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

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

TELEPHONIC / VIDEO CONFERENCE MEETING

Beverly Hills Liaison Meeting
https://beverlyhills-org.zoom.us/my/bhliaison
Meeting ID: 312 522 4461
Passcode: 90210

You can also dial in by phone:
+1 669 900 9128 US
+1 888 788 0099

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

March 8, 2022
9:00 AM

Pursuant to Government Code Section 54953(e)(3), members of the Beverly Hills City Council Liaison / Legislative/Lobby Committee and staff may participate in this meeting via a teleconference. In the interest of maintaining appropriate social distancing, members of the public can view this meeting through live webcast at www.beverlyhills.org/live and on BH Channel 10 or Channel 35 on Spectrum Cable, and can participate in the teleconference/video conference by using the link above. Written comments may be emailed to mayorandcitycouncil@beverlyhills.org.

AGENDA

A. Oral Communications

1. Public Comment

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

B. Direction

1. Resolution of the Beverly Hills City Council Liaison / Legislative/Lobby Committee continuing to authorize public meetings to be held via teleconferencing pursuant to Government Code Section 54953(e) and making findings and determination regarding the same.
Recent legislation was adopted allowing the Beverly Hills City Council Liaison / Legislative/Lobby Committee to continue virtual meetings during the COVID-19 declared emergency subject to certain conditions and the proposed resolution implements the necessary requirements.

2. **Ballot Initiative – Constitutional Amendment – Limits State and Local Governments’ Ability to Raise Revenues for Government Services - 21-0042A1**

Comment: The League of California Cities is requesting cities consider adopting a resolution in opposition to this ballot initiative, which is currently in the process of gathering signatures for the November 2022 election. This initiative would: 1) Limit voter authority and accountability to provide direction on how local tax dollars should be spent, 2) Restricts local fee authority to provide local services, 3) Restricts authority of state and local governments to issue fines and penalties for violations of the law, 4) Restricts local tax authority to provide local services, and 5) makes other changes related to fees, charges, and exactions regulating vehicle miles traveled that can be imposed as a condition of property development or occupancy.

3. **Assembly Bill 682 (Bloom) - Planning and Zoning: Density Bonuses: Cohousing Buildings**

Comment: Currently, Density Bonus Law requires a city or county to provide a developer that proposes a housing development within the city or county with a density bonus and other incentives or concessions if the developer agrees to construct, among other options, specified percentages of units for moderate-income, lower income, or very low income households and meets other requirements. This bill would additionally require a density bonus be provided under these provisions to a developer who agrees to construct a housing development that is a cohousing building, as defined, that meets specified requirements and will contain either 10 percent of the total square footage for lower income households, as defined, or 5 percent of the total square footage for very low income households.

4. **Assembly Bill 916 (Salas) - Zoning: Accessory Dwelling Units: Bedroom Addition**

Comment: This bill would prohibit a city or county legislative body from adopting or enforcing an ordinance requiring a public hearing as a condition of adding space for additional bedrooms or reconfiguring existing space to increase the bedroom count within an existing house, condominium, apartment, or dwelling. The bill would include findings that ensuring adequate housing is a matter of statewide concern and is not a municipal affair, and that the provision applies to all cities, including charter cities. This bill contains other related provisions and other existing laws.

5. **Assembly Bill 1445 (Levine) - Planning and Zoning: Regional Housing Need Allocation: Climate Change Impacts**

Comment: Would, commencing January 1, 2025, require that a council of governments, a delegate sub-region, or the Department of Housing and Community Development, as applicable, additionally consider among these factors emergency evacuation route capacity, wildfire risk, sea level rise, and other impacts caused by climate change.
6. **Assembly Bill 1551 (Santiago) - Planning and Zoning: Development Bonuses: Mixed-Use Projects**

Comment: Density Bonus Law requires a city or county to provide a developer that proposes a housing development within the city or county with a density bonus and other incentives or concessions if the developer agrees to construct specified percentages of units for lower income, very low income, or senior citizen housing, among other things, and meets other requirements. Previously existing law, until January 1, 2022, required a city, county, or city and county to grant a commercial developer a development bonus when an applicant for approval of a commercial development had entered into an agreement for partnered housing with an affordable housing developer to contribute affordable housing through a joint project or two separate projects encompassing affordable housing. This bill would reenact the above-described provisions regarding the granting of development bonuses to certain projects.

7. **Assembly Bill 1690 (Rivas, Luz) - Tobacco Products: Single-Use Components**

Comment: This bill would prohibit a person or entity from selling, giving, or furnishing to another person of any age in this state a cigarette utilizing a single-use filter made of any material, an attachable and single-use plastic device meant to facilitate manual manipulation or filtration of a tobacco product, or a single-use electronic cigarette or vaporizer device. The bill would prohibit that selling, giving, or furnishing, whether conducted directly or indirectly through an in-person transaction, or by means of any public or private method of shipment or delivery to an address in this state.

8. **Assembly Bill 1847 (Valladares) - Criminal Procedure: Victims’ Rights**

Comment: Under existing law, resentencing can be granted without a hearing upon stipulation of the parties. This bill would require a hearing if requested by a victim of the crime.

9. **Assembly Bill 2147 (Ting) - Pedestrians**

Comment: This bill would prohibit a peace officer from stopping a pedestrian for specified traffic infractions unless a reasonably careful person would realize there is an immediate danger of collision with a moving vehicle or other device moving exclusively by human power.

10. **Assembly Bill 2264 (Bloom) – Pedestrian Crossing Signals**

Comment: This bill would require the Department of Transportation and local authorities to update all pedestrian control signals to give a pedestrian a head start between 3 to 7 seconds to enter an intersection with a corresponding circular green signal.

11. **Assembly Bill 2336 (Friedman) - Vehicles: Speed Safety System Pilot Program**

Comment: This bill would authorize, until January 1, 2028, the Cities of Los Angeles, Oakland, San Jose, two yet to be determined cities, and the City and County of San Francisco, to establish the Speed Safety System Pilot Program. This bill would require
participating local governments to engage in a public information campaign at least 30 days before implementation of the program, including information relating to when the systems would begin detecting violations and where the systems would be utilized. The bill would require the participating local governments to issue warning notices rather than notices of violations for violations detected within the first 30 calendar days of the program.

12. Request by Councilmember Gold to Discuss Assembly Bill 2386 (Bloom) - Planning and Zoning: Tenancy in Common Subject to an Exclusive Occupancy Agreement

Comment: This bill would specify that regulation, by ordinance, of the design and improvement of any multifamily property held under a tenancy in common subject to an exclusive occupancy agreement is vested in the legislative body of the local agency.

13. Request by Councilmember Gold to Discuss Senate Bill 1472 (Stern) - Vehicular Manslaughter: Speeding and Reckless Driving

Comment: This bill would create and define the new crimes of vehicular manslaughter while driving and speeding and vehicular manslaughter while driving in a reckless manner as the unlawful killing of a human being without malice aforethought, where the driving was either a violation of the prohibition against driving a vehicle at a speed greater than 100 miles per hour. By creating new crimes, the bill would impose a state-mandated local program.

14. Overview of Potential Divestment of CalPERS and CalSTRS from Russia Investments

Comment: Our state lobbyist will provide an overview of the conversations around the potential divestment of CalPERS and CalSTRS from investments in Russian businesses.

15. Overview of Federal Actions Related to Russia’s Invasion of Ukraine

Comment: The City’s federal lobbyist will provide an overview of the actions occurring at the federal level regarding Russia’s invasion of Ukraine.

16. Request Direction for Providing Written Public Comment on the Mitigation in Rating Plans and Wildfire Risk Models Proposed by California Insurance Commissioner Ricardo Lara

Comment: Staff is requesting the Legislative / Lobby Liaisons give direction on providing written public comment on the mitigation in rating plans and wildfire risk models proposed by California Insurance Commissioner Ricardo Lara. The deadline for written public comment is April 13, 2022.

