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
2nd Floor Room 280A
Beverly Hills, CA 90210

IN-PERSON / TELEPHONIC / VIDEO CONFERENCE MEETING

Beverly Hills Liaison Meeting
https://beverlyhills-org.zoom.us/my/committee
Meeting ID: 516 191 2424
Passcode: 90210

You can also dial in by phone:
+1 669 900 9128 US
+1 833 548 0282 (Toll-Free)

One tap mobile
+16699009128,,5161912424# US
+18335480282,,5161912424# US (Toll-Free)

Wednesday, March 15, 2023
11:00 AM

Please be advised that pre-entry metal detector screening requirements are now in place in City Hall. Members of the public are requested to plan visits accordingly.

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 and will also be taken during the meeting when the topic is being reviewed by the Beverly Hills City Council Liaison / Legislative/Lobby Committee. Beverly Hills Liaison meetings will be in-person at City Hall.

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. Initiative No. 21-0042 "The Taxpayer Protection and Government Accountability Act"
   Comment: The Taxpayer Protection and Government Accountability Act would amend the California Constitution with provisions that limit voters' authority and input; adopt new and stricter rules for raising taxes and fees; and may make it more difficult to impose fines and penalties for violation of state and local laws. This item requests the Legislative / Lobby Committee Liaisons to take a position on this ballot initiative.

2. H.R. 589 – Masha Amini Human Rights and Security Accountability (MASHA) Act
   Comment: This item requests the Legislative / Lobby Liaison Committee consider a request by Councilmember Nazarian for the City of Beverly Hills to take a position on H.R. 589. The MASHA Act sanctions Iran's Supreme Leader and his inner circle for human rights violations against the Iranian people.

3. H.Res.100 - Expressing Support for the Iranian People's Desire for a Democratic, Secular, and Nonnuclear Republic of Iran, and Condemning Violations of Human Rights and State-Sponsored Terrorism by the Iranian Government
   Comment: This item requests the Legislative / Lobby Liaison Committee consider a request by Councilmember Nazarian for the City of Beverly Hills to take a position on H.Res.100. This resolution condemns Iranian state-sponsored terrorist attacks against U.S. citizens and officials and Iranian dissidents. The resolution also expresses support for the people of Iran who are legitimately defending their rights for freedom against repression and condemns the killing of Iranian protesters by the Iranian regime. There is some concern with this resolution as there are whereas clauses that endorse Maryam Rajavi's "10-point plan" for Iran and offers the Mujahideen-e-Khalq (MEK) as a democratic alternative to the Islamic Republic's authoritarian regime.

4. Assembly Bill 642 (Ting) - Law Enforcement Agencies: Facial Recognition Technology
   Comment: This bill would, commencing July 1, 2024, require any law enforcement agency that uses facial recognition technology (FRT) to have a written policy governing the use of that technology. The bill would require any FRT system used to meet certain national standards and would limit the use of FRT to use as an investigative aid. The bill would also require an agency using FRT to post their written policy and an annual summary of FRT usage on their internet website.

5. Assembly Bill 742 (Jackson) - Law enforcement: police canines
   Comment: This bill would prohibit the use of an unleashed police canine by law enforcement to apprehend a person and any use of a police canine for crowd control.

6. Senate Bill 44 (Umberg) - Controlled substances
   Comment: This bill would require a person who pleads guilty, no contest, or is convicted of possession for sale or purchase for purpose of sale, transportation, furnishing, administering, giving away, manufacturing, or preparing various controlled substances, including fentanyl, peyote, and various other opiates and narcotics to receive a written advisory of the danger of manufacturing or distribution of controlled substances and that, if a person dies as a result of that action, the manufacturer or distributor can be charged with voluntary manslaughter or murder.
7. Senate Bill 58 (Wiener) - Controlled Substances: Decriminalization of Certain Hallucinogenic Substances.
   Comment: This item requests the Legislative / Lobby Liaison Committee consider a request by Councilmember Nazarian for the City of Beverly Hills to take a position on SB 58. This bill would make lawful the possession, preparation, obtaining, transfer, or transportation of, specified quantities of psilocybin, psilocyn, dimethyltryptamine (DMT), ibogaine, and mescaline (these are also more commonly known as psychedelic plants and fungi), for personal use or facilitated or supported use by and with persons 21 years of age or older.

   Comment: This bill would require a housing development project be a use by right upon the request of an applicant who submits an application for streamlined approval on any land owned by an independent institution of higher education or religious institution on or before January 1, 2024, if the development satisfies specified criteria.

9. Legislative Updates
   Comment: The City's lobbyists will provide a verbal update to the Liaisons on various legislative issues.

10. Future Agenda Items Discussion
    Comment: The Legislative / Lobby Committee Liaisons may request topics for discussion be added to the next agenda.

C. Adjournment

Huma Ahmed
City Clerk

Posted: March 10, 2023

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 twenty-four (24) hours advance notice will help to ensure availability of services. City Hall, including the Room 280A is wheelchair accessible.
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Municipal Affairs Program Manager

SUBJECT: Initiative No. 21-0042 “The Taxpayer Protection and Government Accountability Act”

BACKGROUND & DISCUSSION

On January 2022, the California Business Roundtable ("CBRT") filed the Taxpayer Protection and Government Accountability Act ("the Act") with the Secretary of State. The Act would amend the California Constitution with provisions that limit voters’ authority and input, adopt new and stricter rules for raising taxes and fees, and may make it more difficult to impose fines and penalties for violation of state and local laws.

Local government revenue-raising authority is currently substantially restricted by state statute and constitutional provisions, including the voter approved provisions of Proposition 13 of 1978, Proposition 218 of 1996, and Proposition 26 of 2010. The Taxpayer Protection and Government Accountability Act adds and expands restrictions on voters and local government tax and fee authority.

The League of California Cities ("Cal Cities"), along with a broad coalition of local governments, labor and public safety leaders, infrastructure advocates, and businesses, strongly opposes this initiative.

Fees and Taxes

Local governments levy a variety of fees and other charges to provide core public services, including: commercial franchise fees, advanced life support transport charges, parking fees, facility use charges, and fees for parks and recreation services. Virtually every city, county, and special district must regularly adopt increases to fee rates and charges and revise rate schedules to accommodate new users, increased costs and new activities. Most of these would be subject to the new standards and limitations outlined in the Act under threat of legal challenge.

Cal Cities estimates the amount of local government fee and charge revenue at risk should the Act pass is approximately $2 billion per year including those adopted since January 1, 2022, based on the current volume of fees and charges imposed by local agencies, including Council-adopted increases to simply accommodate inflation.

Over ten years, $20 billion of local government fee and charge revenues will be at heightened legal peril.

DATE: March 15, 2023
The proposed ballot measure would:

**Limit voter authority and accountability**

- Limits voter input. Prohibits local voters from providing direction on how local tax dollars should be spent by prohibiting local advisory measures.
- Invalidates the Upland decision ([California Cannabis Coalition v. City of Upland, 2017](#)).

Taxes proposed by the Initiative are subject to the same rules as taxes placed on the ballot by a city council. All measures passed between January 2022 and November 2022 would be invalidated unless reenacted within 12 months.

**Restricts local fee authority to provide local services**

- Impacts franchise fees. Sets new standard for fees and charges paid for the use of local and state government property. The standard may significantly restrict the amount oil companies, utilities, gas companies, railroads, garbage companies, cable companies, and other corporations pay for the use of local public property. Rental and sale of local government property must be “reasonable” which must be proved by “clear and convincing evidence.”
- Fees and charges may not exceed the “actual cost.” Except for licensing and other regulatory fees, fees and charges may not exceed the “actual cost” of providing the product or service for which the fee is charged. “Actual cost” is the “minimum amount necessary.” The burden to prove the fee or charge does not exceed “actual cost” is changed to “clear and convincing” evidence.

**Restricts authority of state and local governments to issue fines and penalties for violations of law**

- Requires voter approval of fines, penalties, and levies for corporations and property owners that violate state and local laws unless a new, undefined adjudicatory process is used to impose the fines and penalties.

**Restricts local tax authority to provide local services**

- Requires voter approval to expand existing taxes (e.g., Utility User Tax, Transient Occupancy Tax) to new territories (e.g., annexation) or expanding the base (e.g., new utility service).
- City charters may not be amended to include a tax or fee.
- New taxes can be imposed only for a specific time period.
- Taxes adopted after Jan. 1, 2022, that do not comply with the new rules, are void unless reenacted.
- All state taxes require majority voter approval.
- Prohibits any surcharge on property tax rate and allocation of property tax to state.

**Other changes**

- No fee or charge or exaction regulating vehicle miles traveled can be imposed as a condition of property development or occupancy.
The proposed bill would result in the following fiscal impact if passed by voters:

- Billions of local government fee and charge revenues placed at heightened legal peril.
- Related public service reductions across virtually every aspect of city, county, special district, and school services especially for transportation, and public facility use.
- Hundreds of millions of dollars of annual revenues from dozens of tax and bond measures approved by voters between January 1, 2022 and November 9, 2022 subject to additional voter approval if not in compliance with the initiative.
- Indeterminable legal and administrative burdens and costs on local government from new and more empowered legal challenges, and bureaucratic cost tracking requirements.
- The delay and deterrence of municipal annexations and associated impacts on housing and commercial development.
- Service and infrastructure impacts including in fire and emergency response, law enforcement, public health, drinking water, sewer sanitation, parks, libraries, public schools, affordable housing, homelessness prevention and mental health services.

After discussion of Initiative No. 21-0042 "The Taxpayer Protection and Government Accountability Act", the Liaisons may recommend the following actions:

1) Support Initiative No. 21-0042 "The Taxpayer Protection and Government Accountability Act";
2) Oppose Initiative No. 21-0042 "The Taxpayer Protection and Government Accountability Act";
3) Remain neutral; or
4) Provide other direction to City staff, such as adopting a resolution in support or opposition to Initiative No. 21-0042 "The Taxpayer Protection and Government Accountability Act".

Should the Liaisons recommend the City take a position on Initiative No. 21-0042 "The Taxpayer Protection and Government Accountability Act", then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
The Taxpayer Protection and Government Accountability Act

[Deleted codified text is denoted in strikeout. Added codified text is denoted by *italics and underline.*]

Section 1. Title

This Act shall be known, and may be cited as, the Taxpayer Protection and Government Accountability Act.

Section 2. Findings and Declarations

(a) Californians are overtaxed. We pay the nation’s highest state income tax, sales tax, and gasoline tax. According to the U.S. Census Bureau, California’s combined state and local tax burden is the highest in the nation. Despite this, and despite two consecutive years of obscene revenue surpluses, state politicians in 2021 alone introduced legislation to raise more than $234 billion in new and higher taxes and fees.

(b) Taxes are only part of the reason for California’s rising cost-of-living crisis. Californians pay billions more in hidden “fees” passed through to consumers in the price they pay for products, services, food, fuel, utilities and housing. Since 2010, government revenue from state and local “fees” has more than doubled.

(c) California’s high cost of living not only contributes to the state’s skyrocketing rates of poverty and homelessness, they are the pushing working families and job-providing businesses out of the state. The most recent Census showed that California’s population dropped for the first time in history, costing us a seat in Congress. In the past four years, nearly 300 major corporations relocated to other states, not counting thousands more small businesses that were forced to move, sell or close.

(d) California voters have tried repeatedly, at great expense, to assert control over whether and how taxes and fees are raised. We have enacted a series of measures to make taxes more predictable, to limit what passes as a “fee,” to require voter approval, and to guarantee transparency and accountability. These measures include Proposition 13 (1978), Proposition 62 (1986), Proposition 218 (1996), and Proposition 26 (2010).

(e) Contrary to the voters’ intent, these measures that were designed to control taxes, spending and accountability, have been weakened and hamstrung by the Legislature, government lawyers, and the courts, making it necessary to pass yet another initiative to close loopholes and reverse hostile court decisions.

Section 3. Statement of Purpose

(a) In enacting this measure, the voters reassert their right to a voice and a vote on new and higher taxes by requiring any new or higher tax to be put before voters for approval. Voters also intend that all fees and other charges are passed or rejected by the voters themselves or a governing body elected by voters and not unelected and unaccountable bureaucrats.

(b) Furthermore, the purpose and intent of the voters in enacting this measure is to increase transparency and accountability over higher taxes and charges by requiring any tax measure placed on the ballot—
either at the state or local level—to clearly state the type and rate of any tax, how long it will be in effect, and the use of the revenue generated by the tax.

(c) Furthermore, the purpose and intent of the voters in enacting this measure is to clarify that any new or increased form of state government revenue, by any name or manner of extraction paid directly or indirectly by Californians, shall be authorized only by a vote of the Legislature and signature of the Governor to ensure that the purposes for such charges are broadly supported and transparently debated.

(d) Furthermore, the purpose and intent of the voters in enacting this measure is also to ensure that taxpayers have the right and ability to effectively balance new or increased taxes and other charges with the rapidly increasing costs Californians are already paying for housing, food, childcare, gasoline, energy, healthcare, education, and other basic costs of living, and to further protect the existing constitutional limit on property taxes and ensure that the revenue from such taxes remains local, without changing or superseding existing constitutional provisions contained in Section 1(c) of Article XIII A.

(e) In enacting this measure, the voters also additionally intend to reverse loopholes in the legislative two-thirds vote and voter approval requirements for government revenue increases created by the courts, including, but not limited to, *Cannabis Coalition v. City of Upland, Chamber of Commerce v. Air Resources Board, Schmeer v. Los Angeles County, Johnson v. County of Mendocino, Citizens Assn. of Sunset Beach v. Orange County Local Agency Formation Commission*, and *Wilde v. City of Dunsmuir*.

Section 4. Section 3 of Article XIII A of the California Constitution is amended to read:

Sec. 3(a) Every levy, charge, or exaction of any kind imposed by state law is either a tax or an exempt charge.

(b)(1) (a) Any change in state statute law which results in any taxpayer paying a new or higher tax must be imposed by an act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, and submitted to the electorate and approved by a majority vote, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property, may be imposed. Each Act shall include:

(A) A specific duration of time that the tax will be imposed and an estimate of the annual amount expected to be derived from the tax.

(B) A specific and legally binding and enforceable limitation on how the revenue from the tax can be spent. If the revenue from the tax can be spent for unrestricted general revenue purposes, then a statement that the tax revenue can be spent for “unrestricted general revenue purposes” shall be included in a separate, stand-alone section. Any proposed change to the use of the revenue from the tax shall be adopted by a separate act that is passed by not less than two-thirds of all members elected to each of the two houses of the Legislature and submitted to the electorate and approved by a majority vote.

(2) The title and summary and ballot label or question required for a measure pursuant to the Elections Code shall, for each measure providing for the imposition of a tax, including a measure proposed by an elector pursuant to Article II, include:

(A) The type and amount or rate of the tax;

(B) The duration of the tax, and
(c) The use of the revenue derived from the tax.

(c) Any change in state law which results in any taxpayer paying a new or higher exempt charge must be imposed by an act passed by each of the two houses of the Legislature. Each act shall specify the type of exempt charge as provided in subdivision (e), and the amount or rate of the exempt charge to be imposed.

(d) As used in this section and in Section 9 of Article II, "tax" means every any levy, charge, or exaction of any kind imposed by the State state law that is not an exempt charge, except the following:

(e) As used in this section, "exempt charge" means only the following:

1. A reasonable charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of conferring the benefit or granting the privilege to the payor.

2. A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable actual costs to the State of providing the service or product to the payor.

3. A charge imposed for the reasonable regulatory costs to the State incident to issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

4. A levy, charge, or exaction collected from local units of government, health care providers or health care service plans that is primarily used by the State of California for the purposes of increasing reimbursement rates or payments under the Medi-Cal program, and the revenues of which are primarily used to finance the non-federal portion of Medi-Cal medical assistance expenditures.

5. A reasonable charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by Section 15 of Article XI.

6. A fine, or penalty, or other monetary charge including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or the State, as a result of a state administrative enforcement agency pursuant to adjudicatory due process, to punish a violation of law.

(f) Any tax or exempt charge adopted after January 1, 2022 but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.

(g) The State bears the burden of proving by a preponderance of the clear and convincing evidence that a levy, charge, or other exaction is an exempt charge and not a tax. The State bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor.
that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by state law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind as being voluntary, or paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be a factor in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(h) As used in this section:

(1) “Actual cost” of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing “actual cost” the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(2) “Extend” includes, but is not limited to, doing any of the following with respect to a tax or exempt charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.

(3) “Impose” means adopt, enact, reenact, create, establish, collect, increase or extend.

(4) “State law” includes, but is not limited to, any state statute, state regulation, state executive order, state resolution, state ruling, state opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by the legislative or executive branches of state government. “State law” does not include actions taken by the Regents of the University of California, Trustees of the California State University, or the Board of Governors of the California Community Colleges.

Section 5. Section 1 of Article XIII C of the California Constitution is amended, to read:

Sec. 1. Definitions. As used in this article:

(a) “Actual cost” of providing a service or product means: (i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing “actual cost” the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.

(b) “Extend” includes, but is not limited to, doing any of the following with respect to a tax, exempt charge, or Article XIII D assessment, fee, or charge: lengthening its duration, delaying or eliminating its expiration, expanding its application to a new territory or class of payor, or expanding the base to which its rate is applied.
(c) "General tax" means any tax imposed for general governmental purposes.

(d) "Impose" means adopt, enact, reenact, create, establish, collect, increase, or extend.

(e) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity, or an elector pursuant to Article II or the initiative power provided by a charter or statute.

(f) "Local law" includes, but is not limited to, any ordinance, resolution, regulation, ruling, opinion letter, or other legal authority or interpretation adopted, enacted, enforced, issued, or implemented by a local government.

