future revenues to increase the pace and scale of the construction of electric vehicle charging and hydrogen fueling stations necessary to accelerate zero-emission vehicle adoption. The budget proposes statutory changes to extend existing vehicle registration fees currently set to expire in 2024 and to authorize the securitization of these future revenues to support the expansion of the California Energy Commission’s Clean Transportation Program, which supports infrastructure development for light-, medium- and heavy-duty vehicles.

**Natural Resources**

The Natural Resources Agency consists of 26 departments, boards, commissions and conservancies responsible for administering programs to conserve, restore and enhance the natural, historical and cultural resources of California. The Budget includes total funding of $7.4 billion ($4.6 General Fund, $2 billion special funds, $812.6 million bond funds) for the programs included in the Agency.

The Agency’s departments help the state become more climate resilient, expand equitable access to parks and wildlands, and conserve California’s remarkable biodiversity.

**Environmental Protection**

The California Environmental Protection Agency’s programs promote the state’s economy in a sustainable manner by reducing greenhouse gas emissions, enhancing environmental quality, and protecting public health.

The Secretary coordinates the state’s regulatory programs and provides fair and consistent enforcement of environmental law. The Governor’s Budget includes $4.3 billion ($460 million General Fund, $3.8 billion special funds, and $16.8 million bond funds) for programs included in this Agency.

**Circular Economy**

Current law (Chapter 395, Statutes of 2016), initiated a path to reduce organic materials in landfills, which accounts for two-thirds of landfill waste and is the third largest source of methane in the state. To combat climate change, successfully implementing this organic recycling program will close the loop by recognizing the greater value of turning organic waste into new organic products while creating 2,000 permanent jobs in the state.

The Budget proposes $5 million from the Beverage Container Recycling Fund in both 2020-21 and 2021-22 and statutory changes to expand pilot programs to expand consumer redemption in communities underserved by recycling centers.

The Budget also proposes ongoing funding from the Beverage Container Recycling Fund to implement Chapter 115, Statutes of 2020, requiring that plastic beverage containers contain at least 50 percent post-consumer recycled content by 2030.

In addition, CalRecycle will embark on an evaluation of existing program grants, loans, and payments to identify opportunities to better align with a circular economy approach, combat climate change and support economic recovery. The Administration also remains supportive of extended producer responsibility policies, especially where further system redesign is needed to achieve a circular economy.
Extended Producer Responsibility (EPR)

CalRecyle will embark on an evaluation of existing programs to identify opportunities to better align with a circular economy approach, combat climate change, and support economic recovery. The Administration remains support of EPR especially where further system redesign is needed to achieve a circular economy.
Item B-14
This item is a request by Councilmember Mirisch to review racial inequities in real estate appraisals.

The City's state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, prepared a summary memo on this subject (Attachment 1) and will provide a verbal update to the Legislative/Lobby Liaison Committee.

After discussion, the Liaisons may provide any direction to City staff based on the information received.
Attachment 1
January 19, 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: Racial Inequities in Real Estate Appraisals

Background
Race and housing policy have long been intertwined in the United States. Black Americans consistently struggle more than their white counterparts to be approved for home loans, and the specter of redlining — a practice that denied mortgages to people of color in certain neighborhoods — continues to drive down home values in Black neighborhoods. While advancements have been made in addressing racially discriminatory practices in housing such as redlining and restrictive housing covenants, racial inequities. One racially discriminatory practice that has received attention recently is the racial disparity in home appraisals.

In one recent example a biracial Florida couple sought to take advantage of low home-refinance rates brought on by the coronavirus crisis. In June, they took the first step in that process, welcoming a home appraiser into their four-bedroom, four-bath ranch-style house in Jacksonville, Florida. The couple live in a predominantly white neighborhood of 1950s homes that tend to sell for $350,000 to $550,000. They had expected their home to appraise for around $450,000, but the appraiser assigned the home a value of $330,000. The couple’s bank agreed that the value was off and ordered a second appraisal. But before the new appraiser could arrive, the couple took all family photos off the mantle. Instead, they hung up a series of oil paintings of the husband, who is white, and his grandparents that had been in storage and holiday photo cards sent by friends were edited so that only those showing white families were left on display. On the day of the appraisal, the wife took their 6-year-old son on a shopping trip to Target, and left the husband alone at home to answer the door. The new appraiser gave their home a value of $465,000 — a more than 40 percent increase from the first appraisal.

In 2000, comedian D.L. Hughley had an appraisal on his home in the Montevista Estates neighborhood of West Hills, a primarily white area in the San Fernando Valley in Los Angeles. Despite a steady uptick in the housing market and the addition of a pool and new hardwood floors, the house was appraised for nearly what he had bought it for three years earlier — $500,000. In Mr. Hughley’s case, his bank flagged the report and ordered a new appraisal, which came back $160,000 higher, and Mr. Hughley went on to sell the home for $770,000. In recounting the incident Mr. Hughley noted that his realtor had advised him to take down any pictures he had that would make the appraiser aware that a black person owned the home as they would undervalue the home in their appraisal, highlighting the prevalence of the issue.

In 2018, the Brookings Institute released a report “The Devaluation of Assets in Black Neighborhoods: The Case of Residential Property” in which they took an in-depth look at the devaluation of homes in majority black neighborhoods. The report found that in the average U.S.
metropolitan area, homes in neighborhoods where the share of the population is 50 percent black are valued at roughly half the price as homes in neighborhoods with no black residents. According to their analysis, differences in home and neighborhood quality do not fully explain the devaluation of homes in black neighborhoods. Homes of similar quality in neighborhoods with similar amenities are worth 23 percent less ($48,000 per home on average, amounting to $156 billion in cumulative losses) in majority black neighborhoods, compared to those with very few or no black residents.

Their report focused on owner-occupied homes as home appreciation results in higher home values which brings wealth to owners. There is a large and well-known wealth gap between blacks and other racial groups in the United States, much of which can be attributed to differences in homeownership rates and the value of housing. While the devaluation of owner-occupied housing makes it easier to acquire the home, once it is purchased, it is unambiguously disadvantageous to the owner and occupier, who would otherwise benefit from being able to refinance, borrow, or sell at a higher valuation.

Their report found that in the Los Angeles/Long Beach/Anaheim area black-owned homes were valued at an average 17.1 percent less than comparable homes in predominantly white neighborhoods. This results in an estimated median devaluation of a little more $70,000 per home.

**Home Appraisal Regulation**

Home appraisers are bound by the Fair Housing Act of 1968 to not discriminate based on race, religion, national origin or gender. Appraisers can lose their license or even face prison time if they’re found to produce discriminatory appraisals. Title XI of the Financial Institutions Reform, Recovery and Enforcement Act, enacted in 1989, also binds appraisers to a standard of unbiased ethics and performance. At the state level home appraisers are regulated by the Bureau of Real Estate Appraisers within the Department of Consumer Affairs.