17. State and Federal Legislative Updates

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

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

C. Adjournment

[Signature]
Huma Ahmed  
City Clerk

Posted: March 3, 2022

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

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

Meeting Date: March 8, 2022
To: City Council Liaison / Legislative/Lobby Committee
From: Cindy Owens, Committee Secretary
Subject: A RESOLUTION OF THE CITY COUNCIL LIAISON / LEGISLATIVE/LOBBY COMMITTEE OF THE CITY OF BEVERLY HILLS CONTINUING TO AUTHORIZE PUBLIC MEETINGS TO BE HELD VIA TELECONFERENCING PURSUANT TO GOVERNMENT CODE SECTION 54953(e) AND MAKING FINDINGS AND DETERMINATIONS REGARDING THE SAME
Attachments: 1. Proposed resolution

RECOMMENDATION

Staff and the City Attorney's office recommend that the City Council Liaison / Legislative/Lobby Committee adopt a resolution making the following findings so that meetings of the City Council Liaison / Legislative/Lobby Committee will be subject to the special Brown Act requirements for teleconference meetings: (1) the City Council Liaison / Legislative/Lobby Committee has reconsidered the circumstances of the COVID-19 state of emergency; (2) the state of emergency continues to directly impact the ability of the members to meet safely in person; and (3) state or local officials continue to impose or recommend measures to promote social distancing. Though the City Council Liaison / Legislative/Lobby Committee adopted such a resolution in the past, these findings must be continuously made to continue to hold meetings under these special teleconferencing requirements.

FISCAL IMPACT

The proposed resolution allowing the City Council Liaison / Legislative/Lobby Committee greater flexibility to conduct teleconference meetings is unlikely to cause a greater fiscal impact to the City as the City Council Liaison / Legislative/Lobby Committee has been conducting such teleconference meetings for over a year.
INTRODUCTION

AB 361 allows the City Council Liaison / Legislative/Lobby Committee to continue virtual meetings during the COVID-19 declared emergency subject to certain conditions. These special requirements give the City greater flexibility to conduct teleconference meetings when there is a declared state of emergency and either social distancing is mandated or recommended, or an in-person meeting would present imminent risks to the health and safety of attendees.

BACKGROUND

On September 16, 2021, the Governor signed AB 361, amending the Brown Act to establish special requirements for teleconference meetings if a legislative body of a local public agency holds a meeting during a proclaimed state of emergency and either state or local officials have imposed or recommended measures to promote social distancing, or the body determines, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

AB 361 authorizes local agencies to continue meeting remotely without following the Brown Act’s standard teleconferencing provisions if the meeting is held during a state of emergency proclaimed by the Governor and either of the following applies: (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the agency has already determined or is determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

DISCUSSION

To continue to hold meetings under these special teleconferencing requirements, the City Council Liaison / Legislative/Lobby Committee needs to make two findings pursuant to Government Code Section 54953(e)(3). First, there must be a declared state of emergency and the City Council Liaison / Legislative/Lobby Committee must find that it has reconsidered the circumstances of such emergency. Second, the City Council Liaison / Legislative/Lobby Committee must find that such emergency continues to directly impact the ability of the City Council Liaison / Legislative/Lobby Committee’s members to meet in person. Alternatively, for the second finding, the City Council Liaison / Legislative/Lobby Committee must find that state or local officials continue to impose or recommend social distancing measures. These findings must be continuously made to continue to hold meetings under these special teleconferencing requirements.

The declared emergency is still in effect. Furthermore, the State of California and the County of Los Angeles have recommended measures to promote social distancing. The Centers for Disease Control and Prevention continue to advise that COVID-19 spreads more easily indoors than outdoors and that people are more likely to be exposed to COVID-19 when they are closer than 6 feet apart from others for longer periods of time. Additionally, the Los Angeles County Department of Public Health still encourages people at risk for severe illness of death from COVID-19 to take protective measures such as social distancing and, for those not yet fully vaccinated, to physically distance from others whose vaccination status is unknown. The County Health Department also continues to recommend that employers take steps to support physical distancing and the City Council
continues to recommend steps to reduce crowding indoors and to support physical distancing at City meetings to protect the health and safety of meeting attendees.

Please note that AB 361 applies to all legislative bodies. Therefore, Commissions and standing committees will need to also comply with the requirements of AB 361.

Cindy Owens
Secretary of the
City Council Liaison / Legislative/Lobby Committee

Approved By
RESOLUTION NO. CCL-LLC-02

RESOLUTION OF THE CITY COUNCIL LIAISON / LEGISLATIVE/LOBBY COMMITTEE OF THE CITY OF BEVERLY HILLS CONTINUING TO AUTHORIZE PUBLIC MEETINGS TO BE HELD VIA TELECONFERENCING PURSUANT TO GOVERNMENT CODE SECTION 54953(e) AND MAKING FINDINGS AND DETERMINATIONS REGARDING THE SAME

WHEREAS, the City Council Liaison / Legislative/Lobby Committee is committed to public access and participation in its meetings while balancing the need to conduct public meetings in a manner that reduces the likelihood of exposure to COVID-19 and to support physical distancing during the COVID-19 pandemic; and

WHEREAS, all meetings of the City Council Liaison / Legislative/Lobby Committee are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code Sections 54950 – 54963), so that any member of the public may attend, participate, and watch the City Council Liaison / Legislative/Lobby Committee conduct its business; and

WHEREAS, pursuant to Assembly Bill 361, signed by Governor Newsom and effective on September 16, 2021, legislative bodies of local agencies may hold public meetings via teleconferencing pursuant to Government Code Section 54953(e), without complying with the requirements of Government Code Section 54953(b)(3), if the legislative body complies with certain enumerated requirements in any of the following circumstances:

1. The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

2. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the...
emergency, meeting in person would present imminent risks to the health or safety of attendees.

3. The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency in response to the COVID-19 pandemic (the “Emergency”); and

WHEREAS, the Centers for Disease Control and Prevention continue to advise that COVID-19 spreads more easily indoors than outdoors and that people are more likely to be exposed to COVID-19 when they are closer than 6 feet apart from others for longer periods of time; and

WHEREAS, the Los Angeles County “Responding together at Work and in the Community Order (8.23.21)” provides that all individuals and businesses are strongly encouraged to follow the Los Angeles County Public Health Department Best Practices. The Los Angeles County Public Health Department “Best Practices to Prevent COVID-19 Guidance for Businesses and Employers”, updated on September 13, 2021, recommend that employers take steps to reduce crowding indoors and to support physical distancing between employees and customers; and

WHEREAS, the unique characteristics of public governmental buildings is another reason for continuing teleconferenced meetings, including the increased mixing associated with bringing people together from across several communities, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to fully participate in public
meetings and the challenge of achieving compliance with safety requirements and recommendations in such settings; and

WHEREAS, the Beverly Hills City Council has adopted a resolution that continues to recommend steps to reduce crowding indoors and to support physical distancing at City meetings to protect the health and safety of meeting attendees; and

WHEREAS, due to the ongoing COVID-19 pandemic and the need to promote social distancing to reduce the likelihood of exposure to COVID-19, the City Council Liaison / Legislative/Lobby Committee intends to continue holding public meetings via teleconferencing pursuant to Government Code Section 54953(e).

NOW, THEREFORE, the City Council Liaison / Legislative/Lobby Committee of the City of Beverly Hills resolves as follows:

Section 1. The Recitals provided above are true and correct and are hereby incorporated by reference.

Section 2. The City Council Liaison / Legislative/Lobby Committee hereby determines that, as a result of the Emergency, meeting in person presents imminent risks to the health or safety of attendees.

Section 3. The City Council Liaison / Legislative/Lobby Committee shall continue to conduct its meetings pursuant to Government Code Section 54953(e).

Section 4. Staff is hereby authorized and directed to continue to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code Section 54953(e) and other applicable provisions of the Brown Act.
Section 5. The City Council Liaison / Legislative/Lobby Committee has reconsidered the circumstances of the state of emergency and finds that: (i) the state of emergency continues to directly impact the ability of the members to meet safely in person, and (ii) state or local officials continue to impose or recommend measures to promote social distancing.

Section 6. The Secretary of the City Council Liaison / Legislative/Lobby Committee shall certify to the adoption of this Resolution and shall cause this Resolution and her certification to be entered in the Book of Resolution of the City Council Liaison / Legislative/Lobby Committee of this City.

Adopted: March 8, 2022

JOHN MIRISCH
Presiding Councilmember of the City Council Liaison / Legislative/Lobby Committee of the City of Beverly Hills, California
Item B-2
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: March 8, 2022

SUBJECT: Ballot Initiative – Constitutional Amendment – Limits State and Local Governments’ Ability to Raise Revenues for Government Services - 21-0042A1

ATTACHMENTS: 1) Ballot Initiative - Text
2) Fact Sheet from League of California Cities
3) Sample Resolution – League of California Cities

Summary
The Ballot Initiative - Constitutional Amendment – Limits State and Local Governments’ Ability to Raise Revenues for Government Services - 21-0042A1 ("ballot initiative") limits the voters’ input; adopts new and stricter rules for raising taxes and fees; and makes it more difficult to hold state and local law violators accountable.