(g) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(h) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

(i) As used in this article, and in Section 9 of Article II, "tax" means every any levy, charge, or exaction of any kind, imposed by a local government law that is not an exempt charge, except the following:

(i) As used in this section, "exempt charge" means only the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payer that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

(1)(2) A reasonable charge imposed for a specific local government service or product provided directly to the payer that is not provided to those not charged, and which does not exceed the reasonable actual costs to the local government of providing the service or product.

(2)(3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(3)(4) A reasonable charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

(4)(5) A fine, or penalty, or other monetary charge including any applicable interest for nonpayment thereof, imposed by the judicial branch of government or a local government administrative enforcement agency pursuant to adjudicatory due process. as a result of to punish a violation of law.

(5)(6) A charge imposed as a condition of property development. No levy, charge, or exaction regulating or related to vehicle miles traveled may be imposed as a condition of property development or occupancy.

(6)(7) An Assessments and property-related fees assessment, fee, or charge imposed in accordance with the provisions of subject to Article XIII D, or an assessment imposed upon a business in a tourism marketing district, a parking and business improvement area, or a property and business improvement district.
(7) A charge imposed for a specific health care service provided directly to the payor and that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the health care service. As used in this paragraph, a “health care service” means a service licensed or exempt from licensure by the state pursuant to Chapters 1, 1.3, or 2 of Division 2 of the Health and Safety Code.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.

Section 6. Section 2 of Article XIII C of the California Constitution is amended to read:

Sec. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) Every levy, charge, or exaction of any kind imposed by local law is either a tax or an exempt charge. All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local law government, whether proposed by the governing body or by an elector, may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).

(d) No local law government, whether proposed by the governing body or by an elector, may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

(d) The title and summary and ballot label or question required for a measure pursuant to the Elections Code shall, for each measure providing for the imposition of a tax, include:

(1) The type and amount or rate of the tax;

(2) the duration of the tax; and

(3) The use of the revenue derived from the tax. If the proposed tax is a general tax, the phrase “for general government use” shall be required, and no advisory measure may appear on the same ballot that would indicate that the revenue from the general tax will, could, or should be used for a specific purpose.

(e) Only the governing body of a local government, other than an elector pursuant to Article II or the initiative power provided by a charter or statute, shall have the authority to impose any exempt charge. The governing body shall impose an exempt charge by an ordinance specifying the type of exempt charge
as provided in Section 1(j) and the amount or rate of the exempt charge to be imposed, and passed by the governing body. This subdivision shall not apply to charges specified in paragraph (7) of subdivision (j) of Section 1.

(f) No amendment to a Charter which provides for the imposition, extension, or increase of a tax or exempt charge shall be submitted to or approved by the electors, nor shall any such amendment to a Charter hereafter submitted to or approved by the electors become effective for any purpose.

(g) Any tax or exempt charge adopted after January 1, 2022, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax or exempt charge is reenacted in compliance with the requirements of this section.

(h)(1) The local government bears the burden of proving by clear and convincing evidence that a levy, charge or exaction is an exempt charge and not a tax. The local government bears the burden of proving by clear and convincing evidence that the amount of the exempt charge is reasonable and that the amount charged does not exceed the actual cost of providing the service or product to the payor.

(2) The retention of revenue by, or the payment to, a non-governmental entity of a levy, charge, or exaction of any kind imposed by a local law, shall not be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

(3) The characterization of a levy, charge, or exaction of any kind imposed by a local law as being paid in exchange for a benefit, privilege, allowance, authorization, or asset, shall not be factors in determining whether the levy, charge, or exaction is a tax or an exempt charge.

(4) The use of revenue derived from the levy, charge or exaction shall be a factor in determining whether the levy, charge, or exaction is a tax or exempt charge.

Section 7. Section 3 of Article XIII D of the California Constitution is amended, to read:

Sec. 3. Property Taxes, Assessments, Fees and Charges Limited

(a) No tax, assessment, fee, or charge, or surcharge, including a surcharge based on the value of property, shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to described in Section 1(a) of Article XIII and Section 1(a) of Article XIII A, and described and enacted pursuant to the voter approval requirement in Section 1(b) of Article XIII A.

(2) Any special non-ad valorem tax receiving a two-thirds vote of qualified electors pursuant to Section 4 of Article XIII A, or after receiving a two-thirds vote of those authorized to vote in a community facilities district by the Legislature pursuant to statute as it existed on December 31, 2021.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.
(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

Section 8. Sections 1 and 14 of Article XIII are amended to read:

Sec. 1 Unless otherwise provided by this Constitution or the laws of the United States:

(a) All property is taxable and shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.

(b) All property so assessed shall be taxed in proportion to its full value.

(c) All proceeds from the taxation of property shall be apportioned according to law to the districts within the counties.

Sec. 14. All property taxed by state or local government shall be assessed in the county, city, and district in which it is situated. Notwithstanding any other provision of law, such state or local property taxes shall be apportioned according to law to the districts within the counties.

Section 9. General Provisions

A. This Act shall be liberally construed in order to effectuate its purposes.

B. (1) In the event that this initiative measure and another initiative measure or measures relating to state or local requirements for the imposition, adoption, creation, or establishment of taxes, charges, and other revenue measures shall appear on the same statewide election ballot, the other initiative measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(2) In furtherance of this provision, the voters hereby declare that this measure conflicts with the provisions of the "Housing Affordability and Tax Cut Act of 2022" and "The Tax Cut and Housing Affordability Act," both of which would impose a new state property tax (called a “surcharge”) on certain real property, and where the revenue derived from the tax is provided to the State, rather than retained in the county in which the property is situated and for the use of the county and cities and districts within the county, in direct violation of the provisions of this initiative.

(3) If this initiative measure is approved by the voters, but superseded in whole or in part by any other conflicting initiative measure approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

C. The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not
declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

D. If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of state or federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(1) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(2) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(3) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(4) Nothing in this section shall prohibit the proponents of this Act, or a bona fide taxpayers association, from intervening to defend this Act.
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: March 15, 2023

SUBJECT: H.R. 589 – Masha Ami Human Rights and Security Accountability (MASHA) Act

ATTACHMENT
1. Summary Memo – H.R. 589
2. Bill Text – H.R. 589

This item requests the Legislative/Lobby Liaison Committee to consider a request by Councilmember Nazarian for the City of Beverly Hills to take a position on H.R. 589. The MASHA Act requires the President of the United States to impose property- and visa-blocking sanctions on certain persons (individuals and entities) affiliated with Iran.

The City’s federal lobbyist, David Turch and Associates, provided a summary memo for H.R. 589 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of H.R. 589, the Liaisons may recommend the following actions:
1) Support H.R. 589;
2) Support if amended H.R. 589;
3) Oppose H.R. 589;
4) Oppose unless amended H.R. 589;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on H.R. 589, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
TO: Cindy Owens, Municipal Affairs Program Manager  
City of Beverly Hills

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

DATE: March 7, 2023

RE: H.R. 589 – Masha Amini Human Rights and Security Accountability Act

Republican Representative Jim Banks of Indiana has reintroduced the Masha Amini Human Rights and Security Accountability (MASHA) Act in the 118th Congress. The new bill number is H.R. 589 (previously H.R. 9203 in 117th Congress). The MASHA Act sanctions Iran’s Supreme Leader and his inner circle for human rights violations against the Iranian people. The measure has been referred to the House Foreign Affairs, the Ways and Means, Judiciary and Financial Services committees where it is pending legislative action (hearing and/or markup). Eighteen House members have cosponsored the bill including Representative Tom McClintock (R-CA) and Eric Swalwell (D-CA).

The bill would require the executive branch to determine sanctions on Iran’s Supreme Leader, the officials of Supreme Leader’s Office, the Supreme Leader’s appointees, Iran’s president, and entities as well as the economic conglomerates affiliated with the Supreme Leader under authorities of Executive Order 13876, Executive Order 13553, Executive Order 13224, and Executive Order 13818. It would also impose visa bans on corrupt Iranian elites and their immediate family members pursuant to 7031(c) of FY2021 Appropriations. This bill is intended to hold the most malicious elements of Iran’s regime accountable for human rights abuses and conduct of terrorism while avoiding collateral damages on ordinary Iranians.

The MAHSA Act is supported by the National Union for Democracy in Iran (NUFDI – a grassroots Iranian-American organization), United Against Nuclear Iran (UANI) and the American Israel Public Affairs Committee (AIPAC).
Attachment 2
118TH CONGRESS
1ST SESSION

H. R. 589

To impose sanctions on the Supreme Leader of Iran and the President of Iran and their respective offices for human rights abuses and support for terrorism.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2023

Mr. Banks (for himself, Mr. Gallagher, Mr. Waltz, Ms. Tenney, Mr. Wilson of South Carolina, Mr. Crenshaw, Ms. Salazar, Mr. Wittman, Mr. Weber of Texas, Mr. Fallon, Mr. McClintock, Mr. Murphy, Mrs. HarshaBarger, Mrs. Rodgers of Washington, Mr. Guest, Mr. Lamborn, Mr. Gottheimer, Mr. Swalwell, and Ms. Wasserman Schultz) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on the Judiciary, Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To impose sanctions on the Supreme Leader of Iran and the President of Iran and their respective offices for human rights abuses and support for terrorism.

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

This Act may be cited as the “Mahsa Amini Human rights and Security Accountability Act” or the “MAHSA Act”.

SEC. 2. IMPOSITION OF SANCTIONS ON IRAN’S SUPREME LEADER’S OFFICE, ITS APPOINTEES, AND ANY AFFILIATED PERSONS.

(a) FINDINGS.—Congress finds the following:

(1) The Supreme Leader is an institution of the Islamic Republic of Iran.

(2) The Supreme Leader holds ultimate authority over Iran’s judiciary and security apparatus, including the Ministry of Intelligence and Security, law enforcement forces under the Interior Ministry, the Islamic Revolutionary Guard Corps (IRGC), and the Basij, a nationwide volunteer paramilitary group subordinate to the IRGC, all of which have engaged in human rights abuses in Iran. Additionally the IRGC, a United States designated Foreign Terrorist Organization, which reports to the Supreme Leader, continues to perpetrate terrorism around the globe, including attempts to kill and kidnap American citizens on United States soil.

(3) The Supreme Leader appoints the head of Iran’s judiciary. International observers continue to criticize the lack of independence of Iran’s judicial
system and maintained that trials disregarded international standards of fairness.

(4) The revolutionary courts, created by Iran’s former Supreme Leader Ruhollah Khomeini, within Iran’s judiciary, are chiefly responsible for hearing cases of political offenses, operate in parallel to Iran’s criminal justice system and routinely hold grossly unfair trials without due process, handing down predetermined verdicts and rubberstamping executions for political purpose.

(5) The Iranian security and law enforcement forces engage in serious human rights abuse at the behest of the Supreme Leader.

(6) Iran’s President, Ebrahim Raisi, sits at the helm of the most sanctioned cabinet in Iranian history which includes internationally sanctioned rights violators. Raisi has supported the recent crackdown on protestors and is rights violator himself, having served on a “death commission” in 1988 that led to the execution of several thousand political prisoners in Iran. He most recently served as the head of Iran’s judiciary, a position appointed by Iran’s current Supreme Leader Ali Khamenei, and may likely be a potential candidate to replace Khamenei as Iran’s next Supreme Leader.
(7) On September 16th, 2022, 22-year-old woman, Mahsa Amini, died in the detention of the Morality Police after being beaten and detained for allegedly transgressing discriminatory dress codes for women. This tragic incident triggered widespread, pro-women’s rights, pro-democracy protests across all of Iran’s 31 provinces, calling for the end to Iran’s theocratic regime.

(8) In the course of the protests, the Iranian security forces’ violent crackdown includes mass arrests, well documented beating of protesters, throttling of the internet and telecommunications services, and shooting protesters with live ammunition. Five weeks into the protests, Iranian security forces have reportedly killed hundreds of protesters and other civilians, including women and children, and wounded many more.

(9) Iran’s Supreme Leader is the leader of the “Axis of Resistance”, which is a network of Tehran’s terror proxy and partner militias material supported by the Islamic Revolutionary Guard Corps that targets the United States as well as its allies and partners.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—
(1) the United States shall stand with and support the people of Iran in their demand for fundamental human rights; and

(2) the United States shall continue to hold the Islamic Republic of Iran, particularly the Supreme Leader and President, accountable for abuses of human rights, corruption, and export of terrorism.

(c) In General.—

(1) Determination Required.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the President shall determine whether the sanctions listed in paragraph (2) apply with respect to each person and entity described in subsection (d), and impose all applicable such sanctions with respect to each such person and entity.

(2) Sanctions Listed.—The sanctions listed in this paragraph are the following:

(A) Sanctions described in section 105(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8514(c)).

(B) Sanctions applicable with respect to a person pursuant to Executive Order 13553 (50 U.S.C. 1701 note; relating to blocking property
of certain persons with respect to serious
human rights abuses by the Government of
Iran).

(C) Sanctions applicable with respect to a
person pursuant to Executive Order 13224 (50
U.S.C. 1701 note; relating to blocking property
and prohibiting transactions with persons who
commit, threaten to commit, or support ter-
rorism).

(D) Sanctions applicable with respect to a
person pursuant to Executive Order 13818 (re-
lating to blocking the property of persons in-
volved in serious human rights abuse or corrup-
tion).

(E) Sanctions applicable with respect to a
person pursuant to Executive Order 13876 (re-
lating to imposing sanctions with respect to
Iran).

(F) Penalties and visa bans applicable with
respect to a person pursuant to section 7031(c)
of the Department of State, Foreign Oper-
ations, and Related Programs Appropriations
Act, 2021.

(d) PERSONS DESCRIBED.—The persons described in
this subsection are the following:
(1) The Supreme Leader of Iran and any official in the Office of the Supreme Leader of Iran.

(2) The President of Iran and any official in the Office of the President of Iran or the President’s cabinet, including cabinet ministers and executive vice presidents.

(3) Any entity, including foundations and economic conglomerates, overseen by the Office of the Supreme Leader of Iran which is complicit in financing or resourcing of human rights abuses or support for terrorism.

(4) Any official of any entity owned or controlled by the Supreme Leader of Iran or the Office of the Supreme Leader of Iran.

(5) Any person determined by the Secretary of the Treasury, in consultation with or at the recommendation of the Secretary of State—

(A) to be a person appointed by the Supreme Leader of Iran, the Office of the Supreme Leader of Iran, the President of Iran, or the Office of the President of Iran to a position as a state official of Iran, or as the head of any entity located in Iran or any entity located outside of Iran that is owned or controlled by one or more entities in Iran;
(B) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of any person whose property and interests in property are blocked pursuant to this section;

(C) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly any person whose property and interests in property are blocked pursuant to this section; or

(D) to be a member of the board of directors or a senior executive officer of any person whose property and interests in property are blocked pursuant to this section.

(e) Congressional Oversight.—

(1) In General.—Not later than 60 days after receiving a request from the chairman and ranking member of one of the appropriate congressional committees with respect to whether a person meets the criteria of a person described in subsection (d)(5), the President shall—

(A) determine if the person meets such criteria; and

(B) submit a classified or unclassified report to such chairman and ranking member
with respect to such determination that includes
a statement of whether or not the President im-
posed or intends to impose sanctions with re-
spect to the person pursuant to this section.

(2) APPROPRIATE CONGRESSIONAL COMMIT-
TEES DEFINED.—In this subsection, the term “ap-
propriate congressional committees” means—

(A) the Committee on Foreign Affairs of
the House of Representatives; and

(B) the Committee on Foreign Relations of
the Senate.
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: March 15, 2023

SUBJECT: H.Res.100 - Expressing Support for the Iranian People's Desire for a Democratic, Secular, and Nonnuclear Republic of Iran, and Condemning Violations of Human Rights and State-Sponsored Terrorism by the Iranian Government

ATTACHMENT S:
1. Summary Memo – H.Res.100
2. Bill Text – H.Res.100

This item requests the Legislative / Lobby Liaison Committee consider a request by Councilmember Nazarian for the City of Beverly Hills to take a position on H.Res.100. This resolution condemns Iranian state-sponsored terrorist attacks against U.S. citizens and officials and Iranian dissidents. The resolution also expresses support for the people of Iran who are legitimately defending their rights for freedom against repression and condemns the killing of Iranian protesters by the Iranian regime. There is some concern with this resolution as there are whereas clauses that endorse Maryam Rajavi’s “10-point plan” for Iran and offers the Mujahideen-e-Khalq (MEK) as a democratic alternative to the Islamic Republic’s authoritarian regime.

The City’s federal lobbyist, David Turch and Associates, provided a summary memo for H.Res.100 to the City and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of H.Res.100, the Liaisons may recommend the following actions:
1) Support H.Res.100;
2) Support if amended H.Res.100;
3) Oppose H.Res.100;
4) Oppose unless amended H.Res.100;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on H.Res.100, then staff will place the item on a future City Council Agenda for concurrence.

...
Attachment 1
TO: Cindy Owens, Municipal Affairs Program Manager  
City of Beverly Hills  

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

DATE: March 8, 2023  

RE: H.Res.100 – House Resolution in Support of a Democratic, Secular and Nonnuclear Republic of IranRes.100 has been referred to the House Foreign Affairs Committee.

H.Res.100 was introduced by Representative Tom McClintock (R-CA) on February 7, 2023. The measure expresses support for the Iranian people’s desire for a democratic, secular, and nonnuclear Republic of Iran. The resolution condemns violations of human rights and state-sponsored terrorism by the Iranian government. The legislation is bipartisan with 216 cosponsors – with well over half of the California congressional delegation cosponsoring the measure (including Rep. Ted. Lieu). The measure does not have the force of law – it merely expresses the sense of the House. H.Res.100 has been referred to the House Foreign Affairs Committee.

**Resolution Mentions Mujahedeen-e-Khalq and Maryam Rajavi**

While there is broad bipartisan congressional support for H.Res.100, the resolution’s positive reference to Maryam Rajavi who leads the Mujahedeen-e-Khalq, is highly problematic for many in the Iranian-American community.

The People’s Mujahedeen of Iran, more commonly known as the Mujahedeen-e-Khalq or MEK, is a controversial Iranian resistance group that was once listed as a Foreign Terrorist Organization (FTO) by the United States for its alleged killing of U.S. personnel in Iran during the 1970s, and for its ties to former Iraqi leader Saddam Hussein. Recognizing the group’s rejection of violence, the State Department delisted the MEK in late 2012 but voiced ongoing concerns about its alleged mistreatment of its members. The MEK helped Islamists overthrow the Western-backed Shah in 1979, but broke violently with the clerics shortly after the revolution and were forced into exile in France in 1981. The group moved to Iraq for a period of time and fought alongside Saddam Hussein’s military during the war with Iran in the 1980s, earning the enmity of many Iranians. Moreover, there have been allegations that the group functions more like a cult, owing allegiance to Maryam Rajavi and her late husband, Massoud Rajavi.
The MEK has declared it is prepared to cooperate with all forces who want a democratic republic, are committed to the complete rejection of mullah rule, and who want a democratic, independent Iran based on separation of religion and state. Maryam Rajavi released a “Ten-point plan” in 2018 that states her group’s support for an Iran that recognizes freedom of speech and assembly, freedom of press and political parties along with gender equality, an independent judiciary, minority rights, universal human rights, a market economy, etc.

H.Res.100 states, in part:

“Whereas, on June 30, 2018, tens of thousands of people gathered in Paris at the Free Iran gathering where they supported advocates for a democratic, secular, and nonnuclear Republic of Iran, and showed support for the opposition leader Mrs. Maryam Rajavi’s 10-point plan for the future of Iran, which calls for the universal right to vote, free elections, and a market economy, and advocates gender, religious, and ethnic equality, a foreign policy based on peaceful coexistence, and a nonnuclear Iran;”

“Resolved, That the House of Representatives: (1) condemns past and present Iranian state sponsored terrorist attacks against United States citizens and officials, as well as Iranian dissidents, including the Iranian regime’s terror plot against the “Free Iran 2018 – the Alternative” gathering in Paris;”

Options for Consideration:

The City may wish to consider sending letters to Chairman Michael McCaul (R-TX) and Ranking Member Gregory Meeks (D-NY) of the Foreign Affairs Committee as well as Representative Tom McClintock (R-CA), sponsor of the resolution, and Representative Ted Lieu, who also serves on the Committee:

- Option 1 – Endorse H.Res.100 as is.
- Option 2 – Oppose H.Res.100
- Option 3 – Express support for H.Res.100 if provisions regarding Maryam Rajavi and MEK are removed from the resolution.
- Option 4 – Take no action/position
Attachment 2
Expressing support for the Iranian people’s desire for a democratic, secular, and non-nuclear Republic of Iran, and condemning violations of human rights and state-sponsored terrorism by the Iranian Government.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2023

Mr. McCLINTOCK (for himself, Ms. BROWNLEY, Mr. FEENSTRA, Mr. BISHOP of Georgia, Mr. CLINE, Mr. WILSON of South Carolina, Mr. OWENS, Mr. VEASEY, Mr. RUTHERFORD, Mr. MENENDEZ, Mr. LOUDERMILK, Mr. KILMER, Ms. CLARKE of New York, Mr. JOHNSON of Louisiana, Mr. PAPPAS, Mr. DIAZ-BALART, Mr. AMODEI, Mr. DAVID SCOTT of Georgia, Mr. CALVERT, Mr. FINSTAD, Ms. SHERRILL, Mr. EVANS, Mr. ALLEN, Mrs. GONZÁLEZ-COLÓN, Mr. RUIZ, Mr. MIKE GARCIA of California, Mr. VALADAO, Mr. GARBARINO, Mr. ROGERS of Kentucky, Mr. VARGAS, Mr. LAWLER, Mrs. CHERFILUS-MCCORMICK, Mr. CÁRDENAS, Mr. FLOOD, Mr. ALLRED, Mrs. NAPOLITANO, Ms. WEXTON, Mr. RUPPERSBERGER, Ms. TENNEY, Mr. GROTHMAN, Mr. PASCRELL, Mr. MORAN, Mr. LATTA, Mr. BOST, Ms. ESCOBAR, Mr. NEHLS, Mr. WILLIAMS of Texas, Mr. WENSTROUP, Mr. PHILLIPS, Mrs. STEEL, Mr. FALLON, Mr. ELLZEE, Ms. MCCOLLUM, Mr. BALDERSON, Mr. LIEU, Mr. VICENTE GONZALEZ of Texas, Mr. SMUCKER, Mr. TURNER, Ms. LOFGREN, Ms. SALAZAR, Mrs. MILLER-MEeks, Mr. IEREN, Mr. LARSON of Connecticut, Mr. BERGMAN, Mr. TONY GONZALES of Texas, Mr. MOONEY, Mr. ARMSTRONG, Mr. GARAMENDI, Mr. DAVIS of Illinois, Mr. MURPHY, Mr. MAST, Mr. LUETKEMEYER, Mr. STAUBER, Mr. BERA, Mr. WILLIAMS of New York, Mr. HILL, Mrs. FLETCHER, Mr. ADERHOLT, Mr. WEBER of Texas, Mr. EZELL, Mr. PENCE, Mr. ARRINGTON, Mr. SELF, Mr. MOKOWITZ, Mr. GOTTHEIMER, Mr. NUNN of Iowa, Mr. SHERMAN, Mr. WEBSTER of Florida, Mr. DUNN of Florida, Mr. FITZPATRICK, Mr. HUDSON, Mr. GOODEN of Texas, Mr. COHEN, Mr. MOORE of Utah, Mr. BACON, Ms. JACKSON LEE, Mr. BILIRAKIS, Mr. WOMACK, Mr. CARTER of Georgia, Mr. BABIN, Mr. SESSIONS, Mr. WITTMAN, Mr. BURCHETT, Mr. DUNCAN, Ms. MACE, Mr. SIMPSON, Mr. MOOLENAAR, Mr. JACKSON of Texas, Mr. CLYDE, Ms. CRAIG, Ms. WILSON of Florida, Mr. GUEST, Mr. GUTHRIE, Mr. LA MALFA, Ms. GRANGER, Ms. SÁNCHEZ, Mr. NORMAN, Mr. TRONE, Mr. TORRES of New York, Ms. ROSS, Mr. GREEN of Texas, Ms. KAM LAGER-Dove, Mr. KRISHNAMOORTHI, Mr. BIGGS, Mr. GIMÉNEZ, Mr. COURTNEY, Mr. HIGGINS of New York, Mr. LAMBORN, Mr. CRAWFORD, Mr.
McCormick, Mr. Austin Scott of Georgia, Mrs. Watson Coleman, Mrs. McBath, Mr. Perry, Mr. Fulcher, Mr. O'Hernolite, Mr. Costa, Mr. Peters, Ms. Chu, Ms. Garcia of Texas, Mr. Stanton, Ms. Norton, Mr. DesJarlais, Mr. Issa, Mrs. Lesko, Ms. Spanberger, Mr. Stewart, Mr. Hunt, Mr. Barr, Mr. Westerman, Ms. Malliotakis, Mr. Boyle of Pennsylvania, Mrs. McClain, Mr. Fleischmann, Mr. Reschenthaler, Mr. Johnson of Ohio, Mr. Crenshaw, Mr. Payne, Mr. Ferguson, Ms. Barragán, Mr. Kiley, Mr. Kelly of Mississippi, Mr. Timmons, Mr. Rouzer, Mr. Tiffany, and Mr. C. Scott Franklin of Florida) submitted the following resolution, which was referred to the Committee on Foreign Affairs

RESOLUTION

Expressing support for the Iranian people's desire for a democratic, secular, and nonnuclear Republic of Iran, and condemning violations of human rights and state-sponsored terrorism by the Iranian Government.

Whereas, beginning in 2017, and continuing for several months after protests erupted in more than 100 cities, the Iranian regime suppressed such protests with repressive forces that resulted in at least 25 deaths and 4,000 arrests, including decorated wrestling champion Navid Afkari, who was later executed in September 2020 amidst international outrage;

Whereas, on November 15, 2019, popular protests against the Iranian regime began and rapidly spread to at least 100 cities throughout the country, and reports indicate that Iranian security forces used lethal force and about 1,500 people were killed during less than 2 weeks of unrest, and thousands more were detained during these protests;

Whereas, beginning in September 2022, antigovernment protests ignited in response to the death of Mahsa Amini,
a 22-year-old Kurdish Iranian woman who was arrested by the morality police that enforce Iran’s mandatory dress code laws;

Whereas women and youth have led the 2022 protests in Iran, demanding social freedom and political change;

Whereas these protests are rooted in the more than four decades of organized resistance against the Iranian dictatorship, which have been most recently led by women who have endured torture, sexual and gender-based violence, and death;

Whereas in several months of continuing protests in hundreds of cities throughout Iran, the regime’s security forces have killed hundreds and arrested tens of thousands of protesters, two of whom, Mohsen Shekari and Majidreza Rahnavard (both 23 years old), were hung on December 8 and 12, 2022, in Tehran and Mashhad; meanwhile, dozens more have been convicted of “Moharebeh” (waging war on God), and are at risk of execution;

Whereas, according to a December 9, 2022, Amnesty International report, “Iran’s security forces have killed with absolute impunity more than 40 children and injured many more in a bid to crush the spirit of resistance among the country’s youth and retain their iron grip on power at any cost”;

Whereas the similarity in slogans and tactics used by protests nationwide reflect the overarching demands of the Iranian people and point to the organized nature of the protests;

Whereas, in the 116th Congress, the House of Representatives passed House Resolution 752, “Supporting the rights of the people of Iran to free expression, con-
denouncing the Iranian regime for its crackdown on legitimate protests, and for other purposes.”;

Whereas House Resolution 752 urges the Administration to work to convene emergency sessions of the United Nations Security Council and to work with United States partners and allies to condemn the ongoing human rights violations perpetrated by the Iranian regime and establish a mechanism by which the United Nations Security Council can monitor such violations;

Whereas, on November 24, 2022, the United Nations Human Rights Council established a fact-finding mission to conduct an independent investigation into the ongoing deadly violence related to the protests in Iran that began on September 16, 2022;

Whereas, on December 14, 2022, the United Nations Economic and Social Council (ECOSOC) adopted a resolution to expel Iran from the Commission on the Status of Women (CSW) for the remainder of its 4-year term ending in 2026;

Whereas the Department of State’s 2021 Country Reports on Human Rights Practices, released on April 13, 2022, cites that Iran’s “government and its agents reportedly committed arbitrary or unlawful killings, most commonly executions for crimes not meeting the international legal standard of ‘most serious crimes’ or for crimes committed by juvenile offenders, as well as executions after trials without due process.”;

Whereas, on October 25, 2021, the United Nations Special Rapporteur (UNSR) on the situation of human rights in the Islamic Republic of Iran, Javaid Rehman, told the United Nations General Assembly that almost all execu-
tions in the country constituted an arbitrary deprivation of life, noting the “extensive, vague and arbitrary grounds in Iran for imposing the death sentence, which quickly can turn this punishment into a political tool.”;

Whereas the Iranian regime has arbitrarily and brutally suppressed ethnic and religious minorities, including Iranian Kurds, Baluchis, Arabs, Christians, Jews, Baha’is, Zoroastrians, and even Sunni Muslims, and deprived them of their basic human rights, and has in many cases executed them;

Whereas the Iranian people have been deprived of their fundamental freedoms for which reason they are rejecting monarchical dictatorship and religious tyranny, as evident in their protest slogans;

Whereas, in the 115th Congress, the House of Representatives passed H.R. 4744 calling on the United States to “condemn Iranian human rights abuses against dissidents, including the massacre in 1988 and the suppression of political demonstrations in 1999, 2009, and 2017, and pressure the Government of Iran to provide family members detailed information that they were denied about the final resting places of any missing victims of such abuses”;

Whereas, on January 13, 2022, a United Nations report has urged “the international community to call for accountability with respect to long-standing emblematic events that have been met with persistent impunity, including the enforced disappearances and summary and arbitrary executions of 1988 and the November 2019 protests.”;

Whereas the killings of thousands of political prisoners in 1988 were carried out based on a fatwa to execute all po-
political prisoners who remained loyal to the Iranian Resistance, and subsequent death commissions were formed on July 19, 1988, whose members included the current Iranian regime’s President, Ebrahim Raisi, an official from the Ministry of Intelligence, and a state prosecutor, to implement the fatwa;

Whereas the United States should be involved in any establishment of an international investigation into the 1988 extrajudicial killings of Iranian dissidents;

Whereas senior Iranian Government, military, judicial, and security officials have for decades ordered or committed egregious human rights violations and acts of terror;

Whereas, on June 30, 2018, tens of thousands of people gathered in Paris at the Free Iran gathering where they supported advocates for a democratic, secular, and non-nuclear Republic of Iran, and showed support for the opposition leader Mrs. Maryam Rajavi’s 10-point plan for the future of Iran, which calls for the universal right to vote, free elections, and a market economy, and advocates gender, religious, and ethnic equality, a foreign policy based on peaceful coexistence, and a nonnuclear Iran;

Whereas, on July 2, 2018, the Belgian Federal Prosecutor’s Office announced it had foiled a terrorist plot against the “Free Iran 2018—the Alternative” gathering held on June 30, 2018, in support of the Iranian people’s struggle for freedom;

Whereas Assadollah Assadi, a senior Iranian diplomat based in the Iranian embassy in Vienna, Austria, was arrested in Germany and on February 2021 convicted in Belgium and sentenced to 20 years of imprisonment in connection
with the planned terror plot in Paris at the Free Iran gathering;

Whereas Assadollah Assadi served as the third secretary of the Iranian embassy in Austria;

Whereas instead of representing the interests of the Iranian people, the Iranian regime has long used its Foreign Ministry and diplomatic representations abroad to orchestrate terror plots and whitewash gross human rights violations in Iran;

Whereas, on December 15, 2022, the Special Court for Combatting Corruption and Organized Crime (SPAK) in Albania sentenced an Iranian national to 10 years in prison on terrorism-related charges, including attempts to engage in espionage against, and the assassination of Iranian dissidents in Albania;

Whereas Iran’s malign activities in the Balkans pose a serious threat to United States national security interests;

Whereas, on November 23, 2022, the Department of the Treasury announced additional action on Iranian security forces, including Islamic Revolutionary Guard Corps (IRGC) forces, for their violent crackdown on antigovernment protests in Iran’s Kurdistan Province and surrounding areas; and

Whereas, according to the statement issued by the Department of State, on November 23, 2022, “The United States continues to support the Iranian people as they protest nationwide”: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns past and present Iranian state-sponsored terrorist attacks against United States
citizens and officials, as well as Iranian dissidents, including the Iranian regime’s terror plot against the “Free Iran 2018—the Alternative” gathering in Paris;

(2) calls on relevant United States Government agencies to work with European allies, including those in the Balkans where Iran has expanded its presence, to hold Iran accountable for breaching diplomatic privileges, and to call on nations to prevent the malign activities of the Iranian regime’s diplomatic missions, with the goal of closing them down and expelling its agents;

(3) stands with the people of Iran who are legitimately defending their rights for freedom against repression, and condemns the brutal killing of Iranian protesters by the Iranian regime; and

(4) recognizes the rights of the Iranian people and their struggle to establish a democratic, secular, and nonnuclear Republic of Iran.
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: March 15, 2023

SUBJECT: Assembly Bill 642 (Ting) - Law Enforcement Agencies: Facial Recognition Technology

ATTACHMENTS:
1. Bill Summary – AB 642
2. Bill Text – AB 642

Assembly Bill 642 (Ting) - Law Enforcement Agencies: Facial Recognition Technology (AB 642) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it sets parameters governing the use of facial recognition technology by law enforcement agencies.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 642 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 642, the Liaisons may recommend the following actions:
1) Support AB 642;
2) Support if amended AB 642;
3) Oppose AB 642;
4) Oppose unless amended AB 642;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 642, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
March 9, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 642 (Ting) Facial Recognition Privacy Act

Version
As Amended in the Assembly on March 2, 2023

Summary
This measure sets parameters and restrictions governing the use of facial recognition technology (FRT) by local law enforcement agencies. Specifically, this measure:

1) Defines “Law enforcement agency,” for purposes of this measure, as any department or agency of the state or any political subdivision thereof that employs any peace officer as defined in Section 830 of the California Penal Code.

2) Defines Facial recognition technology” or “FRT” a system that compares an input image of an unidentified human face against a database of known persons and based on biometric data, generates possible matches to aid in identifying the person in the input image. For purposes of this bill, FRT does not include any access control system used by a law enforcement agency that uses biometric inputs to confirm the identity of employees or other approved persons for the purpose of controlling access to any secured place, device, or system.

3) Requires that, commencing July 1, 2024, all law enforcement agencies that operate facial recognition technology (FRT) meet both of the following requirements:

   a) Only FRT systems with algorithms that have been evaluated under the National Institute of Standards and Technology (NIST) Face Recognition Vendor Test Program and have demonstrated an accuracy score of at least 98 percent true positives within two or more datasets relevant to investigative applications on a program report shall be used.
   b) The agency shall have a written policy that includes all the required provisions in this proposal.

4) Requires that the written policy described in 3 b) above, include all the following components:

   a) A requirement that FRT use be limited to specifically authorized personnel who have received POST-certified training on the use of FRT;
   b) A requirement that a manager be assigned to oversee the FRT program;
   c) A policy that described the parameters of acceptable inputs to be used for queries of available databases and that prohibits the use of sketches or other manually produced images.
5) Specifies that an acceptable use policy that includes, without limitation, specific allowances, and restrictions on use for all the following:
   a) To identify a suspect in alleged criminal behavior where reasonable suspicion exists that a crime has been or is being committed and the person whose image is being analyzed is the person who has committed or is committing that crime.
   b) To identify a victim or witness to a crime.
   c) To identify an unidentified deceased person.
   d) To identify a person who is missing, incapacitated, or unable to identify themselves.
   e) To identify a person who is lawfully detained and has not produced valid identification.
   f) To investigate a credible threat of violence.
   g) To mitigate an imminent threat to public safety.