Overview
The League of California Cities ("Cal Cities") has joined a broad coalition that includes the California Professional Firefighters, SEIU California, California Alliance for Jobs, AFSCME California, and the California Special Districts Association in strong opposition to this proposed ballot measure from the California Business Roundtable. The proponents are in the initial stages for gathering the 997,139 signatures needed to qualify this ballot initiative for the November 2022 election.

As drafted, the ballot initiative would:

1) Prohibit local voters from providing direction on how local tax dollars should be spent by prohibiting local advisory measures. Additionally, it would subject any initiative to the same rules as taxes placed on the ballot by a city council.
2) Set new standards for fees and charges 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, another other corporations pay for the use of local public property. The rental and sale of local government property must be "reasonable" which must be proved by "clear and convincing" evidence.
3) Require 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.
4) Require voter approval to expand existing taxes (e.g. TOT, Utility User Tax, Use Taxes) to newly annexed areas or to new utility service.
5) Prevent the amendment of city charters to include a tax or a few
6) Specify new taxes can only be imposed for a specific period of time
7) Prohibits any surcharge on property tax rate and allocation of property tax to state.
8) Requires all state taxes to be approved by a majority of voters rather than enacted by the state legislature
9) Prohibits the collection of fees, charges, or exactions regulating vehicle miles traveled from being imposed as a condition of property development or occupancy.

Recommendation
On February 3, 2022, City staff received an email from Cal Cities requesting each city consider adopting a resolution to demonstrate how harmful this ballot initiative would be to their community.

The Legislative / Lobby Liaison Committee may provide any direction they wish on this item.
Attachment 1
January 4, 2022

Anabel Renteria  
Initiative Coordinator 
Office of the Attorney General  
State of California  
PO Box 994255  
Sacramento, CA 94244-25550

Re: Initiative 21-0042 – Amendment Number One

Dear Initiative Coordinator:

Pursuant to subdivision (b) of Section 9002 of the Elections Code, enclosed please find Amendment #1 to Initiative No. 21-0042 “The Taxpayer Protection and Government Accountability Act.” The amendments are reasonably germane to the theme, purpose or subject of the initiative measure as originally proposed.

I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law, using the amended language.

Thank you for your time and attention processing my request.

Sincerely,

Thomas W. Hiltachk
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)(2) (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.

(d) 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.

(e) 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 that is not an exempt charge, except 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 reasonable 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 adjudication, to punish a violation of law.

(6) A levy, charge, assessment, or exaction collected for the promotion of California tourism pursuant to Chapter 1 (commencing with Section 13995) of Part 4.7 of Division 3 of Title 2 of the Government Code.

(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:

(j) 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 payor 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. A reasonable charge imposed for a specific local 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 local government of providing the service or product.

2. 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. A reasonable charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

4. 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. 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. 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.
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.

(e) 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.

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(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.
Attachment 2
Stop the Corporate Loopholes Scheme

Deceptive Proposition Allows Major Corporations to Avoid Paying their Fair Share and Evade Enforcement when they Violate Environmental, Health & Safety Laws

An association representing California’s wealthiest corporations — including oil, insurance, banks and drug companies — is behind a deceptive proposition aimed for the November 2022 statewide ballot. Their measure would create major new loopholes that allow corporations to avoid paying their fair share for the impacts they have on our communities; while also allowing corporations to evade enforcement when they violate environmental, health, safety and other state and local laws. Here’s why a broad coalition of local governments, labor and public safety leaders, infrastructure advocates, and businesses oppose the Corporate Loophole Scheme:

Gives Wealthy Corporations a Major Loophole to Avoid Paying their Fair Share - Forcing Local Residents and Taxpayers to Pay More

- The measure creates new constitutional loopholes that allow corporations to pay far less than their fair share for the impacts they have on our communities, including local infrastructure, our environment, water quality, air quality, and natural resources – shifting the burden and making individual taxpayers pay more.

Allows Corporations to Dodge Enforcement When They Violate Environmental, Health, Public Safety and Other Laws

- The deceptive scheme creates new loopholes that makes it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods.

Jeopardizes Vital Local and State Services

- This far-reaching measure puts at risk billions of dollars currently dedicated to critical state and local services.
- It could force cuts to public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services and more.
- It would also reduce funding for critical infrastructure like streets and roads, public transportation, drinking water, new schools, sanitation, utilities and more.

Opens the Door for Frivolous Lawsuits, Bureaucracy and Red Tape that Will Cost Taxpayers and Hurt Our Communities

- The measure will encourage frivolous lawsuits, bureaucracy and red tape that will cost local taxpayers millions — while significantly delaying and stopping investments in infrastructure and vital services.
Undermines Voter Rights, Transparency, and Accountability

- This misleading measure changes our constitution to make it more difficult for local voters to pass measures needed to fund local services and local infrastructure.

- It also includes a hidden provision that *would retroactively cancel measures that were passed by local voters* — effectively undermining the rights of voters to decide for themselves what their communities need.

- It would *limit voter input* by prohibiting local advisory measures, where voters provide direction to politicians on how they want their local tax dollars spent.
Attachment 3
Resolution to Oppose Initiative 21-0042A1

WHEREAS, an association representing California’s wealthiest corporations is behind a deceptive proposition aimed for the November 2022 statewide ballot; and

WHEREAS, the measure creates new constitutional loopholes that allow corporations to pay far less than their fair share for the impacts they have on our communities, including local infrastructure, our environment, water quality, air quality, and natural resources; and

WHEREAS, the measure includes undemocratic provisions that would make it more difficult for local voters to pass measures needed to fund local services and infrastructure, and would limit voter input by prohibiting local advisory measures where voters provide direction on how they want their local tax dollars spent; and

WHEREAS, the measure makes it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods; and

WHEREAS, the measure puts billions of dollars currently dedicated to state and local services at risk, and could force cuts to public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services, and more; and

WHEREAS, the measure would also reduce funding for critical infrastructure like streets and roads, public transportation, drinking water, new schools, sanitation, and utilities.

THEREFORE, BE IT RESOLVED that the City, opposes Initiative 21-0042A1.

THEREFORE, BE IT FURTHER RESOLVED, that the City of [NAME] will join the NO on Initiative 21-0042A1 coalition, a growing coalition of public safety, labor, local government, infrastructure advocates, and other organizations throughout the state.

We direct staff to email a copy of this adopted resolution to the League of California Cities at BallotMeasures@calcities.org.

PASSED, APPROVED, AND ADOPTED this day _____ of _____, 2022.
Item B-3
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: March 8, 2022
SUBJECT: Assembly Bill 682 (Bloom) - Planning and Zoning: Density Bonuses: Cohousing Buildings

ATTACHMENTS: 1. Summary Memo – AB 682
2. Bill Text – AB 682

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

Assembly Bill 682 (Bloom) - Planning and Zoning: Density Bonuses: Cohousing Buildings (AB 682) involves a policy matter that has a nexus to the City's adopted Legislative Platform language. Specifically, the following statements may apply to AB 682:

- 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 Antwih Schmelzer & Lange, provided a summary memo for AB 682 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 682, the Liaisons may recommend the following actions:

- Oppose AB 682;
- Support AB 682;
- Support if amended AB 682;
- Oppose unless amended AB 682;
- 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
February 28, 2022

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 682 (Bloom) Planning and Zoning; Density Bonuses: Co Housing

Version
As Amended on January 13, 2022.

Summary
This measure would establish a new category of development defined as cohousing buildings and
would make these newly defined types of development eligible for incentives under California's
Density Bonus Law, provided these developments meet affordability standards established by this
bill. Specifically, this bill:

1. Defines a “cohousing unit” as one or more habitable rooms, not contained within another
dwelling unit, that include a bathroom, sink, refrigerator and microwave, is used for
permanent residence and meets the “minimum room area” requirement and complies with
the definition of “guestroom” per the California Residential Code.