6) Requires that law enforcement agencies maintain a prohibited use policy that prohibits, without limitation, both of the following:
   a) The use of FRT to identify an individual solely because of their race, color, religious beliefs, sexual orientation, gender, disability, national origin, or membership in any other class protected by law against discrimination.
   b) The use of FRT to identify an individual solely engaged in the exercise of a constitutionally protected right, including, without limitation, speech, public assembly, or the practice of religion, when the person has not individually violated any law, unless necessary to identify a victim or witness of a serious or violent felony, or to defend against an imminent or immediate threat to death or serious bodily injury.

7) A requirement that a record of all FRT queries be maintained by the agency.

8) Specifies that FRT is an investigative tool to be used as an aid in identifying persons and generating investigative leads. An FRT-generated match shall not, under any circumstances, provide the sole basis for probable cause for an arrest, search, or affidavit for a warrant.

9) Requires any law enforcement agency that uses FRT shall post both of the following on their internet website:
   a) A copy of the FRT policy described in 3(b) above.
   b) Commencing January 1, 2025, and annually thereafter, an annual report summarizing FRT usage for the previous calendar year.

10) Specifies that the admissibility or exclusion of an FRT query result as evidence in any court proceeding shall be governed by Chapter 4 (commencing with Section 305) of Division 2 of the Evidence Code. Specifies that this subdivision is declarative of existing law.

Existing Law
1) Provides, under the California Constitution, that all people have inalienable rights, including the right to pursue and obtain privacy. (Cal. Const. art. I, Sec. 1.)

2) Until January 1, 2023, prohibits a law enforcement agency or law enforcement officer from installing, activating, or using any biometric surveillance system in connection with an officer camera or data collected by an officer camera. (Pen. Code Sec. 832.19(b).)

3) Provides, pursuant to the California Consumer Privacy Act (CCPA), effective January 1, 2020, that a business that collects personal information (PI) must inform the consumer at or before
the time of collection, the category and purpose of the PI that is to be collected. (Civ. Code. Sec. 1798.100(b).)

4) Defines various terms for purposes of the CCPA, including the following, among others:

- **“PI”** means information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. Specifies that PI includes, but is not limited to, certain types of information if it identifies, relates to, describes, is capable of being associated with, or could be reasonably linked, directly or indirectly, with a particular consumer or household. Among these is “biometric information.” (Civ. Code. Sec. 1798.140(o)(1)(E).)

- **“Biometric information”** means an individual’s physiological, biological, or behavioral characteristics, including an individual’s deoxyribonucleic acid (DNA), that can be used, singly or in combination with each other or with other identifying data, to establish individual identity. Biometric information includes, but is not limited to, imagery of the iris, retina, fingerprint, face, hand, palm, vein patterns, and voice recordings, from which an identifier template, such as a faceprint, a minutiae template, or a voiceprint, can be extracted, and keystroke patterns or rhythms, gait patterns or rhythms, and sleep, health, or exercise data that contain identifying information. (Civ. Code. Sec. 1798.140(b).)

**Background**

In 2019 the Governor signed AB 1215 (Ting) into law, which banned the use of FRT. However, the bill sunset after 3 years and the moratorium expired on January 1, 2023. Consequently, law enforcement can now use this technology without state limitations. The author argues it is critical that California establish reasonable legal standards and requirements for the use of FRT. Not a single state in the country has a complete ban on this technology due to public safety benefits from use of FRT. Furthermore, FRT is critical to support efforts to resolve shootings, kidnappings, and human trafficking cases.

Several states including Virginia, Montana, Colorado, Vermont, and other major cities across the country have been working actively to regulate the use of FRT. FRT has aided in rescuing thousands of victims. In North America alone, FRT has been used in 40,000 human trafficking cases, helping rescue 15,000 children and identify 17,000 traffickers. It was FRT that was used in New York to identify the subway bomber.

According to the federal government's National Institute of Standards and Technology (NIST) at the U.S. Department of Commerce, ongoing research has shown significant industrywide progress in accuracy. Furthermore, the Department of Homeland Security testing published in 2021 found little variation in accuracy across skin tone and gender. However, this does not mean FRT has been use appropriately in all instances. Reported arrests based off FRT matches have made headlines, including a recent case in Louisiana.

The author argues that FRT devices still have the potential to misidentify individuals despite technological advances in recent years. The author argues, further that it is critical that safeguards are put in place to ensure that FRT devices and systems are used appropriately, and that independent and substantiating evidence, outside of an FRT match, be necessary for an arrest and conviction.
**Status of Legislation**
AB 642 (Ting) has been referred to the Assembly Committee on Public Safety and has been scheduled for a hearing in that committee on March 28, 2023.

**Support**
California Police Chiefs Association (Sponsor)

**Opposition**
None listed at this time.
Attachment 2
Introduction by Assembly Member Ting
(Principal coauthor: Senator Bradford)
(Coauthor: Assembly Member McCarty)

February 9, 2023

An act relating to law enforcement agency regulations. An act to add Section 13680 to the Penal Code, relating to law enforcement agency regulation.

LEGISLATIVE COUNSEL’S DIGEST

AB 642, as amended, Ting. Law enforcement agencies: facial recognition technology.

Existing law, generally, regulates state and local law enforcement agencies regarding subject matter that includes the selection and training of peace officers, the maintenance and release of records, the use of force, and the use of certain equipment. Previous law, until January 1, 2023, prohibited the use of real-time facial recognition technology by law enforcement agencies in connection with body-worn cameras.

This bill, commencing July 1, 2024, would require any law enforcement agency, as defined, that uses facial recognition technology (FRT), as defined, to have a written policy governing the use of that technology. The bill would require any FRT system used to meet certain national standards and would limit the use of FRT to use as an investigative aid, as described. The bill would specifically prohibit the use of any FRT-generated match from being the sole basis for probable cause in an arrest, search, or warrant. The bill would also require an
agency using FRT to post their written policy and an annual summary of FRT usage, as specified, on their internet website.

Existing law, generally, regulates state and local law enforcement agencies regarding subject matter that includes the selection and training of peace officers, the maintenance and release of records, the use of force, and the use of certain equipment. Previous law, until January 1, 2023, prohibited the use of real-time facial recognition technology by law enforcement agencies in connection with body worn cameras.

This bill would express the intent of the Legislature to enact legislation relating to the use of facial recognition technology by law enforcement agencies.


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

SECTION 1. Section 13680 is added to the Penal Code, to read:

(a) Commencing July 1, 2024, a law enforcement agency that operates facial recognition technology (FRT) shall meet both of the following requirements:

(1) Only FRT systems with algorithms that have been evaluated under the National Institute of Standards and Technology Face Recognition Vendor Test Program and have demonstrated an accuracy score of at least 98 percent true positives within two or more datasets relevant to investigative applications on a program report shall be used.

(2) The agency shall have a written policy that includes all of the required provisions prescribed in subdivision (b).

(b) The written policy required by subdivision (a) shall include, without limitation, all of the following:

(1) A requirement that FRT use be limited to specifically authorized personnel who have received POST-certified training in the use of FRT.

(2) A requirement that a manager be assigned to oversee the FRT program.

(3) A policy that describes the parameters of acceptable inputs to be used for queries of available databases and that prohibits the use of sketches or other manually produced images.
(4) An acceptable use policy that includes, without limitation, specific allowances and restrictions on use for all of the following:
(A) To identify a suspect in alleged criminal behavior where reasonable suspicion exists that a crime has been or is being committed and the person whose image is being analyzed is the person who has committed or is committing that crime.
(B) To identify a victim or witness to a crime.
(C) To identify an unidentified deceased person.
(D) To identify a person who is missing, incapacitated, or unable to identify themselves.
(E) To identify a person who is lawfully detained and has not produced valid identification.
(F) To investigate a credible threat of violence.
(G) To mitigate an imminent threat to public safety.
(5) A prohibited use policy that prohibits, without limitation, both of the following:
(A) The use of FRT to identify an individual solely because of their race, color, religious beliefs, sexual orientation, gender, disability, national origin or membership in any other class protected by law against discrimination.
(B) The use of FRT to identify an individual solely engaged in the exercise of a constitutionally protected right, including, without limitation, speech, public assembly, or the practice of religion, when the person has not individually violated any law, unless necessary to identify a victim or witness of a serious or violent felony, or to defend against an imminent or immediate threat to death or serious bodily injury.
(6) A requirement that a record of all FRT queries be maintained by the agency.
(c) FRT is an investigative tool to be used as an aid in identifying persons and generating investigative leads. An FRT-generated match shall not, under any circumstances, provide the sole basis for probable cause for an arrest, search, or affidavit for a warrant.
(d) Any law enforcement agency that uses FRT shall post both of the following on their internet website:
(1) A copy of the FRT policy described in subdivision (b).
(2) Commencing on January 1, 2025, and annually thereafter, an annual report summarizing FRT usage for the previous calendar year.
The admissibility or exclusion of an FRT query result as evidence in any court proceeding shall be governed by Chapter 4 (commencing with Section 305) of Division 2 of the Evidence Code.

This subdivision is declarative of existing law.

As used in this section, the following terms have the following meanings:

(1) “Facial recognition technology” or “FRT” means a system that compares an input image of an unidentified human face against a database of known persons and, based on biometric data, generates possible matches to aid in identifying the person in the input image. For purposes of this section, FRT does not include any access control system used by a law enforcement agency that uses biometric inputs to confirm the identity of employees or other approved persons for the purpose of controlling access to any secured place, device, or system.

(2) “Law enforcement agency” means any department or agency of the state or any political subdivision thereof that employs any peace officer as described in Section 830.

SECTION 1. It is the intent of the Legislature to enact legislation relating to the use of facial recognition technology by law enforcement agencies.
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: March 15, 2023

SUBJECT: Assembly Bill 742 (Jackson) - Law enforcement: police canines

ATTACHMENTS:
1. Bill Summary – AB 742
2. Bill Text – AB 742

Assembly Bill 742 (Jackson) - Law enforcement: police canines (AB 742) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it would prohibit the use of an unleashed police canine by law enforcement to apprehend a person and any use of a police canine for crowd control.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 742 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 742, the Liaisons may recommend the following actions:
1) Support AB 742;
2) Support if amended AB 742;
3) Oppose AB 742;
4) Oppose unless amended AB 742;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 742, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
Date: March 8, 2023
To: Cindy Owens, City of Beverly Hills
From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange
Re: AB 742 (Jackson) Law enforcement: police canines

Version
As introduced in the State Assembly on February 13, 2023.

Summary
This bill would prohibit the use of an unleashed police canine by law enforcement to apprehend a person, and any use of a police canine for crowd control. The bill would prohibit law enforcement agencies from authorizing any use or training of a police canine that is inconsistent with this bill.

Background and Existing Law
Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance of an individual. Existing law requires law enforcement agencies to maintain a policy on the use of force. Existing law also prohibits the use of kinetic energy projectiles or chemical agents by any law enforcement agency to disperse any assembly, protest, or demonstration, except in compliance with specified standards.

According to the author’s fact sheet, the California Department of Justice Use of Force Data from 2021, injuries caused by police canines accounted for nearly 12% of cases that resulted in severe injury or death. The report also shows that 35% of those contacted by a K-9 were armed. The types of incidents with K-9 contact included “calls for service,” crimes in progress, pre-planned activities such as serving a warrant, and vehicle/pedestrian stops.

Status of Legislation
AB 742 (Jackson) will be heard in Assembly Public Safety Committee on March 21, 2023.

Support
ACLU CA Action (Co-Sponsor)
California Hawaii NAACP (Co-Sponsor)
California for Safety and Justice
California Public Defenders Association
California United for a Responsible Budget
Communities United for Restorative Youth Justice
Fair Chance Project

Opposition
California Police Chiefs
Attachment 2
An act to add Section 13653 to the Penal Code, relating to law enforcement.

LEGISLATIVE COUNSEL'S DIGEST

AB 742, as introduced, Jackson. Law enforcement: police canines. Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance of an individual. Existing law requires law enforcement agencies to maintain a policy on the use of force.

Existing law prohibits the use of kinetic energy projectiles or chemical agents by any law enforcement agency to disperse any assembly, protest, or demonstration, except in compliance with specified standards.

This bill would prohibit the use of an unleashed police canine by law enforcement to apprehend a person, and any use of a police canine for crowd control. The bill would prohibit law enforcement agencies from authorizing any use or training of a police canine that is inconsistent with this bill.


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

SECTION 1. The Legislature finds and declares the following:
(a) The use of police canines has been a mainstay in the constant
dehumanizing, cruel abuse of Black Americans and people of color
in this country. Be it in response to the Black Lives Matter protests
over the murder of George Floyd, during the Los Angeles Race
Riots and the Civil Rights Movement, or by slave catchers, police
canines are a carryover from a dark past that is not often discussed.

(b) The use of police canines has serious consequences. Research
on this topic found that canine bites resulted in hospital visits 67.5
percent of the time, while other uses of force, including batons
and tasers, resulted in hospital visits 22 percent of the time or less.
Research has also found cases of permanent physical disfigurement
and injuries to bones, blood vessels, nerves, breasts, testicles, faces,
noses, and eyes, sometimes causing blindness, as a result of canine
bites. Based on these findings, the researchers stated that canine
bites should be considered a level of force immediately below
death. They equated a police canine bite to an officer
swinging a baton with three-centimeter spikes attached.

(c) The use of police canines mirrors other biases in use of force
by police. Per the Department of Justice Use of Force data from
2016 to 2019, inclusive, Black people are 3.5 times more likely
than any other group to be subjected to use of force due to police
canine use, with Hispanic people being the second most likely
compared to cases involving White people at six per one million
people.

SEC. 2. Section 13653 is added to the Penal Code, to read:
13653. (a) It is the intent of the Legislature to prevent the use
of police canines for the purpose of arrest, apprehension, or any
form of crowd control.
(b) A peace officer shall not use an unleashed police canine to
arrest or apprehend a person.
(c) A police canine shall not be used for crowd control at any
assembly, protest, or demonstration.
(d) A police canine shall not be used in any circumstance to
bite.
(e) A law enforcement agency shall not authorize any use or
training of a police canine that is inconsistent with this section.
(f) This section shall not be interpreted as to prevent the use of
police canines by law enforcement for purposes of search and
rescue, explosives detection, and narcotics detection that do not involve biting.
To: City Council Liaison/Legislative/Lobby Committee

From: Cynthia Owens, Municipal Affairs Program Manager

Date: March 15, 2023

Subject: Senate Bill 44 (Umberg) - Controlled substances

Senate Bill 44 (Umberg) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it would require a written advisory or admonishment be issued to a person convicted of a fentanyl-related drug offense notifying the person of the danger of manufacturing and distributing controlled substances and of potential future criminal liability, including being charged with voluntary manslaughter or murder, if another person dies as a result of that person’s action.

The City’s state lobbyist, Shaw Yoder Antwhi, provided a summary memo for SB 44 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 44, the Liaisons may recommend the following actions:

1) Support SB 44
2) Support if amended SB 44
3) Oppose SB 44
4) Oppose unless amended SB 44
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 44, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
Date: March 8, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 44 (Umberg) Controlled Substances

Version
As amended on March 8, 2023.

Summary
This bill, Alexandra’s Law, would require that a written advisory or admonishment be issued to a person convicted of a fentanyl-related drug offense notifying the person of the danger of manufacturing and distributing controlled substances and of potential future criminal liability if another person dies as a result of that person’s action.

The bill would require the court to read the advisory statement in a case in which the defendant exchanged a controlled substance containing fentanyl or its analogs for anything else of value, as specified. The bill would require the advisory statement to be included in a plea form, if used, and specified on the record. The bill would require that the fact the advisory was given be recorded in the abstract of conviction and would prohibit the advisement from being used as evidence in the prosecution of a minor in juvenile court.

Background and Existing Law
Existing law makes it a crime to possess for sale or purchase for purpose of sale, transport, import, sell, furnish, administer, give away, manufacture, compound, convert, produce, derive, process, or prepare various controlled substances, including, among others, fentanyl, peyote, and various other opiates and narcotics.

According to the author’s fact sheet, fentanyl causes a fatality every 8.57 minutes, approximately, and is linked to 64% of total drug fatalities. It is believed that fentanyl-specific admonishments have been individually adopted by at least 28 out of California’s 58 counties.

Status of Legislation
SB 44 (Umberg) has been referred to Senate Public Safety Committee. A hearing date has yet to be set for this measure.

Support
San Diego Mayor Todd Gloria (Sponsor)  City of Santa Ana
California District Attorneys Association  Consumer Attorneys of California
California Narcotics Officers Association  Drug Awareness Foundation
California Police Chiefs Association  Los Angeles County Sheriff, Robert Luna
City of West Hollywood  Los Angeles Police Protective League

SYASLpartners.com
Opposition
Ella Baker Center
Attachment 2
Introducing by Senator Senators Umberg and Ochoa Bogh
(Principal coauthors: Senators Caballero, Portantino, Roth, and Stern)
(Coauthors: Senators Alvarado-Gil, Archuleta, Becker, Blakespear, Dodd, Glazer, Grove, Jones, Min, Newman, Niello, Nguyen, Seyarto, and Wilk)
(Coauthors: Assembly Members Alanis, Bennett, Chen, Davies, Dixon, Essayli, Gallagher, Grayson, Lackey, Low, Mathis, Stephanie Nguyen, Joe Patterson, Petrie-Norris, Quirk-Silva, Rodriguez, Blanca Rubio, Sanchez, Ta, Villapudua, Weber, and Wood)

December 5, 2022

An act to add Section 11369 to the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL’S DIGEST

SB 44, as amended, Umberg. Controlled substances.

Existing law makes it a crime to possess for sale or purchase for purpose of sale, transport, import, sell, furnish, administer, give away, manufacture, compound, convert, produce, derive, process, or prepare various controlled substances, including, among others, fentanyl, peyote, and various other opiates and narcotics.

This bill, Alexandra’s Law, would require the court to advise a person who is convicted of, or who pleads guilty or no contest to, the above crimes, as specified, of the danger of manufacturing or distributing controlled substances selling or administering illicit drugs and counterfeit pills and that, if a person dies as a result of that action, the manufacturer or distributor defendant
can be charged with voluntary manslaughter or murder. The bill would require the court to read the advisory statement in a case in which the defendant exchanged a controlled substance containing fentanyl or its analogs for anything else of value, as specified. The bill would require the advisory statement to be included in a plea form, if used, and specified on the record. The bill would require that the fact the advisory was given be on the record and recorded in the abstract of conviction and would prohibit the advisement from being used as evidence in the prosecution of a minor in juvenile court.


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

SECTION 1. Section 11369 is added to the Health and Safety Code, to read:

11369. (a) This section shall be known, and may be cited, as Alexandra’s Law.

(b) The court shall advise a person who is convicted of, or who pleads guilty or no contest to, a violation of Section 11351, 11352, 11352 for transporting, importing, selling, or administering a controlled substance, offering to transport, import, sell, or administer a controlled substance, or attempting to transport, import, sell, or administer a controlled substance, or 11379.6, where the substance contained fentanyl or a fentanyl analog, of the following:

“You are hereby advised that the illicit manufacture or distribution of controlled substances, either real or counterfeit, inflicts a grave health risk to those who ingest or are exposed to them. It is extremely dangerous to human life to manufacture or distribute real or counterfeit controlled substances. If you do so, and a person dies as a result of that action, you can be charged with voluntary manslaughter or murder.”

“You are hereby advised that all illicit drugs and counterfeit pills are dangerous to human life and become even deadlier when they are, sometimes unknowingly, mixed with substances such as fentanyl and analogs of fentanyl. People can and have died from
these substances, even in very small doses. It is extremely
dangerous and deadly to human life to sell or administer drugs,
in any form, when not lawfully authorized to do so. If you do so
in the future and a person dies as a result of that action, you may
be charged with homicide, up to and including the crime of murder,
within the meaning of Section 187 of the Penal Code.”

The court shall additionally read the advisory statement in a
case in which the person exchanged a controlled substance
containing fentanyl or its analogs for anything else of value except
when the controlled substance containing fentanyl or its analogs
is exchanged for a controlled substance or alcohol.

(c) The advisory statement shall be provided to the defendant
in writing, either on the plea form or after sentencing, and included
in a plea form, if used, or the fact that the advisory was given shall
be specified on the record and recorded in the abstract of the
conviction. record.

(d) The fact that the advisory was given shall be recorded in
the abstract of the conviction.

(e) This advisement may not be used as evidence in the
prosecution of a minor in juvenile court.
Item B-7
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Municipal Affairs Program Manager
DATE: March 15, 2023

SUBJECT: Senate Bill 58 (Wiener) - Controlled Substances: Decriminalization of Certain Hallucinogenic Substances.

ATTACHMENTS:
1. Bill Summary – SB 58
2. Bill Text – SB 58

This item requests the Legislative / Lobby Liaison Committee consider a request by Councilmember Nazarian for the City of Beverly Hills to take a position on Senate Bill 58 (Wiener) - Controlled Substances: Decriminalization of Certain Hallucinogenic Substances (SB 58). SB 58 involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

This bill would make lawful the possession, preparation, obtaining, transfer, or transportation of, specified quantities of psilocybin, psilocyn, dimethyltryptamine (DMT), ibogaine, and mescaline (these are also more commonly known as psychedelic plants and fungi), for personal use or facilitated or supported use by and with persons 21 years of age or older.

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 58 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 58, the Liaisons may recommend the following actions:
1) Support SB 58;
2) Support if amended SB 58;
3) Oppose SB 58;
4) Oppose unless amended SB 58;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 58, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
Date: March 8, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 58 (Wiener) Controlled substances: decriminalization of certain hallucinogenic substances.

Version
As amended March 1, 2023.

Summary
This bill would make lawful the possession, preparation, obtaining, transfer, as specified, or transportation of, specified quantities of psilocybin, psilocyn, dimethyltryptamine (DMT), ibogaine, and mescaline, for personal use or facilitated or supported use, as defined, by and with persons 21 years of age or older. The bill would provide penalties for possession of these substances on school grounds, or possession by, or transferring to, persons under 21 years of age.

This bill would exempt from this prohibition, paraphernalia related, as specified, to these specific substances. The bill would also exempt from the prohibition items used for the testing and analysis of controlled substances.

Background and Existing Law
Hallucinogens are a diverse group of drugs that alter a person’s perception or awareness of their surroundings. Some hallucinogens are found in plants and fungi, and some are synthetically produced. Hallucinogens can be consumed in a variety of ways, including swallowed as tablets, pills, or liquid, consumed raw or dried, snorted, injected, inhaled, vaporized, smoked, or absorbed through the lining of the mouth using drug-soaked pieces of paper. Common hallucinogens include LSD, DMT, psilocybin, peyote, mescaline, and ketamine.

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Existing law:
1. Classifies controlled substances into five schedules according to their danger and potential for abuse. Schedule I controlled substances have the greatest restrictions and penalties, including prohibiting the prescribing of a Schedule I controlled substance. (Health & Saf. Code, §§ 11054-11058.)
2. Classifies several hallucinogenic substances including DMT, ibogaine, LSD, mescaline, psilocybin, and psilocyn as Schedule I substances. (Health & Saf. Code, § 11054, subd. (d).)

3. Classifies ketamine as a Schedule III substance. (Health & Saf. Code, § 11056, subd. (g).)

4. Provides that, upon change in federal law permitting the prescription, furnishing, or dispensing of a cannabidiol product, a physician, pharmacist, or other authorized healing arts licensee acting within his or her scope of practice who prescribes, furnishes, or dispenses a cannabidiol product in accordance with federal law, shall be deemed to be in compliance with state law. (Health & Saf. Code, § 11150.2, subd. (a).)

5. Provides that the possession of several specified controlled substances is unlawful. (Health & Saf. Code, §§ 11350, subd. (a), 11377, subd. (a).)

6. Makes it unlawful to possess any device, instrument, or paraphernalia used for unlawfully injecting or smoking specified controlled substances. (Health & Saf. Code, § 11364, subd. (a).)

7. Makes it unlawful for any person to deliver, furnish, or transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. (Health & Saf. Code, § 11364.7.)

Status of Legislation
SB 58 (Wiener) will be heard in Senate Public Safety Committee on March 21, 2023.

Support
Heroic Hearts Project (Sponsor)
City of Eureka
Bend the Arc: Jewish Action
Law Enforcement Action Partnership

Opposition
None listed.
Attachment 2
An act to amend Sections 11054, 11350, 11364, 11364.7, 11365, 11377, 11379, 11382, and 11550 of, to add Sections 11350.1 and 11377.1 to, to repeal Section 11999 of, and to repeal Article 7 (commencing with Section 11390) of Chapter 6 of Division 10 of, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL’S DIGEST

SB 58, as amended, Wiener. Controlled substances: decriminalization of certain hallucinogenic substances.

(1) Existing law categorizes certain drugs and other substances as controlled substances and prohibits various actions related to those substances, including their manufacture, transportation, sale, possession, and ingestion.

This bill would make lawful the possession, preparation, obtaining, transfer, as specified, or transportation of, specified quantities of psilocybin, psilocyn, dimethyltryptamine (DMT), ibogaine, and mescaline, for personal use or facilitated or supported use, as defined, by and with persons 21 years of age or older. The bill would provide penalties for possession of these substance on school grounds, or possession by, or transferring to, persons under 21 years of age.
(2) Existing law prohibits the cultivation, transfer, or transportation, as specified, of any spores or mycelium capable of producing mushrooms or other material which contain psilocybin or psilocyn. This bill would repeal those provisions.

(3) Existing law prohibits the possession of drug paraphernalia, as defined.

This bill would exempt from this prohibition, paraphernalia related, as specified, to these specific substances. The bill would also exempt from the prohibition items used for the testing and analysis of controlled substances.

(4) Existing law states the intent of the Legislature that the messages and information provided by various state drug and alcohol programs promote no unlawful use of any drugs or alcohol.

This bill would repeal those provisions.

(5) By eliminating and changing the elements of existing crimes and creating new offenses, and by requiring new duties of local prosecutors, 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(6) This bill would state that its provisions are severable.


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

1 SECTION 1. The Legislature finds and declares all of the following:
2 (a) For over fifty years, the War on Drugs has caused overwhelming financial and societal costs. The current United States drug control scheme does not reflect a modern understanding of the incentives, economics, or impacts of substance use, nor does it accurately reflect the risks or potential therapeutic benefits of many presently illicit substances.
(b) Drug prohibition has failed to deter drug use, and it has increased its danger. Criminalization of drug use has created an underground market in which difficult-to-verify dosages and the presence of adulterants increase the risks of illicit drugs.

(c) Lack of honest, evidence-based drug education has paved the way for decades of stigma and misinformation, which have contributed to increasing the dangers of drug use.

(d) Encouraging access to harm reduction tools like fentanyl test strips, drug-checking kits, gas chromatography mass spectrometry machines, and milligram scales increases public health and safety by allowing users to make more accurate decisions about their personal use.

(e) Clinical research demonstrates the potential use of some psychedelic compounds, in conjunction with therapy, for the treatment of mental health, such as end-of-life anxiety, depression, post-traumatic stress, and substance use disorders. Observational evidence and traditional uses of psychedelic plants and fungi demonstrate how ceremony and community are utilized to enhance the outcomes and increase the safety of spiritual practice, emotional healing, and responsible personal growth.

(f) Proposition 122 in Colorado, which passed in November 2022, with a 53 percent vote of the state population, will decriminalize the noncommercial, personal possession of psychedelic plants and fungi and establish a regulated therapy system to provide people with therapeutic access to psychedelic plants and fungi.

(g) Measure 109 in Oregon, which passed in November 2020, with a 56 percent vote of the state population, will establish a regulated psilocybin therapy system in Oregon to provide people therapeutic access to psilocybin.

(h) Measure 110 in Oregon, which passed in November 2020, with a 58 percent vote of the state population, decriminalized the personal possession of all drugs, and almost 20 countries around the world including Portugal, the Czech Republic, and Spain, have expressly or effectively decriminalized the personal use of illicit substances.

(i) The City Councils of The City of Oakland, and the City of Santa Cruz, and the Board of Supervisors of the City and County of San Francisco have all passed resolutions deprioritizing the enforcement of the possession, use, and propagation of psychedelic
plants and fungi, effectively decriminalizing in those cities. Since June 2019, the City of Ann Arbor, Michigan, and the Cities of Somerville and Cambridge, Massachusetts have all decriminalized the possession, use, and propagation of psychedelic plants and fungi at the local level. In 2020, Washington, D.C., passed Initiative 81 to decriminalize and deprioritize the possession and use of psychedelic plants and fungi with 76 percent voter approval.

(j) This act will decriminalize the noncommercial, personal use of specified controlled substances, including for the purposes of group counseling and community-based healing, or other related services, including risk reduction, and lay the groundwork for California to develop a regulated therapeutic access program for psychedelic plants and fungi.

(k) These changes in law will not affect any restrictions on the driving or operation of a vehicle while impaired, or an employer’s ability to restrict the use of controlled substances by its employees, or affect the legal standard for negligence.

(l) Peyote is specifically excluded from the list of substances to be decriminalized, and any cultivation, harvest, extraction, tincture or other product manufactured or derived therefrom, because of the nearly endangered status of the peyote plant and the special significance peyote holds in Native American spirituality. Section 11363 of the Health and Safety Code, which makes it a crime in California to cultivate, harvest, dry, or process any plant of the genus Lophophora, also known as Peyote, is not amended or repealed.

(m) The State of California fully respects and supports the continued Native American possession and use of peyote under federal law, Section 1996a of Title 42 of the United States Code, understanding that Native Americans in the United States were persecuted and prosecuted for their ceremonial practices and use of peyote for more than a century and had to fight numerous legal and political battles to achieve the current protected status, and the enactment of this legislation does not intend to undermine explicitly or implicitly that status.

SEC. 2. Section 11054 of the Health and Safety Code is amended to read:

11054. (a) The controlled substances listed in this section are included in Schedule I.
(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Acetylmethadol.
2. Allylprodine.
3. Alphacetylmethadol (except levoalphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).
5. Alphamethadol.
8. Betameprodine.
11. Clonitazene.
12. Dextromoramid.
15. Difenuoxin.
17. Dimephentanol.
18. Dimethyliambutene.
19. Dioxaphetyl butyrate.
20. Dipipanone.
22. Etonitazene.
23. Etoxeridine.
24. Furethidine.
25. Hydroxypethidine.
27. Levomoramide.
28. Levophenacylmorphan.
29. Morideridine.
30. Noracymethadol.
32. Normethadone.
33. Norpipanone.
1 (34) Phenadoxone.
2 (35) Phenampromide.
3 (36) Phenomorphan.
4 (37) Phenoperidine.
5 (38) Piritramide.
6 (39) Proheptazine.
7 (40) Properidine.
8 (41) Propiram.
9 (42) Racemoramide.
10 (43) Tilidine.
11 (44) Trimeperidine.
12 (45) Any substance which contains any quantity of acetylfentanyl (N-[1-phenethyl-4-piperidinyl] acetanilide) or a derivative thereof.
13 (46) Any substance which contains any quantity of the thiophene analog of acetylfentanyl (N-[1-[2-(2-thienyl)ethyl]-4-piperidinyl] acetanilide) or a derivative thereof.
14 (47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
15 (48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).
16 (c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
17 (1) Acetorphine.
18 (2) Acetyldihydrocodeine.
19 (3) Benzylmorphone.
20 (4) Codeine methylbromide.
21 (5) Codeine-N-Oxide.
22 (6) Cyprenorphine.
23 (7) Desomorphine.
24 (8) Dihydromorphine.
25 (9) Drotebanol.
26 (10) Etorphine (except hydrochloride salt).
27 (11) Heroin.
28 (12) Hydromorphinol.
29 (13) Methyldesmorphine.
30 (14) Metyldihydromorphine.
31 (15) Morphine methylbromide.
32 (16) Morphine methylsulfonate.
Morphine-N-Oxide.
Myrophine.
Nicocodeine.
Nicomorphine.
Normorphine.
Pholcodine.
Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or
unless listed in another schedule, any material, compound, mixture,
or preparation, which contains any quantity of the following
hallucinogenic substances, or which contains any of its salts,
isomers, and salts of isomers whenever the existence of those salts,
isomers, and salts of isomers is possible within the specific
chemical designation (for purposes of this subdivision only, the
term “isomer” includes the optical, position, and geometric
isomers):

1. 4-bromo-2,5-dimethoxy-amphetamine—Some trade or other
names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine;
4-bromo-2,5-DMA.

2. 2,5-dimethoxyamphetamine—Some trade or other names:
2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.

3. 4-methoxyamphetamine—Some trade or other names:
4-methoxy-alpha-methylphenethylamine, paramethoxyamphetamine, PMA.

4. 5-methoxy-3,4-methylenedioxy-amphetamine.

5. 4-methyl-2,5-dimethoxy-amphetamine—Some trade or other
names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine;
“DOM”; and “STP.”

6. 3,4-methylenedioxy amphetamine.

7. 3,4,5-trimethoxy amphetamine.

8. Bufotenine—Some trade or other names:
3-(beta-dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserotonin,
5-hydroxy-N,N-dimethyltryptamine; mappine.

9. Diethyltryptamine—Some trade or other names:
N,N-Diethyltryptamine; DET.

10. Dimethyltryptamine—Some trade or other names: DMT.

11. Ibogaine—Some trade or other names: 7-Ethyl-6,6beta,
7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido
[1’,2’;1,2] azepino [5,4-b] indole; Tabernantheiboga.
(12) Lysergic acid diethylamide.

(13) Cannabis.

(14) Mescaline, derived from plants presently classified botanically in the Echinopsis or Trichocereus genus of cacti, including, without limitation, the Bolivian Torch Cactus, San Pedro Cactus, or Peruvian Torch Cactus, but not including mescaline derived from any plant described in paragraph (15).

(15) Peyote—Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).

(16) N-ethyl-3-piperidyl benzilate.

(17) N-methyl-3-piperidyl benzilate.

(18) Psilocybin.

(19) Psilocyn.

(20) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

Because nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.

(21) Ethylamine analog of phencyclidine—Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

(22) Pyrrolidine analog of phencyclidine—Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCP, PHP.

(23) Thiophene analog of phencyclidine—Some trade or other names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances
having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Mecloqualone.
2. Methaqualone.
3. Gamma hydroxybutyric acid (also known by other names such as GHB; gamma hydroxy butyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate), including its immediate precursors, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, including, but not limited to, gammabutyrolactone, for which an application has not been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its isomers:

1. Cocaine base.
2. Fenethylline, including its salts.
3. N-Ethylamphetamine, including its salts.

SEC. 3. Section 11350 of the Health and Safety Code is amended to read:

11350. (a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (15) or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in a county jail for not more than one year, except that such person shall instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an
offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.

(b) Except as otherwise provided in this division, whenever a person who possesses any of the controlled substances specified in subdivision (a), the judge may, in addition to any punishment provided for pursuant to subdivision (a), assess against that person a fine not to exceed seventy dollars ($70) with proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant’s ability to pay, and no defendant shall be denied probation because of their inability to pay the fine permitted under this subdivision.