2. Defines “cohousing building” to mean a residential or mixed-use structure, with five or more
cohousing units and one or more common kitchens and dining areas designed for permanent
residence of more than 30 days by its tenants. This measure specifies that a cohousing
building may include:
   a. Other dwelling units that are not cohousing units, provided those dwelling units do
      not occupy more than 25% of the floor area of the cohousing building.
   b. Incidental commercial uses, provided those commercial uses are otherwise allowable
      and are located only on the ground floor or the level of the cohousing building closest
      to the street or sidewalk of the cohousing building.

3. Allows a cohousing building to qualify for incentives under state density bonus law if it
provides at least one of the following:
   a. 10% of the total square footage of the co-housing building is reserved for lower
      income households.
   b. 5% of the total square footage of the co-housing building is reserved for very low-
      income households.
4. Provides an applicant for a cohousing building that qualifies for a density bonus incentive automatically receives certain benefits from the local government, and that these benefits do not reduce or increase the number of incentives or concessions to which the project is otherwise entitled.

5. Under this measure, a local government may not require any of the following:
   a. A minimum unit size;
   b. A minimum bedroom requirement,
   c. Private open space, or
   d. A limit on the maximum density.

**Background and Existing Law**

Under current law, cities and counties are vested with the authority to “make and enforce all local, police, sanitary and other ordinances and regulations not in conflict with general laws within their local boundaries.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including land use authority. Cities and counties (including a City and County) must adopt a general plan for the physical development within their boundaries and must adopt and administer zoning laws, ordinances, rules, and regulations by cities and counties.

Under California’s Density Bonus Law, cities and counties must grant a density bonus and award other incentives or concessions to an applicant for a housing development of five or more units that agrees to set aside a minimum number of units that are affordable to households with low, very-low, or moderate income.

The California Building Standards Commission (BSC) is authorized to approve and adopt building standards. Every three years, BSC, in coordination with relevant state agencies, undertakes building standards rulemaking to revise and update State Building Codes. These building codes serve as the basis for the design and construction of buildings in California. City or County may make modifications to the California Building Standards Code if it makes express findings that such a modification or change is necessary because of local climatic, geological, or topographical conditions.

Developers use California’s Density Bonus Law for market rate and publicly subsidized housing for lower-income households. The State Housing and Community Development Department (HCD) reports that, from 2018 through 2020, the density bonus program provided 880 units per year for lower-income households.

The density bonus incentives are available for residential developers in the form of increases in density over a city’s zoned density restrictions, as well as a limited number of exemptions (known as “concessions” and “incentives”) from local standards and requirements, in return for inclusion of affordable units in a development. The increase in density and the concessions and incentives are intended to financially support the inclusion of the affordable units, which typically require subsidization by the developer.

In recent years, many state and local governments have enacted policies to increase the production of housing by maximizing the number of units that can be built within a permitted square footage. Cities have adopted “form-based codes” that set parameters on the size and shape of the building, rather than the number of units.

This bill proposes to maximize the number of units built within permitted square footage by creating a new cohousing category within density bonus law. It would automatically confer four concessions
to cohousing projects, including waiving local requirements regarding minimum unit size, minimum bedroom requirements, provision of private open space and maximum unit density.

**Status of Legislation**
AB 682 (Bloom) was approved on the Assembly floor on January 27, 2022. The bill received 52 votes in favor, 8 votes against, and 16 legislators either abstained or were not present. AB 682 is currently pending in the Senate Rules Committee awaiting referral to a Senate Policy Committee.

**Support**
cityLAB-UCLA (Sponsor)
East Bay for Everyone
Abundant Housing LA
California YIMBY
Terner Center for Housing Innovation at UC Berkeley

**Opposition**
None identified at this time.
Attachment 2
An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

Existing law, commonly referred to as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development within the city or county with a density bonus and other incentives or concessions, as specified, if the developer agrees to construct, among other options, specified percentages of units for moderate-income, lower income, or very low income households and meets other requirements.

This bill would additionally require that a density bonus be provided under these provisions to a developer who agrees to construct a housing development that is a cohousing building, as defined, that meets specified requirements and will contain either 10% of the total square footage for lower income households, as defined, or 5% of the total square footage for very low income households, as defined. The bill would prohibit the city, county, or city and county from requiring any minimum unit size requirements or minimum bedroom requirements in conflict with the bill’s provisions, requirement for the project to
provide private open space, or maximum limit on density with respect
to a cohousing building eligible for a density bonus under these
provisions. The bill would also make a technical change to the Density
Bonus Law by deleting certain duplicative provisions.

By adding to the duties of local planning officials in implementing
the Density Bonus Law, 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 65915 of the Government Code, as
amended by Section 1.5 of Chapter 365 of the Statutes of 2021, is
amended to read:

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

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

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

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

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

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

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

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

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

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

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

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

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

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

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

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

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

(II) The applicable 20-percent units will be used for lower
income students.

(III) The rent provided in the applicable units of the development
for lower income students shall be calculated at 30 percent of 65
percent of the area median income for a single-room occupancy
unit type.

(IV) The development will provide priority for the applicable
affordable units for lower income students experiencing
homelessness. A homeless service provider, as defined in paragraph
(3) of subdivision (e) of Section 103577 of the Health and Safety
Code, or institution of higher education that has knowledge of a
person’s homeless status may verify a person’s status as homeless
for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant
to this subparagraph, the term “unit” as used in this section means
one rental bed and its pro rata share of associated common area
facilities. The units described in this subparagraph shall be subject
to a recorded affordability restriction of 55 years.

(G) One hundred percent of all units in the development,
including total units and density bonus units, but exclusive of a
manager’s unit or units, are for lower income households, as
defined by Section 50079.5 of the Health and Safety Code, except
that up to 20 percent of the units in the development, including
total units and density bonus units, may be for moderate-income
households, as defined in Section 50053 of the Health and Safety
Code.

(H) (i) For a housing development that is a cohousing building,
either of the following:

(I) Ten percent of the total square footage of a cohousing
building that meets the requirements of subdivision (t), for lower
income households, as defined in Section 50079.5 of the Health
and Safety Code.

(II) Five percent of the total square footage of a cohousing
building that meets the requirements of subdivision (t), for very
low income households, as defined in Section 50105 of the Health
and Safety Code.

(ii) For purposes of this subparagraph, "total square footage"
does not include units added by incentives or concessions, as
described in subdivision (d), waivers or reductions of development
standards, as described in subdivision (e), or parking ratios, as
described in subdivision (p).

(2) For purposes of calculating the amount of the density bonus
pursuant to subdivision (f), an applicant who requests a density
bonus pursuant to this subdivision shall elect whether the bonus
shall be awarded on the basis of subparagraph (A), (B), (C), (D),
(E), (F), (G), or (H) of paragraph (1).

(c) (1) (A) An applicant shall agree to, and the city, county,
or city and county shall ensure, the continued affordability of all
very low and low-income rental units that qualified the applicant
for the award of the density bonus for 55 years or a longer period
of time if required by the construction or mortgage financing
assistance program, mortgage insurance program, or rental subsidy
program.

(B) (i) Except as otherwise provided in clause (ii), rents for the
lower income density bonus units shall be set at an affordable rent,
as defined in Section 50053 of the Health and Safety Code.

(ii) For housing developments meeting the criteria of
subparagraph (G) of paragraph (1) of subdivision (b), rents for all
units in the development, including both base density and density
bonus units, shall be as follows:

(I) The rent for at least 20 percent of the units in the
development shall be set at an affordable rent, as defined in Section

(II) The rent for the remaining units in the development shall
be set at an amount consistent with the maximum rent levels for
a housing development that receives an allocation of state or federal
low-income housing tax credits from the California Tax Credit
Allocation Committee.

(2) (A) An applicant shall agree to ensure, and the city, county,
or city and county shall ensure, that a for-sale unit that qualified
the applicant for the award of the density bonus meets either of
the following conditions:

(i) The unit is initially occupied by a person or family of very
low, low, or moderate income, as required, and it is offered at an
affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code and is subject to an equity sharing agreement.

(ii) The unit is purchased by a qualified nonprofit housing corporation pursuant to a recorded contract that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code and that includes all of the following:

(I) A repurchase option that requires a subsequent purchaser of the property that desires to resell or convey the property to offer the qualified nonprofit corporation the right to repurchase the property prior to selling or conveying that property to any other purchaser.

(II) An equity sharing agreement.

(III) Affordability restrictions on the sale and conveyance of the property that ensure that the property will be preserved for lower income housing for at least 45 years for owner-occupied housing units and will be sold or resold only to persons or families of very low, low, or moderate income, as defined in Section 50052.5 of the Health and Safety Code.