(c) Except in unusual cases in which it would not serve the interest of justice to do so, whenever a court grants probation pursuant to a felony conviction under this section, in addition to any other conditions of probation which may be imposed, the following conditions of probation shall be ordered:

(1) For a first offense under this section, a fine of at least one thousand dollars ($1,000) or community service.

(2) For a second or subsequent offense under this section, a fine of at least two thousand dollars ($2,000) or community service.

(3) If a defendant does not have the ability to pay the minimum fines specified in paragraphs (1) and (2), community service shall be ordered in lieu of the fine.

(d) It is not unlawful for a person other than the prescription holder to possess a controlled substance described in subdivision (a) if both of the following apply:

(1) The possession of the controlled substance is at the direction or with the express authorization of the prescription holder.

(2) The sole intent of the possessor is to deliver the prescription to the prescription holder for its prescribed use or to discard the substance in a lawful manner.

(e) This section does not permit the use of a controlled substance by a person other than the prescription holder or permit the distribution or sale of a controlled substance that is otherwise inconsistent with the prescription.

SEC. 4. Section 11350.1 is added to the Health and Safety Code, to read:

11350.1. (a) Except as otherwise provided in subdivisions (b), (c), (d), and (e) of this section and notwithstanding any other law,
all of the following shall be lawful for a natural person 21 years
of age or older and shall not be a violation of state or local law:
(1) The possession, preparation, obtaining, or transportation, of
no more than the allowable amount of mescaline, as described in
paragraph (14) of subdivision (d) of Section 11054, for personal
use or for facilitated or supported use.
(2) The ingesting of mescaline.
(3) The possession, planting, cultivating, harvesting, or
preparation of plants capable of producing mescaline, except for
the plant presently classified botanically as Lophophora williamsii
Lemaire, on property owned or controlled by a person, for the
purposes described in this subdivision by that person, and
possession of any product produced by those plants.
(4) The assisting of another person, 21 years of age or older,
with any act described in paragraphs (1) to (3), inclusive, of this
subdivision.
(b) Possession of mescaline by a person 21 years of age or over
on the grounds of any public or private elementary, vocational,
junior high, or high school, during hours that the school is open
for classes or school-related programs, or at any time when minors
are using the facility is punishable as a misdemeanor.
(c) (1) A person who knowingly gives away or administers
mescaline to a person who is under 18 years of age in violation of
law shall be punished by imprisonment in a county jail for a period
of not more than six months or by a fine of not more than five
hundred dollars ($500), or by both that fine and imprisonment, or
by imprisonment pursuant to subdivision (h) of Section 1170 of
the Penal Code.
(2) Notwithstanding paragraph (1), a person 18 years of age or
over who knowingly gives away or administers mescaline to a
minor under 14 years of age in violation of law shall be punished
by imprisonment in the state prison for a period of three, five, or
seven years.
(3) A person who knowingly gives away or administers
mescaline to a person who is at least 18 years of age, but under 21
years of age is guilty of an infraction.
(d) Except as otherwise provided, possession of mescaline by
a person under 18 years of age is punishable as an infraction and
shall require:
(1) Upon a finding that a first offense has been committed, four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days, commencing when the drug education or counseling services are made available to them.

(2) Upon a finding that a second offense or subsequent offense has been committed, six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days, commencing when the drug education or counseling services are made available to them.

(e) Except as otherwise provided, possession of mescaline by a person at least 18 years of age but less than 21 years of age is punishable as an infraction.

(f) Mescaline or related products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest, or the basis for the seizure or forfeiture of assets.

(g) As used in this section, the following terms are defined as follows:

(1) “Allowable amount” means four grams per person or, in the context of facilitated or supported use involving multiple persons, the aggregate of allowable amounts per participant. “Allowable amount” does not include the weight of any material of which the substance is a part or to which the substance is added, dissolved, held in solution, or suspended, or any ingredient or material combined with the substance specified in this subdivision to prepare a topical or oral administration, food, drink, or other product, including, but not limited to, a brew or tea.

(2) “Facilitated or supported use” means the supervised or assisted personal use of mescaline by an individual or group of persons 21 years of age or older, or the assisting or supervising of such persons in such use, within the context of counseling, spiritual guidance, community-based healing, or related services.

(3) “Financial gain” means the receipt of money or other valuable consideration in exchange for the item being transferred. “Financial gain” does not include reasonable fees for counseling, spiritual guidance, or related services that are provided in conjunction with facilitated or supported use of mescaline under
the guidance and supervision, and on the premises, of the person
providing those services.

(4) “Personal use” means for the personal ingestion or other
personal and noncommercial use by the person in possession.

(5) “Preparation” means processing or otherwise preparing for
use.

(h) The transfer of a substance described in paragraph (1) of
subdivision (a), without financial gain, between persons 21 years
of age and older, and in the context of facilitated or supported use,
shall not be a violation of Section 11352 or any other state or local
law.

SEC. 5. Section 11364 of the Health and Safety Code is
amended to read:

11364. (a) It is unlawful to possess an opium pipe or any
device, contrivance, instrument, or paraphernalia used for
unlawfully injecting or smoking (1) a controlled substance specified
in subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of
Section 11054, specified in paragraph (15) or (20) of subdivision
(d) of Section 11054, specified in subdivision (b) or (c) of Section
11055, or specified in paragraph (2) of subdivision (d) of Section
11055, or (2) a controlled substance that is a narcotic drug
classified in Schedule III, IV, or V.

(b) This section shall not apply to hypodermic needles or
syringes that have been containerized for safe disposal in a
container that meets state and federal standards for disposal of
sharps waste.

(c) Until January 1, 2026, as a public health measure intended
to prevent the transmission of HIV, viral hepatitis, and other
bloodborne diseases among persons who use syringes and
hypodermic needles, and to prevent subsequent infection of sexual
partners, newborn children, or other persons, this section shall not
apply to the possession solely for personal use of hypodermic
needles or syringes.

SEC. 6. Section 11364.7 of the Health and Safety Code is
amended to read:

11364.7. (a) (1) Except as authorized by law, any person who
delivers, furnishes, or transfers, possesses with intent to deliver,
furnish, or transfer, or manufactures with the intent to deliver,
furnish, or transfer, drug paraphernalia, knowing, or under
circumstances where one reasonably should know, that it will be
used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance, except as provided in subdivision (b), in violation of this division, is guilty of a misdemeanor.

(2) A public entity, its agents, or employees shall not be subject to criminal prosecution for distribution of hypodermic needles or syringes or any materials deemed by a local or state health department to be necessary to prevent the spread of communicable diseases, or to prevent drug overdose, injury, or disability to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to Chapter 18 (commencing with Section 121349) of Part 4 of Division 105.

(3) This subdivision does not apply to any paraphernalia that is intended to be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, any of the following substances:

(A) Dimethyltryptamine (DMT).
(B) Ibogaine.
(C) Mescaline.
(D) Psilocybin.
(E) Psilocyn.

(b) Except as authorized by law, any person who manufactures with intent to deliver, furnish, or transfer drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body cocaine, cocaine base, heroin, phencyclidine, or methamphetamine in violation of this division shall be punished by imprisonment in a county jail for not more than one year, or in the state prison.

(c) Except as authorized by law, any person, 18 years of age or over, who violates subdivision (a) by delivering, furnishing, or transferring drug paraphernalia to a person under 18 years of age who is at least three years younger, or who, upon the grounds of a public or private elementary, vocational, junior high, or high school, possesses a hypodermic needle, as defined in paragraph
(7) of subdivision (a) of Section 11014.5, with the intent to deliver, furnish, or transfer the hypodermic needle, knowing, or under circumstances where one reasonably should know, that it will be used by a person under 18 years of age to inject into the human body a controlled substance, is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(d) The violation, or the causing or the permitting of a violation, of subdivision (a), (b), or (c) by a holder of a business or liquor license issued by a city, county, or city and county, or by the State of California, and in the course of the licensee’s business shall be grounds for the revocation of that license.

(e) All drug paraphernalia defined in Section 11014.5 is subject to forfeiture and may be seized by any peace officer pursuant to Section 11471 unless its distribution has been authorized pursuant to subdivision (a).

(f) If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

SEC. 7. Section 11365 of the Health and Safety Code is amended to read:

11365. (a) It is unlawful to visit or to be in any room or place where any controlled substances which are specified in subdivision (b), (c), or (e), of paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (15) or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) or paragraph (2) of subdivision (d) of Section 11055, or which are narcotic drugs classified in Schedule III, IV, or V, are being unlawfully smoked or used with knowledge that such activity is occurring.

(b) This section shall apply only where the defendant aids, assists, or abets the perpetration of the unlawful smoking or use of a controlled substance specified in subdivision (a). This subdivision is declaratory of existing law as expressed in People v. Cressey (1970) 2 Cal. 3d 836.

SEC. 8. Section 11377 of the Health and Safety Code is amended to read:
11377. (a) Except as authorized by law and as otherwise
provided in subdivision (b) or Section 11375, or in Article 7
(commencing with Section 4211) of Chapter 9 of Division 2 of
the Business and Professions Code, every person who possesses
any controlled substance which is (1) classified in Schedule III,
IV, or V, and which is not a narcotic drug, (2) specified in
subdivision (d) of Section 11054, except paragraphs (10), (11),
(13), (14), (15), (18), (19), and (20) of subdivision (d), (3) specified
in paragraph (11) of subdivision (c) of Section 11056, (4) specified
in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5)
specified in subdivision (d), (e), or (f) of Section 11055, unless
upon the prescription of a physician, dentist, podiatrist, or
veterinarian, licensed to practice in this state, shall be punished by
imprisonment in a county jail for a period of not more than one
year, except that such person may instead be punished pursuant
to subdivision (h) of Section 1170 of the Penal Code if that person
has one or more prior convictions for an offense specified in clause
(iv) of subparagraph (C) of paragraph (2) of subdivision (e) of
Section 667 of the Penal Code or for an offense requiring
registration pursuant to subdivision (c) of Section 290 of the Penal
Code.

(b) The judge may assess a fine not to exceed seventy dollars
($70) against any person who violates subdivision (a), with the
proceeds of this fine to be used in accordance with Section 1463.23
of the Penal Code. The court shall, however, take into consideration
the defendant’s ability to pay, and no defendant shall be denied
probation because of their inability to pay the fine permitted under
this subdivision.

(c) It is not unlawful for a person other than the prescription
holder to possess a controlled substance described in subdivision
(a) if both of the following apply:
(1) The possession of the controlled substance is at the direction
or with the express authorization of the prescription holder.
(2) The sole intent of the possessor is to deliver the prescription
to the prescription holder for its prescribed use or to discard the
substance in a lawful manner.

(d) This section does not permit the use of a controlled substance
by a person other than the prescription holder or permit the
distribution or sale of a controlled substance that is otherwise
inconsistent with the prescription.
SEC. 9. Section 11377.1 is added to the Health and Safety Code, to read:

11377.1. (a) Except as otherwise provided in subdivisions (b), (c), (d), and (e) of this section, and notwithstanding any other law, all of the following shall be lawful for a natural person 21 years of age or older and shall not be a violation of state or local law:

1. The possession, preparation, obtaining, or transportation, of no more than the allowable amount of any of the following substances for personal use or facilitated or supported use:
   (1) The controlled substance specified in paragraph (10) of subdivision (d) of Section 11054.
   (2) The controlled substance specified in paragraph (11) of subdivision (d) of Section 11054.
   (3) The controlled substance specified in paragraph (18) of subdivision (d) of Section 11054.
   (4) The controlled substance specified in paragraph (19) of subdivision (d) of Section 11054.

2. The ingesting of a substance described in paragraph (1).

3. The possession, planting, cultivating, harvesting, or preparation of plants capable of producing a substance described in paragraph (1), on property owned or controlled by a person, for the uses described in this subdivision by that person, and possession of any product produced by those plants including spores or mycelium capable of producing mushrooms or other material which contain a controlled substance specified in paragraph (18) or (19) of subdivision (d) of Section 11054, for that purpose.

4. The assisting of another person, 21 years of age or older, with any act described in paragraphs (1) to (3), inclusive, of this subdivision.

(b) Possession of a controlled substance specified in paragraph (1) of subdivision (a) by a person 21 years of age or over, on the grounds of any public or private elementary, vocational, junior high, or high school, during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility is punishable as a misdemeanor.

(c) (1) A person who knowingly gives away or administers a controlled substance specified in paragraph (1) of subdivision (a) to a person who is under 18 years of age in violation of law shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred
dollars ($500), or by both that fine and imprisonment, or by
imprisonment pursuant to subdivision (h) of Section 1170 of the
Penal Code.

(2) Notwithstanding paragraph (1), a person 18 years of age or
over who knowingly gives away or administers a substance
described in paragraph (1) to a minor under 14 years of age in
violation of law shall be punished by imprisonment in the state
prison for a period of three, five, or seven years.

(3) A person who knowingly gives away or administers a
substance described in paragraph (1) to a person who is at least 18
years of age, but under 21 years of age is guilty of an infraction.

(d) Except as otherwise provided, possession of a controlled
substance specified in paragraph (1) of subdivision (a) by a person
under 18 years of age is punishable as an infraction and shall
require:

(1) Upon a finding that a first offense has been committed, four
hours of drug education or counseling and up to 10 hours of
community service over a period not to exceed 60 days,
commencing when the drug education or counseling services are
made available to them.

(2) Upon a finding that a second offense or subsequent offense
has been committed, six hours of drug education or counseling
and up to 20 hours of community service over a period not to
exceed 90 days, commencing when the drug education or
counseling services are made available to them.

(e) Except as otherwise provided, possession of a controlled
substance specified in paragraph (1) of subdivision (a) by a person
at least 18 years of age but less than 21 years of age is punishable
as an infraction.

(f) A controlled substance described in this section or any related
product involved in any way with conduct deemed lawful by this
section are not contraband nor subject to seizure, and no conduct
deemed lawful by this section shall constitute the basis for
detention, search, or arrest, or the basis for the seizure or forfeiture
of assets.

(g) As used in this section, the following terms are defined as
follows:

(1) “Allowable amount” means the following quantities of a
substance per person or, in the context of facilitated or supported
use involving multiple persons, the aggregate of allowable amounts
per participant. “Allowable amount” does not include the weight
of any material of which the substance is a part or to which the
substance is added, dissolved, held in solution, or suspended, or
any ingredient or material combined with the substance specified
in this subdivision to prepare a topical or oral administration, food,
drink, or other product, including, but not limited to, a brew or tea:
(A) Two grams of dimethyltryptamine, otherwise known as
DMT.
(B) Fifteen grams of ibogaine.
(C) Two grams of psilocybin or four ounces of a plant or fungi
containing psilocybin.
(D) Two grams of psilocyn or four ounces of a plant or fungi
containing psilocyn.
(2) “Facilitated or supported use” means the supervised or
assisted personal use of a substance described in this section by
an individual or group of persons 21 years of age or older, or the
assisting or supervising of such persons in such use, within the
context of counseling, spiritual guidance, community-based
healing, or related services.
(3) “Financial gain” means the receipt of money or other
valuable consideration in exchange for the item being transferred.
“Financial gain” does not include reasonable fees for counseling,
spiritual guidance, or related services that are provided in
conjunction with facilitated or supported use of a controlled
substance described in this section under the guidance and
supervision, and on the premises, of the person providing those
services.
(4) “Personal use” means for the personal ingestion or other
personal and noncommercial use by the person in possession.
(5) “Preparation” means processing or otherwise preparing for
use.
(h) The transfer of a substance described in paragraph (1) of
subdivision (a), without financial gain, between persons 21 years
of age and older, and in the context of facilitated or supported use,
shall not be a violation of Section 11352 or any other state or local
law.
SEC. 10. Section 11379 of the Health and Safety Code is
amended to read:
11379. (a) Except as otherwise provided in subdivision (b),
in Section 11377.1, and in Article 7 (commencing with Section
4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, except subdivision (g) of Section 11056, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d) or (e), except paragraph (3) of subdivision (e), or specified in subparagraph (A) of paragraph (1) of subdivision (f), of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three, or four years.

(b) Notwithstanding the penalty provisions of subdivision (a), any person who transports any controlled substances specified in subdivision (a) within this state from one county to another noncontiguous county shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, six, or nine years.

(c) For purposes of this section, “transports” means to transport for sale.

(d) Nothing in this section is intended to preclude or limit prosecution under an aiding and abetting theory, accessory theory, or a conspiracy theory.

SEC. 11. Section 11382 of the Health and Safety Code is amended to read:

11382. Except as otherwise provided in Section 11377.1, every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give any controlled substance which is (a) classified in Schedule III, IV, or V and which is not a narcotic drug, or (b) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), specified in paragraph (11) of subdivision (c) of Section 11056, or specified in subdivision (d), (e), or (f) of Section 11055, to any person, or offers, arranges, or negotiates to have that controlled substance transported, imported into this state, sold, furnished, administered, or given away, or attempts to import into this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, or (b) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), specified in paragraph (11) of subdivision (c) of Section 11056, or specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, six, or nine years.
substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, or arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of that controlled substance shall be punished by imprisonment in the county jail for not more than one year, or pursuant to subdivision (h) of Section 1170 of the Penal Code.

SEC. 12. Article 7 (commencing with Section 11390) of Chapter 6 of Division 10 of the Health and Safety Code is repealed.

SEC. 13. Section 11550 of the Health and Safety Code is amended to read:

11550. (a) A person shall not use, or be under the influence of any controlled substance that is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. A person convicted of violating this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not more than one year in a county jail. The court may also place a person convicted under this subdivision on probation for a period not to exceed five years.

(b) (1) A person who is convicted of violating subdivision (a) when the offense occurred within seven years of that person being convicted of two or more separate violations of that subdivision, and refuses to complete a licensed drug rehabilitation program offered by the court pursuant to subdivision (c), shall be punished by imprisonment in a county jail for not less than 180 days nor more than one year. In no event does the court have the power to absolve a person convicted of a violation of subdivision (a) who is punishable under this subdivision from the obligation of spending at least 180 days in confinement in a county jail unless there are no licensed drug rehabilitation programs reasonably available.
(2) For the purpose of this section, a drug rehabilitation program is not reasonably available unless the person is not required to pay more than the court determines that they are reasonably able to pay in order to participate in the program.

(c) (1) The court may, when it would be in the interest of justice, permit a person convicted of a violation of subdivision (a) punishable under subdivision (a) or (b) to complete a licensed drug rehabilitation program in lieu of part or all of the imprisonment in a county jail. As a condition of sentencing, the court may require the offender to pay all or a portion of the drug rehabilitation program.

(2) In order to alleviate jail overcrowding and to provide recidivist offenders with a reasonable opportunity to seek rehabilitation pursuant to this subdivision, counties are encouraged to include provisions to augment licensed drug rehabilitation programs in their substance abuse proposals and applications submitted to the state for federal and state drug abuse funds.

(d) In addition to any fine assessed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against a person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant’s ability to pay, and a defendant shall not be denied probation because of their inability to pay the fine permitted under this subdivision.

(e) (1) Notwithstanding subdivisions (a) and (b) or any other law, a person who is unlawfully under the influence of cocaine, cocaine base, heroin, methamphetamine, or phencyclidine while in the immediate personal possession of a loaded, operable firearm is guilty of a public offense punishable by imprisonment in a county jail for not exceeding one year or in state prison.

(2) As used in this subdivision “immediate personal possession” includes, but is not limited to, the interior passenger compartment of a motor vehicle.

(f) Every person who violates subdivision (e) is punishable upon the second and each subsequent conviction by imprisonment in the state prison for two, three, or four years.

(g) This section does not prevent deferred entry of judgment or a defendant’s participation in a preguilty plea drug court program under Chapter 2.5 (commencing with Section 1000) of Title 6 of
Part 2 of the Penal Code unless the person is charged with violating subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this section by being under the influence of any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 and with violating either subdivision (b) or (c) of Section 243 of the Penal Code or with a violation of subdivision (e) shall be ineligible for deferred entry of judgment or a preguilty plea drug court program.


SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 16. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT
MEMORANDUM
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Municipal Affairs Program Manager
DATE: March 15, 2023

ATTACHMENT S: 1. Summary Memo – SB 4
2. Bill Text – SB 4

Senate Bill 4 (Wiener) - Planning and Zoning: Housing Development: Higher Education Institutions and Religious Institutions (SB 4) involves a policy matter that may have a nexus to the City’s adopted Legislative Platform language. Specifically, the following statements may apply to SB 4:

• Oppose state legislation that supersedes a jurisdiction’s adopted zoning ordinances.
• Oppose preemption of the City of Beverly Hills’ local authority whether by state or federal legislation or ballot propositions.

The City’s state lobbyist, Shaw Yoder Antwi, provided a summary memo for SB 4 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee. After discussion of SB 4, the Liaisons may recommend the following actions:

• Oppose SB 4;
• Support SB 4;
• Support if amended SB 4;
• Oppose unless amended SB 4;
• Remain neutral; or
• Provide other direction to City staff.

Should the Liaisons recommend a position of oppose, then staff will prepare a letter for the Mayor to sign as the legislation appears to be consistent with the City’s Legislative Platform. Any other positions recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
Attachment 1
March 9, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 4 (Wiener) Housing Development: Higher Education and Religious Institutions

Version
As Amended in Senate February 22, 2023

Summary
Provides that housing is a “use by right” on land owned by a religious institution or nonprofit college. Specifically, this bill:

1) The applicant for the housing project must be a religious institution or nonprofit college, as specified, that partners with a qualified developer;
2) The religious institution or nonprofit college must own the land on or before January 1, 2024;
3) The project meets the following locational criteria:
   a) The site is one-quarter acre or greater;
   b) The site is located either:
      i. Within a city and the city boundaries include some portion of either an urbanized area or urban cluster; or
      ii. In an unincorporated area, and the site itself is wholly within the boundaries of an urbanized area or urban cluster.
   c) At least 75 percent of the perimeter of the site adjoins parcels developed for urban uses;
   d) The site would meet one of the following zoning requirements:
      i. General Plan designation or the zoning for the site allow residential use;
      ii. The development project is proposed on a parcel that is zoned for educational or religious use to conform to the existing use; or
      iii. The development project is proposed for a parcel that is adjacent to a parcel located in a residential, mixed-use, or commercial zone.
   e) The site is not on environmentally unsafe or sensitive areas, as specified, such as wetlands, a high or very high fire severity zone unless the site has adopted fire hazard mitigation measures required by existing building standards, a hazardous waste site, an earthquake fault zone, a flood plain or floodway, lands identified for conservation in an adopted natural community conservation plan, and lands under conservation easement;
   f) The development would not require the demolition of:
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, excluding any manager’s units. This provision includes sites previously used for housing that were occupied by tenants, excluding any manager’s units, that was demolished within 10 years before the development proponent submits an application pursuant to this bill;

iv. Housing such that the new development had less units overall and less protected units, as specified and generally for lower income households, as currently exists on the site; and

v. A historic structure that was placed on a national, state, or local historic register.

4) The project meets the following affordability criteria:
   a) All residential units in the development project, exclusive of a manager’s unit or units, are restricted to lower income households (generally, households making less than 80 percent of the area median income (AMI)), except that up to 20 percent may be designated for moderate-income households (generally, households making up to 120 percent AMI);
   b) Any units designated for moderate-income households are rented or sold at a price that is at least 20 percent below market rate for a unit of similar size and bedroom count in the same neighborhood;
   c) The affordability level of the units is restricted for 55 years for rental units and 45 years for owner-occupied units. However, the local government may require that owner-occupied units in the housing development project be restricted to lower income and moderate-income households for a longer period if that restriction is consistent with all applicable regulatory requirements for state assistance; and
   d) A religious institution or independent institution of higher education may restrict all the units to be for lower income households.

5) The project meets the following labor standards:
   a) The applicant either certifies that the project is a public work; or
   b) If the project contains more than 10 units, then all the workers must be paid at least the general prevailing wage, as specified.

6) The development project complies with all objective development standards of the city or county that are not in conflict with this bill;

7) A project that meets all of the criteria specified in 1) - 6) above is allowed the following residential density:
   a) If the development project is located in a residential or mixed-use zone:
      i. The allowed residential density is that deemed appropriate to accommodate housing for lower income households in that jurisdiction as specified in Housing Element Law. Generally, that density is 30 units per acre in urban areas, 20 units per acre in suburban areas, and 10 units per acre in rural areas.
ii. If the local government allows for greater residential density on that parcel, or greater residential density or building heights on an adjacent parcel, the greater density or building height will apply; and

iii. The project is eligible for a density bonus or other incentives or concessions.

b) If the development project is located in a commercial zone:

i. The project must be allowed a density of 40 units per acre and a height of one story above the maximum height applicable to the parcel;

ii. If the local government allows for greater residential density or building heights on the parcel, or on an adjacent parcel, the greater density or building height will apply. A project cannot use an incentive, waiver, or concession to increase the height of the development to exceed this authorization; and,

iii. A project is eligible for a density bonus or other incentives or concessions, except that it cannot use an incentive, waiver, or concession to increase the height of the development to exceed the height provisions in ii).

8) The development project must provide off-street parking of up to one space per unit, unless a local ordinance provides for a lower standard of parking, in which case the ordinance will apply. However, a local government is prohibited from imposing a parking requirement if either of the following is true:

a) The parcel is located within one-half mile walking distance of public transit, either a high-quality transit corridor or a major transit stop, as specified; or

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

9) Provides that a housing development project that is eligible as a use by right under this bill may include the following ancillary uses, provided those uses are limited to the ground floor of the development:

a) In a single-family residential zone, ancillary uses are limited to uses that provide direct services to the residents of the development and have a community benefit, including childcare centers and community centers; and

b) In a multifamily residential, commercial, or mixed-use zone, the development may include commercial uses that are permitted by the zoning without a conditional use permit or planned unit development permit.

10) Defines “use by right” to mean that the local government’s review of the development project under the provisions of this bill may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of the California Environmental Quality Act (CEQA). The development project may be subject to design review from the local government.

11) Defines a “qualified developer” as any of the following:

a) A local public entity;

b) A developer that meets both of the following:

i. The developer is a nonprofit corporation, a limited partnership in which the managing general partner is a nonprofit corporation, or a limited liability company in which the managing member is a nonprofit corporation; and
ii. □ The developer, at the time of application, owns or manages housing units located on
property that is subject to the welfare property tax exemption; or

c) □ A developer that contracts with a nonprofit corporation that has received the welfare
property tax exemption for properties intended to be sold to low-income families with
financing in the form of zero interest rate loans.

12) Provides that the Legislature finds and declares that ensuring residential development at greater
density on land owned by independent institutions of higher education and religious institutions
is a matter of statewide concern and is not a municipal affair, and therefore, the provisions of this
bill would apply to all cities, including charter cities.

13) Provides that no reimbursement is required by this bill 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 bill.

Existing Law

1) □ Allows cities and counties to “make and enforce within its limits, all local, police, sanitary and
other ordinances and regulations not in conflict with general laws” (California Constitution,
Article XI, Section 7).

2) □ Establishes Planning and Zoning Law, which requires every city and county to adopt a general
plan that sets out planned uses for all of the area covered by the plan, and requires the general
plan to include seven mandatory elements, including a land use element, and requires major land
use decisions by cities and counties, such as development permitting and subdivisions of land, to
be consistent with their adopted general plans (Government Code Section 65000 through
66301).

3) □ Establishes, pursuant to SB 35 (Wiener, Chapter 366, Statutes of 2017), a streamlined, ministerial
approval process, not subject to CEQA, for certain infill multifamily affordable housing projects
proposed in local jurisdictions that have not met their regional housing needs allocation (RHNA),
as follows:

a) □ Requires developments of 11 units or more to meet affordability requirements, as follows:

i. □ In jurisdictions that have not met their targets for lower income or above moderate-
income housing, 10 percent of the units must be affordable to lower income households;
and

ii. □ In jurisdictions that have met their targets for above moderate-income housing but not
lower income housing, 50 percent of the units must be affordable to lower income
households.

b) □ Requires developments of 11 units or more to meet labor requirements, including payment
of the prevailing wage for all projects that are 100 percent affordable;

c) □ Prohibits utilization of the streamlined, ministerial approval process in environmentally
unsafe or sensitive areas, such as a coastal zone, wetlands, a high or very high fire severity
zone unless the site has adopted fire hazard mitigation measures required by existing
building standards, a hazardous waste site, an earthquake fault zone, a flood plain or
floodway, lands identified for conservation in an adopted natural community conservation
plan, and lands under conservation easement;
Prohibits demolition of existing housing as specified, including housing that is subject to a deed restriction or that is currently rented by a tenant, or has been rented by a tenant within the past 10 years;

Enables local governments to apply objective design standards to the project, as long as such standards do not in any way inhibit, chill, or preclude the ministerial approval of the project;

Establishes specified timelines for the local government to act to determine that the project conforms with the requirements of this bill and to apply design review; and

Requires the local government to comply with requirements regarding proposed modifications to the project, subsequent applications affiliated with the project, and implementation of public improvements necessitated by the project (Government Code Section 65913.4).

Provides that supportive housing, in which 100 percent of units are dedicated to low-income households (up to 80 percent AMI) and are receiving public funding to ensure affordability, are a use by right in all zones where multifamily and mixed uses are allowed, as specified (Government Code Section 65650-65656).

**Background**

Religious institutions and places of higher education, including non-profit colleges, often contain ample developable land – particularly on surface parking lots that are often underutilized. This is particularly true for religious institutions, where high parking demand might last only a couple of hours a week.

In 2020, the UC Berkeley Terner Center conducted a study of the potential for new housing on sites owned by religious institutions (the study did not examine land owned by non-profit colleges). The study identified over 38,000 acres of land owned by religious institutions statewide that were large enough to facilitate development. The study did not examine the amount of potentially developable land on each site. But presuming only 25 percent of this land is developable, at a typical density of 30 units per acre, these sites could yield nearly 300,000 units of affordable housing.

The author argues that this measure provides a pathway for the development of affordable housing on land owned by religious institutions and non-profit colleges. It does so by making affordable housing a use “by right,” if the site is already owned by a religious institution or non-profit college, and meets specified criteria regarding location, affordability, and labor. Such projects would be required to meet objective standards specified in the bill. By right exempts the project from a local government’s discretionary approval process and from the California Environmental Quality Act. Local governments could apply objective standards and design review processes if they do not conflict with the provisions in the bill and do not preclude development of the housing.

In terms of affordability, this bill requires that the units would be restricted to lower-income households (those generally making less than 80 percent of the median income (AMI)), except up to 20 percent of the households could be for moderate-income households (those generally making 80 to 120 percent AMI) as long as they are rented or sold at 20 percent below the fair market rent.

In terms of location, this bill includes provisions that would preclude development on environmentally unsafe or sensitive area, per previously established objective standards. It would also require development to occur on sites within infill areas, which would help reduce commutes and, commensurately, greenhouse gas emissions. New development could not result in the
demolition of existing housing. The site could be located on a parcel that allows the religious institution or non-profit college and is adjacent to a parcel that allows residential, mixed-use, or commercial uses.

In terms of labor standards, this bill would require the workers on all projects greater than 10 units to pay the prevailing wage. Prevailing wages are the compensation standards applied to public works projects. They are the most common wage found in a region for a construction craft and are usually based on rates specified in collective bargaining agreements between employers and unions. Prevailing wages are established by the Director of the Department of Industrial Relations (DIR), according to the type of work and location of the project and published on DIR's website. The prevailing wage encompasses an hourly pay, as well as compensation for other benefits should the employer not provide them, including health care, vacation, and pension.

In terms of objective standards, the projects meeting all the criteria above would be allowed to meet a baseline density. For sites located in residential or mixed-use zones, the residential density would need to meet or exceed the density considered geographically appropriate for affordable housing projects in Housing Element Law. Generally, that density is 30 units per acre in urban areas, 20 units per acre in suburban areas, and 10 units per acre in rural areas. Sites located in commercial zones would be allowed a density of 40 units per acre and a height of one story above the maximum height applicable to the parcel. In both instances, if the local government allows for greater residential density or building heights on the parcel, or on an adjacent parcel, the greater density or building height will apply. Local governments would be prohibited from imposing a parking requirement if either the parcel is within a half-mile of public transit or there is a car share vehicle located within one block of the parcel. The site must otherwise meet the local government’s height limits, objective zoning standards, and objective design review standards.

The author and supporters argue that SB 4 would allow faith-based organizations to further their mission by providing affordable housing on their land.

**Predicted Arguments in Opposition:** The California Association of Realtors registered opposition to a prior bill on this topic (SB 1336-Wiener-2022), seeks to remove the by right component of the bill for development within single-family neighborhoods. Additionally, they state that “the bill should be amended to require any property to be constructed primarily for, and occupied by, the organizations’ faculty, employees, and students.”

**Status of Legislation**

SB 4 (Wiener) has been referred to the Senate Housing Committee and to the Senate Committee on Governance and Finance. The Senate Housing Committee is scheduled to hear this measure first, but that committee has not announced a hearing date yet.

**Support**

- Non-Profit Housing Association of Northern California (NPH) (Sponsor)
- Southern California Association of Non-Profit Housing (SCANPH) (Sponsor)
- Jewish Public Affairs Committee of California (JPAC) (Sponsor)
- California Conference of Carpenters (Sponsor)
- Inner City Law Center (Sponsor)
- United Way of Greater Los Angeles
- Los Angeles Family Housing
- Housing Action Coalition
- Many Mansions
- Abundant Housing Los Angeles
- Peninsula Solidarity Cohort
- Making Housing and Community Happens
- Move LA
- East Bay Housing Organizations
- Generation Housing
- PATH (People Assisting the Homeless)
- City of Emeryville
- City of Berkeley
- Muslim Public Affairs Council
- Multi-Faith Action Coalition
- St. Francis Center of Redwood City
- San Francisco Bay Area Planning and Urban Research Association (SPUR)
- Santa Monica Forward
- Active San Gabriel Valley
Merritt Community Capital Corporation
Walnut Creek Homeless Task Force
Union Station Homeless Services
Jewish Free Loan Association
IKAR
Venice Community Housing Corporation Jewish Family & Community Services East Bay
Hadassah Southern California
South District of the California-Pacific Annual Conference of the United Methodist Church
Multifaith Voices for Peace and Justice
First Congregational Church of Berkeley, United Church of Christ
Claremont United Church of Christ
Unitarian Universalist Fellowship of Redwood City

Unitarian Universalists of San Mateo
Congregational Church of San Mateo
Destination: Home
Novin Development
First Congregational Church of Palo Alto, United Church of Christ
The People Concern
Faith and Community Empowerment
San Gabriel Valley Consortium on Homelessness
Jewish Federation of the Sacramento Region
Housing Opportunities Made Easier
LA Voice
Peninsula Sinai Congregation
California YIMBY
All Home

**Opposition**
None listed at this time.
Attachment 2
An act to add Section 65913.16 to the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

SB 4, as amended, Wiener. Planning and zoning: housing development: higher education institutions and religious institutions.

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. That law allows a development proponent to submit an application for a development that is subject to a specified streamlined, ministerial approval process not subject to a conditional use permit, if the development satisfies certain objective planning standards.

Existing law, the Zenoich-Mosconne-Chacon Housing and Home Finance Act, establishes the California Tax Credit Allocation Committee within the Department of Housing and Community Development. Existing law requires the committee to allocate state low-income housing tax credits in conformity with state and federal law that establishes a
maximum rent that may be charged to a tenant for a project unit constructed using low-income housing tax credits.