(B) For purposes of this paragraph, a “qualified nonprofit housing corporation” is a nonprofit housing corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code 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 who participate in a special no-interest loan program.

(C) The local government shall enforce an equity sharing agreement required pursuant to clause (i) or (ii) of subparagraph (A), unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(i) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller’s proportionate share of appreciation.

(ii) Except as provided in clause (v), the local government shall recapture any initial subsidy, as defined in clause (iii), and its proportionate share of appreciation, as defined in clause (iv), which amount shall be used within five years for any of the purposes
described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(iii) For purposes of this subdivision, the local government’s initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iv) For purposes of this subdivision, the local government’s proportionate share of appreciation shall be equal to the ratio of the local government’s initial subsidy to the fair market value of the home at the time of initial sale.

(v) If the unit is purchased or developed by a qualified nonprofit housing corporation pursuant to clause (ii) of subparagraph (A) the local government may enter into a contract with the qualified nonprofit housing corporation under which the qualified nonprofit housing corporation would recapture any initial subsidy and its proportionate share of appreciation if the qualified nonprofit housing corporation is required to use 100 percent of the proceeds to promote homeownership for lower income households as defined by Health and Safety Code Section 50079.5 within the jurisdiction of the local government.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity’s valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).
(ii) Each unit in the development, exclusive of a manager’s unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, “replace” shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development’s Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development’s Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

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

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

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

(ii) Require that the units be replaced in compliance with the
jurisdiction’s rent or price control ordinance, provided that each
unit described in subparagraph (A) is replaced. Unless otherwise
required by the jurisdiction’s rent or price control ordinance, these
units shall not be subject to a recorded affordability restriction.
(D) For purposes of this paragraph, “equivalent size” means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

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

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

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a development in which the units are for sale.

(B) Two incentives or concessions for projects that include at least 17 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20
percent for persons and families of moderate income in a
development in which the units are for sale.

(C) Three incentives or concessions for projects that include at
least 24 percent of the total units for lower income households, at
least 15 percent for very low income households, or at least 30
percent for persons and families of moderate income in a
development in which the units are for sale.

(D) Four incentives or concessions for a project meeting the
criteria of subparagraph (G) of paragraph (1) of subdivision (b).
If the project is located within one-half mile of a major transit stop,
the applicant shall also receive a height increase of up to three
additional stories, or 33 feet.

(E) One incentive or concession for projects that include at least
20 percent of the total units for lower income students in a student
housing development.

(3) The applicant may initiate judicial proceedings if the city,
county, or city and county refuses to grant a requested density
bonus, incentive, or concession. If a court finds that the refusal to
grant a requested density bonus, incentive, or concession is in
violation of this section, the court shall award the plaintiff
reasonable attorney’s fees and costs of suit. This subdivision shall
not be interpreted to require a local government to grant an
incentive or concession that has a specific, adverse impact, as
defined in paragraph (2) of subdivision (d) of Section 65589.5,
upon health or safety, and for which there is no feasible method
to satisfactorily mitigate or avoid the specific adverse impact. This
subdivision shall not be interpreted to require a local government
to grant an incentive or concession that would have an adverse
impact on any real property that is listed in the California Register
of Historical Resources. The city, county, or city and county shall
establish procedures for carrying out this section that shall include
legislative body approval of the means of compliance with this
section.

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

(e) (1) In no case may a city, county, or city and county apply
any development standard that will have the effect of physically
precluding the construction of a development meeting the criteria
of subdivision (b) at the densities or with the concessions or
incentives permitted by this section. Subject to paragraph (3), an
applicant may submit to a city, county, or city and county a
proposal for the waiver or reduction of development standards that
will have the effect of physically precluding the construction of a
development meeting the criteria of subdivision (b) at the densities
or with the concessions or incentives permitted under this section,
and may request a meeting with the city, county, or city and county.
If a court finds that the refusal to grant a waiver or reduction of
development standards is in violation of this section, the court
shall award the plaintiff reasonable attorney’s fees and costs of
suit. This subdivision shall not be interpreted to require a local
government to waive or reduce development standards if the waiver
or reduction would have a specific, adverse impact, as defined in
paragraph (2) of subdivision (d) of Section 65589.5, upon health
or safety, and for which there is no feasible method to satisfactorily
mitigate or avoid the specific adverse impact. This subdivision
shall not be interpreted to require a local government to waive or
reduce development standards that would have an adverse impact
on any real property that is listed in the California Register of
Historical Resources, or to grant any waiver or reduction that would
be contrary to state or federal law.
(2) A proposal for the waiver or reduction of development
standards pursuant to this subdivision shall neither reduce nor
increase the number of incentives or concessions to which the
applicant is entitled pursuant to subdivision (d).
(3) A housing development that receives a waiver from any
maximum controls on density pursuant to clause (ii) of
subparagraph (D) of paragraph (3) of subdivision (f) shall only be
eligible for a waiver or reduction of development standards as
provided in subparagraph (D) of paragraph (2) of subdivision (d)
and clause (ii) of subparagraph (D) of paragraph (3) of subdivision
(f), unless the city, county, or city and county agrees to additional
waivers or reductions of development standards.
(f) For the purposes of this chapter, “density bonus” means a
density increase over the otherwise maximum allowable gross
residential density as of the date of application by the applicant to
the city, county, or city and county, or, if elected by the applicant,
a lesser percentage of density increase, including, but not limited
to, no increase in density. The amount of density increase to which
the applicant is entitled shall vary according to the amount by
which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

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

<table>
<thead>
<tr>
<th>Percentage Low-Income Units</th>
<th>Percentage Density Bonus</th>
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<td>10</td>
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<td>38.75</td>
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<td>42.5</td>
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<td>22</td>
<td>46.25</td>
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<td>23</td>
<td>50</td>
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</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Percentage Very Low Income Units</th>
<th>Percentage Density Bonus</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>20</td>
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<td>6</td>
<td>22.5</td>
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</table>
For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

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

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

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

(i) Except as otherwise provided in clause (ii), the density bonus shall be 80 percent of the number of units for lower income households.
(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

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

<table>
<thead>
<tr>
<th>Percentage Moderate-Income Units</th>
<th>Percentage Density Bonus</th>
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<tr>
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<td>38.75</td>
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</table>
(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

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

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

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

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

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

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

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.
(F) The land is transferred to the local agency or to a housing
developer approved by the local agency. The local agency may
require the applicant to identify and transfer the land to the
developer.

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

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

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

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

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

(2) The city, county, or city and county shall require, as a
condition of approving the housing development, that the following
occur:

(A) The childcare facility shall remain in operation for a period
of time that is as long as or longer than the period of time during
which the density bonus units are required to remain affordable
pursuant to subdivision (c).

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

(3) Notwithstanding any requirement of this subdivision, a city,
county, or city and county shall not be required to provide a density
bonus or concession for a childcare facility if it finds, based upon
substantial evidence, that the community has adequate childcare
facilities.
(4) “Childcare facility,” as used in this section, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.

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

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

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

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

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

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

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

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

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

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

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

(3) “Lower income student” means a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student to occupy a unit for lower income students under this section shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver from the college or university, the California Student Aid Commission, or the federal government.

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

(5) “Maximum allowable residential density” means the density allowed under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.
(6) “Total units” or “total dwelling units” means a calculation of the number of units that:

(A) Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(B) Includes a unit designated to satisfy an inclusionary zoning requirement of a city, county, or city and county.

(p) (1) Except as provided in paragraphs (2), (3), and (4), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: one and one-half onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) (A) Notwithstanding paragraph (1), if a development includes at least 20 percent low-income units for housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b) or at least 11 percent very low income units for housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per unit.

Notwithstanding paragraph (1), if a development includes at least 40 percent moderate-income units for housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and the residents of the development have unobstructed access to the major transit stop from the development then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds 0.5 spaces per bedroom.

(B) For purposes of this subdivision, “unobstructed access to the major transit stop” means a resident is able to access the major
transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, “natural or constructed impediments” includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager’s unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose vehicular parking standards if the development meets either of the following criteria:

(A) The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development.

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

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

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

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

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

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

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

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

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

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

(t) (1) When an applicant proposes to construct a housing
development that conforms to the requirements of subdivision (b)
and is a cohousing building, the city, county, or city and county
shall not require the following:
(A) Any minimum unit size requirements or minimum bedroom
requirements that are in conflict with this subdivision.
(B) Any requirement for the project to provide private open
space.
(C) Any limit on the maximum density.
(2) Developing a cohousing building consistent with subclause
(I) or (II), as applicable, of clause (i) of subparagraph (H) of
paragraph (1) of subdivision (b) shall neither reduce nor increase
the number of incentives or concessions to which the applicant is
entitled pursuant to subdivision (d).
(3) For purposes of calculating a density bonus granted pursuant
to this subdivision, the term “unit” as used in this section means
one cohousing unit and its pro rata share of associated common
area facilities, or one dwelling unit.
(4) For purposes of this section, the following definitions apply:
(A) (i) “Cohousing building” means a residential or mixed-use
structure, with five or more cohousing units and one or more
common kitchens and dining areas designed for permanent
residence of more than 30 days by its tenants. The kitchens and
dining areas within the cohousing building shall be able to
adequately accommodate housing.
(ii) A cohousing building may include other dwelling units that
are not cohousing units, provided that those dwelling units do not
occupy more than 25 percent of the floor area of the cohousing
building. A cohousing building may include 100 percent cohousing units.
(iii) A cohousing building may include incidental commercial uses, provided that those commercial uses are otherwise allowable and are located only on the ground floor or the level of the cohousing building closest to the street or sidewalk of the cohousing building.
(B) “Cohousing unit” means one or more habitable rooms, not contained within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave, is used for permanent residence, that meets the “minimum room area” specified in Section R304 of the California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations), and complies with the definition of “guestroom” in Section 202 R202 of the California Building Code (Part 2 Residential Code (Part 2.5 of Title 24 of the California Code of Regulations).
(u) (1) The Legislature finds and declares that the intent behind the Density Bonus Law is to allow public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. It further reaffirms that the intent is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional public subsidy.
(2) It is therefore the intent of the Legislature to make modifications to the Density Bonus Law by the act adding this subdivision to further incentivize the construction of very low, low-, and moderate-income housing units. It is further the intent of the Legislature in making these modifications to the Density Bonus Law to ensure that any additional benefits conferred upon a developer are balanced with the receipt of a public benefit in the form of adequate levels of affordable housing. The Legislature further intends that these modifications will ensure that the Density Bonus Law creates incentives for the construction of more housing across all areas of the state.
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.
Item B-4
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: March 8, 2022
SUBJECT: Assembly Bill 916 (Salas) - Zoning: Accessory Dwelling Units: Bedroom Addition

ATTACHMENTS: 1. Summary Memo – AB 916
2. Bill Text – AB 916

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

Assembly Bill 916 (Salas) - Zoning: Accessory Dwelling Units: Bedroom Addition (AB 916) involves a policy matter that has a nexus to the City’s adopted Legislative Platform language. Specifically, the following statements may apply to AB 916:

- 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 Antwih Schmelzer & Lange, provided a summary memo for AB 916 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 916, the Liaisons may recommend the following actions:
- Oppose AB 916;
- Support AB 916;
- Support if amended AB 916;
- Oppose unless amended AB 916;
- 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
February 28, 2022

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 916 (Salas) ADUs: Local Hearing Requirements and Height Restrictions

Version
As Amended and Revised in the Assembly on January 12, 2022.

Summary
Prohibits a local city council or county board of supervisors from requiring public hearings for projects that seek to add or reconfigure space for additional bedrooms in an existing house, condominium, or apartment and increases the maximum allowable height of accessory dwelling units (ADUs) to eighteen feet on specified parcels. Specifically, this bill:

1) Prohibits a local government from adopting or enforcing an ordinance requiring a public hearing as a condition of adding space for additional bedrooms or reconfiguring existing space to increase the bedroom count within an existing house, condominium or apartment.

2) Prohibits a local government from establishing by ordinance a maximum height of less than eighteen feet (currently sixteen feet) for an ADU on a lot that has an existing multi-family and multi-story dwelling.

3) Increases, from sixteen feet to eighteen feet, the maximum height of an ADU a local government must ministerially approve if the ADU is located on a lot with an existing multi-family and multi-story dwelling and the project complies with all other existing conditions for ADUs in Planning and Zoning Law.

4) Declares the development of affordable housing a matter of statewide concern and not a municipal affair, and therefore, this bill applies to all cities including charter cities.

Background and Existing Law
ADUs are additional living quarters that are independent of the primary residence on the same lot. ADUs are either attached to or detached from, the primary residence and provide complete independent living facilities for one or more persons, including separate access from the property's primary unit. This includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

Over the past few years, the Legislature has enacted several bills to ease zoning restrictions and expedite approval processes for ADUs at the local level, which has contributed to the increased supply of ADUs throughout the state. For example, in the City of Los Angeles, since 2017 project sponsors initiated 9,247 ADU projects through applications filed with the city. This represents an 30-fold increase as compared to the citywide average in the many years well before the state law
changed. Similarly, the City of Santa Rosa received 118 applications for ADUs in 2018, compared to fifty-four total from 2008-2016.

Under Planning and Zoning law, local governments must provide ministerial approval for ADU permit applications that meet a suite of conditions specified in statute. With respect to the size and height of ADUs, local governments are prohibited from establishing requirements that preclude the development of an eight hundred square foot ADU that is at least sixteen feet in height and meets specified setback requirements. This requirement ensures that ADUs will not exceed the height of the primary residence on the lot, or the height of the structures on adjacent lots.

The California Building Code requires a minimum ceiling height of at least seven feet for habitable space in new residential developments, including ADUs. However, local governments are authorized to make local amendments to building standards that are equivalent or more restrictive than the state building standards. In practice, some local governments require a minimum ceiling height of more than seven feet. For example, the City of Oakland applies the state standard of seven feet of ceiling height to some residential construction but requires a ceiling height of seven feet six inches for other residential structures.

The California Building Code coupled with the existing height standards in Planning and Zoning Law technically allow for an ADU to include two stories that are each seven feet high. This allows for an additional two feet of buildable height to accommodate floor joists, ductwork, insulation, and other necessary infrastructure. However, if a local government adopts a local amendment to the building code requiring a greater interior ceiling height for habitable space (e.g., nine feet), the construction of a two story ADU is effectively precluded in that local jurisdiction.

Local Hearing Requirements. Planning and Zoning Law prohibits local governments from requiring a public hearing as a condition of the approval of a proposed ADU or JADU that meets certain requirements established in statute. JADUs are typically developed through the reconfiguration and conversion of space within the existing footprint of a house. While reconfiguring existing space to create a JADU is not subject to a local hearing, according to supporters of the bill, existing code requirements in some jurisdictions can trigger a public hearing requirement if space in a home is reconfigured to add an extra bedroom. As a result, reconfiguring a home to add an extra bedroom within the existing footprint may be subject to more local oversight than reconfiguring a home to add an independent JADU or building an entirely independent and detached ADU on that lot.

AB 916 (Salas) will make two changes to current law governing the permitting of ADUs and local hearing requirements:

a) Height Limits. This bill will increase the potential building height of an ADU that a local government must permit ministerially from sixteen feet to eighteen feet if the ADU is proposed on a lot with an existing multistory multifamily development. ADUs that will be located on a lot with a single-family dwelling, regardless of the height of the existing dwelling unit on the parcel ADU will remain capped at 16 feet.

b) Local Hearings for Additional Bedrooms. This bill expands the prohibition on local hearings that apply to ADUs and JADUs to projects that add space for additional bedrooms or reconfigure space in existing structures to increase the bedroom count within the house, condominium, apartment, or dwelling.
Arguments in Support. According to the California Rental Housing Association, "One simple, effective, and cost-efficient way to tackle the housing shortage crisis facing our state is to add more housing units or by increasing ADU production through a streamlined process and increased ministerial approval.

The author argues that AB 916 will enable the creation of increased density in the least expensive form possible and hence increase the housing stock which will help bring down the cost of housing. We believe that these are the types of solutions that our state must consider providing Californians the relief that they desperately need."

**Status of Legislation**

The State Assembly approved AB 916 (Salas) on January 27, 2022. The bill received 61 Aye votes, zero no votes. Fifteen members of the Assembly either abstained or were absent. This measure is currently pending in the Senate Rules Committee awaiting referral to on or more policy committees in the Senate.