This bill would require that a housing development project be a use by right upon the request of an applicant who submits an application for streamlined approval, on any land owned by an independent institution of higher education or religious institution on or before January 1, 2024, if the development satisfies specified criteria, including that the development is not adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use. The bill would define various terms for these purposes. Among other things, the bill would require that 100% of the units, exclusive of manager units, in a housing development project eligible for approval as a use by right under these provisions be affordable to lower income households, except that 20% of the units may be for moderate-income households, and 5% of the units may be for staff of the independent institution of higher education or the religious institution that owns the land, provided that the units affordable to lower income households are provided offered at affordable rent, as set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee, or affordable housing cost, as specified. The bill would authorize the development to include ancillary uses on the ground floor of the development, as specified.

This bill would specify that a housing development project that is eligible for approval as a use by right under the bill is also eligible for a density bonus or other incentives or concessions, except as specified. The bill would require a development subject to these provisions to provide off-street parking of up to one space per unit, unless a local ordinance provides for a lower standard of parking, in which case the ordinance applies. The bill would prohibit a local government from imposing any parking requirement on a development subject to these provisions if the development is located within one-half mile walking distance of public transit, either a high-quality transit corridor or a major transit stop, as those terms are defined, or it is within one block of a car share vehicle.

This bill would require a local government that determines a proposed development is in conflict with any objective planning standards, as specified, to provide the developer with written documentation explaining those conflicts under a specified timeframe. The bill would require a local government to approve a development provide that the development shall be deemed to satisfy the required objective planning.
standards if the local government fails to provide the requisite documentation explaining any conflicts. The bill would authorize a local government to conduct a design review, as described, only if the design review focuses on compliance with the requisite criteria of a streamlined, ministerial review process. The bill would prohibit a local government from using a design review, as specified, from inhibiting, chilling, or precluding a streamlined, ministerial approval. The bill would require a local government to issue a subsequent permit for developments approved under the provisions of this act.

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 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 or to adopt a negative declaration if it finds that the project will not have that effect. CEQA does not apply to the ministerial approval of projects.

This bill, by requiring approval of certain development projects as a use by right, would expand the exemption for ministerial approval of projects under CEQA.

By adding to the duties of local planning officials with respect to approving certain development projects, this bill would impose a state-mandated local program.

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

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

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

SECTION 1. Section 65913.16 is added to the Government Code, to read:

65913.16. (a) For purposes of this section:
(1) “Applicant” means a qualified developer who submits an application for streamlined approval pursuant to this section.
(2) “Development proponent” means a developer that submits a housing development project application to a local government under the streamlined, ministerial review process pursuant to this chapter.
(3) “Health care expenditures” include contributions pursuant to Section 501(c) or (d) or 401(a) of the Internal Revenue Code and payments toward “medical care” as defined in Section 213(d)(1) of the Internal Revenue Code.
(4) “Housing development project” has the same meaning as defined in Section 65589.5.
(5) “Independent institution of higher education” has the same meaning as defined in Section 66010 of the Education Code.
(6) “Industrial use” means utilities, manufacturing, transportation storage and maintenance facilities, and warehousing facilities. “Industrial use” does not include power substations or utility conveyance such as power lines, broadband wires, and pipes.
(7) “Local government” means a city, including a charter city, county, including a charter county, or city and county, whether general law or chartered, including a charter city and county.
(8) “Qualified developer” means any of the following:
(A) A local public entity, as defined in Section 50079 of the Health and Safety Code.
(B) (i) A developer that is a nonprofit corporation, a limited partnership in which the managing general partner is a nonprofit corporation, or a limited liability company in which the managing member is a nonprofit corporation.
(ii) The developer, at the time of submission of an application for development pursuant to this section, owns property or manages housing units located on property that is exempt from taxation.
pursuant to the welfare exemption established in subdivision (a) of Section 214 of the Revenue and Taxation Code.

(C) A developer that contracts with a nonprofit corporation that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families with financing in the form of zero interest rate loans.

(5) “Religious institution” means an institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization composed of multidenominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code.

(6) “Use by right” means that the local government’s review of the development project under this section may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act (Division 2 (commencing with Section 66410)).

(10) “Use by right” means a development project that satisfies both of the following conditions:

(A) The development project does not require a conditional use permit, planned unit development permit, or other discretionary local government review.

(B) The development project is not a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) Notwithstanding any inconsistent provision of a local government’s general plan, specific plan, zoning ordinance, or regulation, upon the request of an applicant, a housing development project shall be a use by right, if all of the following criteria are satisfied:

(1) The development is located on land owned on or before January 1, 2024, by an independent institution of higher education or a religious institution, including ownership through an affiliated
nonprofit public benefit corporation organized pursuant to the
Nonprofit Corporation Law (Part 2 (commencing with Section
5110) of Division 2 of Title 1 of the Corporations Code).

(2) The development is located on a parcel that satisfies the
requirements specified in subparagraphs (A) and (B) of paragraph
(2) of subdivision (a) of Section 65913.4.

(3) The development is located on a parcel that satisfies the
requirements specified in subparagraphs (B) to (K), inclusive, of
paragraph (6) of subdivision (a) of Section 65913.4.

(4) The development is located on a parcel that satisfies the
requirements specified in paragraph (7) of subdivision (a) of
Section 65913.4.

(5) The development is not adjoined to any site where more
than one-third of the square footage on the site is dedicated to
industrial use. For purposes of this subdivision, parcels separated
by only a street or highway shall be considered to be adjoined.

(6) The development project is located on a site that is
one-quarter acre in size or greater.

(7) One hundred percent of the development project’s total units,
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 total units in the
development may be for moderate-income households, as defined
in Section 50053 of the Health and Safety Code. Code, and 5
percent of the units may be for staff of the independent institution
of higher education or religious institution that owns the land.
Units in the development shall be offered at affordable housing
cost, as defined in Section 50052.5 of the Health and Safety Code,
or at affordable rent, as set in an amount consistent with the rent
limits established by the California Tax Credit Allocation
Committee. The rent or sales price for a moderate-income unit
shall also be at least 20 percent below the market rate be affordable
and shall not exceed 30 percent of income for a moderate-income
household or homebuyer for a unit of similar size and bedroom
count in the same ZIP Code in the city, county, or city and county
in which the housing development is located. The applicant shall
provide the city, county, or city and county with evidence to
establish that the units meet the requirements of this paragraph.
All units, exclusive of any manager unit or units, shall be subject
to a recorded deed restriction as provided in this paragraph for at least the following periods of time:

(A) Fifty-five years for units that are rented. However, the local government may require that the rental units in the housing development project be restricted to lower income and moderate-income households for a longer period of time if that restriction is consistent with all applicable regulatory requirements for state assistance.

(B) Forty-five years for units that are owner occupied. However, the local government may require that owner-occupied units in the housing development project be restricted to lower income and moderate-income households for a longer period of time if that restriction is consistent with all applicable regulatory requirements for state assistance.

(8) The development project complies with all objective development standards of the city or county that are not in conflict with this section.

(9) If the housing development project requires the demolition of existing residential dwelling units, the applicant shall comply with subdivision (d) of Section 66300, as that section read as of January 1, 2024.

(10) The applicant certifies to the local government that either of the following is true for the housing development project, as applicable:

(A) The entirety of the development 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) A development that contains more than 10 units and is not in its entirety a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and approved by a local government pursuant to Article 2 (commencing with Section 65912.110) of, or Article 3 (commencing with Section 65912.120) of, Chapter 4.1 shall be subject to all of the following:

(i) All construction workers employed in the execution of the development shall 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 provided by the Chief of the
Division of Apprenticeship Standards may be paid at least the
applicable apprentice prevailing rate.

(ii) The development proponent shall ensure that the prevailing
wage requirement is included in all contracts for the performance
of the work for those portions of the development that are not a
public work.

(iii) All contractors and subcontractors for those portions of the
development that are not a public work shall comply with both of
the following:

(I) 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 the programs approved by the
Chief of the Division of Apprenticeship Standards may be paid at
least the applicable apprentice prevailing rate.

(II) Maintain and verify payroll records pursuant to Section
1776 of the Labor Code and make those records available for
inspection and copying as provided in that section. This
subparagraph subclause does 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
subparagraph, subclause, “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) (1) The obligation of the contractors and subcontractors to
pay prevailing wages pursuant to this section may be enforced by
any of the following:

(A) The Labor Commissioner, through the issuance of a civil
wage and penalty assessment pursuant to Section 1741 of the Labor
Code, that may be reviewed pursuant to Section 1742 of the Labor
Code, within 18 months after the completion of the development.

(B) An underpaid worker through an administrative complaint
or civil action.

(C) A joint labor-management committee through a civil action
pursuant to Section 1771.2 of the Labor Code.

(2) If a civil wage and penalty assessment is issued pursuant to
this section, 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.

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

(d) 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 does not apply to those portions of a development that are not a public work if otherwise provided in a bona fide collective bargaining agreement covering the worker.

(e) The requirement of this section 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.

(f) In addition to the requirements of Section 65912.130, a development of 50 or more housing units approved by a local government pursuant to Article 2 (commencing with Section 65912.110) of, or Article 3 (commencing with Section 65912.120) of, Chapter 4.1 shall meet all of the following labor standards:

(1) The development proponent shall require in contracts with construction contractors and shall certify to the local government that each contractor of any tier who will employ construction craft employees or will let each subcontracts for at least 1,000 hours shall satisfy the requirements in paragraphs (2) and (3). A construction contractor is deemed in compliance with paragraphs (2) and (3) if it is signatory to a valid collective bargaining agreement that requires use of registered apprentices and expenditures on health care for employees and dependents.

(2) A contractor with construction craft employees shall either participate in an apprenticeship program approved by the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code, or request the dispatch of apprentices from a state-approved apprenticeship program under the terms and conditions set forth
in Section 1777.5 of the Labor Code. A contractor without
construction craft employees shall show a contractual obligation
that its subcontractors comply with this subdivision.
(3) Each contractor with construction craft employees shall
make health care expenditures for each employee in an amount
per hour worked on the development equivalent to at least the
hourly pro rata cost of a Covered California Platinum-level plan
for two adults 40 years of age and two dependents 0 to 14 years
of age for the Covered California rating area in which the
development is located. A contractor without construction craft
employees shall show a contractual obligation that its
subcontractors comply with this subdivision. Qualifying
expenditures shall be credited toward compliance with prevailing
wage payment requirements set forth in Section 65912.130.
(4) (A) The development proponent shall provide to the local
government, on a monthly basis while its construction contracts
on the development are being performed, a report demonstrating
compliance with paragraphs (2) and (3). The report shall be
considered public records under the California Public Records Act
(Division 10 (commending with Section 7920.000) of Title 1), and
shall be open to public inspection.
(B) A development proponent that fails to provide the monthly
report shall be subject to a civil penalty for each month for which
the report has not been provided, in the amount of 10 percent of
the dollar value of construction work performed by that contractor
on the development in the month in question, up to a maximum
of ten thousand dollars ($10,000). Any contractor or subcontractor
that fails to comply with paragraph (2) or (3) shall be subject to a
civil penalty of two hundred dollars ($200) per day for each worker
employed in contravention of paragraph (2) or (3).
(C) Penalties may be assessed by the Labor Commissioner
within 18 months of completion of the development using the
procedures for issuance of civil wage and penalty assessments
specified in Section 1741 of the Labor Code, and may be reviewed
pursuant to Section 1742 of the Labor Code. Penalties shall be
deposited in the State Public Works Enforcement Fund established
pursuant to Section 1771.3 of the Labor Code.
(5) Each construction contractor shall maintain and verify
payroll records pursuant to Section 1776 of the Labor Code. Each
construction contractor shall submit payroll records directly to the
Labor Commissioner at least monthly in a format prescribed by
the Labor Commissioner in accordance with subparagraph (A) of
paragraph (3) of subdivision (a) of Section 1771.4 of the Labor
Code. The records shall include a statement of fringe benefits.
Upon request by a joint labor-management cooperation committee
established pursuant to the federal Labor Management Cooperation
Act of 1978 (29 U.S.C. Sec. 175a), the records shall be provided
pursuant to subdivision (e) of Section 1776 of the Labor Code.

(6) All construction contractors shall report any change in
apprenticeship program participation or health care expenditures
to the local government within 10 business days, and shall reflect
those changes on the monthly report. The reports shall be
considered public records pursuant to the California Public Records
Act (Division 10 (commencing with Section 7920.000 of Title 1))
and shall be open to public inspection.

(7) A joint labor-management cooperation committee established
pursuant to the federal Labor Management Cooperation Act of
1978 (29 U.S.C. Sec. 175a) shall have standing to sue a
construction contractor for failure to make health care expenditures
pursuant to subdivision (e) paragraph (3) in accordance with
Section 218.7 or 218.8 of the Labor Code.

(g) Notwithstanding any other provision of this section, a
development project that is eligible for approval as a use by right
pursuant to this section may include the following ancillary uses,
provided that those uses are limited to the ground floor of the
development:

(1) In a single-family residential zone, ancillary uses shall be
limited to uses that provide direct services to the residents of the
development and have a community benefit, including childcare
centers and community centers.

(2) In all other zones, the development may include commercial
uses that are permitted without a conditional use permit or planned
unit development permit.

(h) Notwithstanding any other provision of this section, a
development project that is eligible for approval as a use by right
pursuant to this section may include any religious institutional
use, or any use that was previously existing and legally permitted
by the city or county on the site, if all of the following criteria are
met:
(1) The total square footage of nonresidential space on the site does not exceed the amount previously existing or permitted in a conditional use permit.

(2) The total parking requirement for nonresidential space on the site does not exceed the lesser of the amount existing or of the amount required by a conditional use permit.

(3) The new uses abide by the same operational conditions as contained in the previous conditional use permit.

(i) A housing development project that qualifies as a use by right pursuant to subdivision (b) shall be allowed the following density, as applicable:

(A) If the development project is located in a zone that allows residential uses, the development project shall be allowed a density of the applicable density deemed appropriate to accommodate housing for lower income households identified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.

(B) If the local government allows for greater residential density on that parcel, or greater residential density or building heights on an adjacent parcel, than permitted in subparagraph (A), the greater density or building height shall apply.

(C) A housing development project that is located in a zone that allows residential uses shall be eligible for a density bonus or other incentives or concession pursuant to Section 65915.

(2) (A) If the development project is located in a zone that does not allow residential uses, the development project shall be allowed a density of 40 units per acre and a height of one story above the maximum height otherwise applicable to the parcel.

(B) If the local government allows for greater residential density or building heights on that parcel, or an adjacent parcel, than permitted in subparagraph (A), the greater density or building height shall apply. A development project shall not use an incentive, waiver, or concession to increase the height of the development to greater than the height authorized under this subparagraph.

(C) Except as provided in subparagraph (B) a housing development project that is located in a zone that does not allow residential uses shall be eligible for a density bonus or other incentives or concession pursuant to Section 65915.
(j) (1) Except as provided in paragraph (2), the proposed
development shall provide off-street parking of up to one space
per unit, unless a local ordinance provides for a lower standard of
parking, in which case the ordinance shall apply.

(2) A local government shall not impose a parking requirement
if either of the following is true:
   (A) The parcel is located within one-half mile walking distance
       of public transit, either a high-quality transit corridor or a major
       transit stop 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.

(k) (1) If the local government determines that the proposed
development is in conflict with any of the objective planning
standards specified in this section, 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, within the following timeframes:
   (A) Within 60 days of submittal of the development proposal
to the local government if the development contains 150 or fewer
housing units.
   (B) Within 90 days of submittal of the development proposal
to the local government 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 required objective planning standards.

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

(4) The determination of whether a proposed project submitted
pursuant to this section is or is not in conflict with the objective
planning standards is not a “project” as defined in Section 21065
of the Public Resources Code.
Design review 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 shall be objective and be strictly focused on assessing compliance with criteria required for streamlined, ministerial review of projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submittal of the development to the local government, and shall be broadly applicable to developments within the jurisdiction. That design review 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 proposal 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 proposal to the local government pursuant to this section if the development contains more than 150 housing units.

(6) The local government shall ensure that the project satisfies the requirements specified in subdivision (d) of Section 66300, regardless of whether the development is within or not within an affected city or within or not within an affected county.

(7) If the development 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).

(8) A local government’s approval of a development pursuant to this section shall, notwithstanding any other law, be subject to the expiration timeframes specified in subdivision (f) of Section 65913.4.

(9) Any proposed modifications to a development project approved pursuant to this section shall be undertaken pursuant to subdivision (g) of Section 65913.4.

(10) 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 streamlined, ministerial review pursuant to this section.

(11) A local government shall issue a subsequent permit required for a development approved under this section pursuant to paragraph (2) of subdivision (h) of Section 65913.4.

(12) A public improvement that is necessary to implement a development that is approved pursuant to this section shall be undertaken pursuant to paragraph (3) of subdivision (h) of Section 65913.4.

(k) The Legislature finds and declares that ensuring residential development at greater density on land owned by independent institutions of higher education and religious institutions 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.

(m) The provisions of paragraph (3) of subdivision (f) concerning health care expenditures are distinct and severable from the remaining provisions of this section. However, all other provisions of subdivision (f) are material and integral parts of this section and are not severable. If any provision of subdivision (f), exclusive of those included in paragraph (3), is held invalid, the entire section shall be invalid and shall not be given effect.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: March 15, 2023

SUBJECT: Legislative Updates

ATTACHMENTS: None

Verbal updates on legislative issues will be presented by the City’s lobbyists.
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: March 15, 2023

SUBJECT: Future Agenda Items Discussion

ATTACHMENTS: None

The Legislative/Lobby Liaison Committee may request items related to the purview of the Committee be placed on the next agenda.