**Support**
The California Rental Housing Association
California YIMBY

**Opposition**
None listed at this time.
Attachment 2
An act to amend Section 65852.2 of, and to add Section 65850.02 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

AB 916, as amended, Salas. Zoning: accessory dwelling units: bedroom addition.

The Planning and Zoning Law authorizes the legislative body of any county or city to adopt ordinances that regulate the use of buildings, structures, and land as between industry, business, residences, open space, and other purposes.

This bill would prohibit a city or county legislative body from adopting or enforcing an ordinance requiring a public hearing as a condition of adding space for additional bedrooms or reconfiguring existing space to increase the bedroom count within an existing house, condominium, apartment, or dwelling. The bill would include findings that ensuring adequate housing is a matter of statewide concern and is not a municipal affair, and that the provision applies to all cities, including charter cities.

The Planning and Zoning Law also authorizes a local agency, by ordinance or ministerial approval, to provide for the creation of accessory dwelling units in areas zoned for residential use, as specified.
Existing law provides that an accessory dwelling unit may either be an attached or detached residential dwelling unit, and prescribes the minimum and maximum unit size requirements and height limitations a local agency may establish, including a 16-feet height limitation. Existing law provides that a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create not more than 2 accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation of 16 feet, among other requirements.

This bill would instead authorize a local agency to establish a height limitation of 18 feet for those accessory dwelling units located on a lot that has an existing multifamily and multistory dwelling. The bill would specify that a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create not more than 2 accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation of 18 feet, and that those accessory dwelling units may be attached to each other.

By imposing additional duties on local officials, the bill would impose a state-mandated local program.

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


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

SECTION 1. Section 65850.02 is added to the Government Code, immediately following Section 65850.01, to read:

(a) Notwithstanding any other law, with respect to land zoned for residential use, the legislative body of a city or county shall not adopt or enforce an ordinance requiring a public hearing as a condition of adding space for additional bedrooms or reconfiguring existing space to increase the bedroom count within an existing house, condominium, apartment, or dwelling.
(b) The Legislature finds and declares that ensuring adequate housing is a matter of statewide concern and is not a municipal affair, as that term is used in Section 5 of Article IX of the California Constitution. Therefore, this section applies to all cities, including charter cities.

SEC. 2. Section 65852.2 of the Government Code, as amended by Section 3.5 of Chapter 198 of the Statutes of 2020, is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas, or similar uses, or an accessory structure is detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

Local building code requirements that apply to detached dwellings, as appropriate.

Approval by the local health officer where a private sewage disposal system is being used, if required.

Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially—without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise
provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units; unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the
permit application to create an accessory dwelling unit or a junior
accessory dwelling unit is submitted with a permit application to
create a new single-family dwelling on the lot, the permitting
agency may delay acting on the permit application for the accessory
dwelling unit or the junior accessory dwelling unit until the
permitting agency acts on the permit application to create the new
single-family dwelling, but the application to create the accessory
dwelling unit or junior accessory dwelling unit shall still be
considered ministerially without discretionary review or a hearing.
If the applicant requests a delay, the 60-day time period shall be
tolled for the period of the delay. If the local agency has not acted
upon the completed application within 60 days, the application
shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish
minimum and maximum unit size requirements for both attached
and detached accessory dwelling units.
(2) Notwithstanding paragraph (1), a local agency shall not
establish by ordinance any of the following:
(A) A minimum square footage requirement for either an
attached or detached accessory dwelling unit that prohibits an
efficiency unit.
(B) A maximum square footage requirement for either an
attached or detached accessory dwelling unit that is less than either
of the following:
   (i) 850 square feet.
   (ii) 1,000 square feet for an accessory dwelling unit that provides
more than one bedroom.
(C) Any other minimum or maximum size for an accessory
dwelling unit, size based upon a percentage of the proposed or
existing primary dwelling, or limits on lot coverage, floor area
ratio, open space, and minimum lot size, for either attached or
detached dwellings that does not permit at least an 800 square foot
accessory dwelling unit that is at least 16 feet, or 18 feet for an
accessory dwelling unit on a lot that has an existing multifamily
and multistory dwelling in height with four-foot side and rear yard
setbacks to be constructed in compliance with all other local
development standards.
(d) Notwithstanding any other law, a local agency, whether or
not it has adopted an ordinance governing accessory dwelling units
in accordance with subdivision (a), shall not impose parking
standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.
(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 18 feet and four foot rear yard and side setbacks. The two accessory dwelling units may be attached to each other.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) of this section, a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5
(commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit. A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department’s findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department’s findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

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

(j) As used in this section, the following terms mean:
(1) “Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:
   (A) An efficiency unit.
   (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
(2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.
(3) “Efficiency unit” has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
(4) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
(5) “Local agency” means a city, county, or city and county, whether general law or chartered.
(6) “Nonconforming zoning condition” means a physical improvement on a property that does not conform to current zoning standards.
(7) “Passageway” means a pathway that is unobstructed, clear to the sky, and extends from a street to one entrance of the accessory dwelling unit.
(8) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
(9) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
(10) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
   (k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
   (l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California
Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

1. The accessory dwelling unit was built before January 1, 2020.

2. The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 3. Section 65852.2 of the Government Code, as amended by Section 4.5 of Chapter 198 of the Statutes of 2020, is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before...
designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure is detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is
converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d):

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit...
or a junior accessory dwelling unit is submitted with a permit application to create a new single family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner occupant or that the property be used for rentals of terms longer than 30 days.
(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.
(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

   (i) 850 square feet.
   (ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet, or 18 feet for an accessory dwelling unit on a lot that has an existing multifamily dwelling, in height with four foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.
(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of
18 feet and four-foot rear yard and side setbacks. The two accessory
dwelling units may be attached to each other.

(2) A local agency shall not require, as a condition for ministerial
approval of a permit application for the creation of an accessory
dwelling unit or a junior accessory dwelling unit, the correction
of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an
accessory dwelling unit if sprinklers are not required for the
primary residence.

(4) A local agency may require owner occupancy for either the
primary dwelling or the accessory dwelling unit on a single-family
lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory
dwelling unit created pursuant to this subdivision be for a term
longer than 30 days.

(6) A local agency may require, as part of the application for a
permit to create an accessory dwelling unit connected to an onsite
wastewater treatment system, a percolation test completed within
the last five years, or, if the percolation test has been recertified,
within the last 10 years.

(7) Notwithstanding subdivision (c) and paragraph (1) a local
agency that has adopted an ordinance by July 1, 2018, providing
for the approval of accessory dwelling units in multifamily
dwelling structures shall ministerially consider a permit application
to construct an accessory dwelling unit that is described in
paragraph (1), and may impose standards including, but not limited
to, design, development, and historic standards on said accessory
dwelling units. These standards shall not include requirements on
minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling
units shall be determined in accordance with Chapter 5
(commencing with Section 66000) and Chapter 7 (commencing
with Section 66012).

(2) An accessory dwelling unit shall not be considered by a
local agency, special district, or water corporation to be a new
residential use for purposes of calculating connection fees or
capacity charges for utilities, including water and sewer service,
unless the accessory dwelling unit was constructed with a new
single-family dwelling.
(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written
findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.
(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department’s findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department’s findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020:

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

(j) As used in this section, the following terms mean:

(1) “Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:
(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) “Efficiency unit” has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) “Local agency” means a city, county, or city and county, whether general law or chartered.

(6) “Nonconforming zoning condition” means a physical improvement on a property that does not conform to current zoning standards.

(7) “Passageway” means a pathway that is unobstructed, clear to the sky, and extends from a street to one entrance of the accessory dwelling unit.

(8) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(9) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(10) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

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

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.
(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall become operative on January 1, 2025.

SEC. 2. Section 65852.2 of the Government Code, as amended by Section 1 of Chapter 343 of the Statutes of 2021, is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. These standards shall not include requirements on minimum lot size.
(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) Except as provided in Section 65852.26, the accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas areas, or similar uses, or an accessory structure is detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
(viii) Local building code requirements that apply to detached dwellings, as appropriate.
(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the
accessory dwelling unit or junior accessory dwelling unit shall be
considered without discretionary review or hearing. If the applicant
requests a delay, the 60-day time period shall be tolled for the
period of the delay. If the local agency has not acted upon the
completed application within 60 days, the application shall be
deemed approved. A local agency may charge a fee to reimburse
it for costs incurred to implement this paragraph, including the
costs of adopting or amending any ordinance that provides for the
creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory
dwelling unit by a local agency or an accessory dwelling ordinance
adopted by a local agency shall provide an approval process that
includes only ministerial provisions for the approval of accessory
dwelling units and shall not include any discretionary processes,
provisions, or requirements for those units, except as otherwise
provided in this subdivision. If a local agency has an existing
accessory dwelling unit ordinance that fails to meet the
requirements of this subdivision, that ordinance shall be null and
void and that agency shall thereafter apply the standards established
in this subdivision for the approval of accessory dwelling units,
unless and until the agency adopts an ordinance that complies with
this section.

(5) No other local ordinance, policy, or regulation shall be the
basis for the delay or denial of a building permit or a use permit
under this subdivision.

(6) This subdivision establishes the maximum standards that
local agencies shall use to evaluate a proposed accessory dwelling
unit on a lot that includes a proposed or existing single-family
dwelling. No additional standards, other than those provided in
this subdivision, shall be used or imposed, including any
owner-occupant requirement, except that a local agency may
require that the property be used for rentals of terms longer than
30 days.

(7) A local agency may amend its zoning ordinance or general
plan to incorporate the policies, procedures, or other provisions
applicable to the creation of an accessory dwelling unit if these
provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision
shall be deemed to be an accessory use or an accessory building
and shall not be considered to exceed the allowable density for the
lot upon which it is located, and shall be deemed to be a residential
use that is consistent with the existing general plan and zoning
designations for the lot. The accessory dwelling unit shall not be
considered in the application of any local ordinance, policy, or
program to limit residential growth.

(b) When a local agency that has not adopted an ordinance
governing accessory dwelling units in accordance with subdivision
(a) receives an application for a permit to create an accessory
dwelling unit pursuant to this subdivision, the local agency shall
approve or disapprove the application ministerially without
discretionary review pursuant to subdivision (a). The permitting
agency shall act on the application to create an accessory dwelling
unit or a junior accessory dwelling unit within 60 days from the
date the local agency receives a completed application if there is
an existing single-family or multifamily dwelling on the lot. If the
permit application to create an accessory dwelling unit or a junior
accessory dwelling unit is submitted with a permit application to
create a new single-family dwelling on the lot, the permitting
agency may delay acting on the permit application for the accessory
dwelling unit or the junior accessory dwelling unit until the
permitting agency acts on the permit application to create the new
single-family dwelling, but the application to create the accessory
dwelling unit or junior accessory dwelling unit shall still be
considered ministerially without discretionary review or a hearing.
If the applicant requests a delay, the 60-day time period shall be
tolled for the period of the delay. If the local agency has not acted
upon the completed application within 60 days, the application
shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish
minimum and maximum unit size requirements for both attached
and detached accessory dwelling units.
(2) Notwithstanding paragraph (1), a local agency shall not
establish by ordinance any of the following:
(A) A minimum square footage requirement for either an
attached or detached accessory dwelling unit that prohibits an
efficiency unit.
(B) A maximum square footage requirement for either an
attached or detached accessory dwelling unit that is less than either
of the following:
   (i) 850 square feet.
(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet, or 18 feet for an accessory dwelling unit on a lot that has an existing multifamily and multistory dwelling, in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the
existing accessory structure shall be limited to accommodating
ingress and egress.
(ii) The space has exterior access from the proposed or existing
single-family dwelling.
(iii) The side and rear setbacks are sufficient for fire and safety.
(iv) The junior accessory dwelling unit complies with the
requirements of Section 65852.22.
(B) One detached, new construction, accessory dwelling unit
that does not exceed four-foot side and rear yard setbacks for a lot
with a proposed or existing single-family dwelling. The accessory
dwelling unit may be combined with a junior accessory dwelling
unit described in subparagraph (A). A local agency may impose
the following conditions on the accessory dwelling unit:
(i) A total floor area limitation of not more than 800 square feet.
(ii) A height limitation of 16 feet.
(C) (i) Multiple accessory dwelling units within the portions
of existing multifamily dwelling structures that are not used as
livable space, including, but not limited to, storage rooms, boiler
rooms, passageways, attics, basements, or garages, if each unit
complies with state building standards for dwellings.
(ii) A local agency shall allow at least one accessory dwelling
unit within an existing multifamily dwelling and shall allow up to
25 percent of the existing multifamily dwelling units.
(D) Not more than two accessory dwelling units that are located
on a lot that has an existing multifamily dwelling, but are detached
from that multifamily dwelling and are subject to a height limit of
18 feet and four-foot rear yard and side setbacks.
(2) A local agency shall not require, as a condition for ministerial
approval of a permit application for the creation of an accessory
dwelling unit or a junior accessory dwelling unit, the correction
of nonconforming zoning conditions.
(3) The installation of fire sprinklers shall not be required in an
accessory dwelling unit if sprinklers are not required for the
primary residence.
(4) A local agency shall require that a rental of the accessory
dwelling unit created pursuant to this subdivision be for a term
longer than 30 days.
(5) A local agency may require, as part of the application for a
permit to create an accessory dwelling unit connected to an onsite
wastewater treatment system, a percolation test completed within
the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.
(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department’s findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department’s findings, the
department shall notify the local agency and may notify the
Attorney General that the local agency is in violation of state law.
(B) Before notifying the Attorney General that the local agency
is in violation of state law, the department may consider whether
a local agency adopted an ordinance in compliance with this section
(i) The department may review, adopt, amend, or repeal
guidelines to implement uniform standards or criteria that
supplement or clarify the terms, references, and standards set forth
in this section. The guidelines adopted pursuant to this subdivision
are not subject to Chapter 3.5 (commencing with Section 11340)
of Part 1 of Division 3 of Title 2.
(j) As used in this section, the following terms mean:
(1) “Accessory dwelling unit” means an attached or a detached
residential dwelling unit that provides complete independent living
facilities for one or more persons and is located on a lot with a
proposed or existing primary residence. It shall include permanent
provisions for living, sleeping, eating, cooking, and sanitation on
the same parcel as the single-family or multifamily dwelling is or
will be situated. An accessory dwelling unit also includes the
following:
(A) An efficiency unit.
(B) A manufactured home, as defined in Section 18007 of the
Health and Safety Code.
(2) “Accessory structure” means a structure that is accessory
and incidental to a dwelling located on the same lot.
(3) “Efficiency unit” has the same meaning as defined in Section
(4) “Living area” means the interior habitable area of a dwelling
unit, including basements and attics, but does not include a garage
or any accessory structure.
(5) “Local agency” means a city, county, or city and county,
whether general law or chartered.
(6) “Nonconforming zoning condition” means a physical
improvement on a property that does not conform with to current
zoning standards.
(7) “Passageway” means a pathway that is—unobstructed
unobstructed, clear to the sky sky, and extends from a street to one
entrance of the accessory dwelling unit.
(8) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(9) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(10) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

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

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.
SEC. 3. Section 65852.2 of the Government Code, as amended by Section 2 of Chapter 343 of the Statutes of 2021, is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) Except as provided in Section 65852.26, the accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas, or similar uses, or an accessory structure or is detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local
agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and
void and that agency shall thereafter apply the standards established
in this subdivision for the approval of accessory dwelling units,
unless and until the agency adopts an ordinance that complies with
this section.
(5) No other local ordinance, policy, or regulation shall be the
basis for the delay or denial of a building permit or a use permit
under this subdivision.
(6) (A) This subdivision establishes the maximum standards
that local agencies shall use to evaluate a proposed accessory
dwelling unit on a lot that includes a proposed or existing
single-family dwelling. No additional standards, other than those
provided in this subdivision, shall be used or imposed except that,
subject to subparagraph (B), a local agency may require an
applicant for a permit issued pursuant to this subdivision to be an
owner-occupant or that the property be used for rentals of terms
longer than 30 days.
(B) Notwithstanding subparagraph (A), a local agency shall not
impose an owner-occupant requirement on an accessory dwelling
unit permitted between January 1, 2020, to January 1, 2025, during
which time the local agency was prohibited from imposing an
owner-occupant requirement.
(7) A local agency may amend its zoning ordinance or general
plan to incorporate the policies, procedures, or other provisions
applicable to the creation of an accessory dwelling unit if these
provisions are consistent with the limitations of this subdivision.
(8) An accessory dwelling unit that conforms to this subdivision
shall be deemed to be an accessory use or an accessory building
and shall not be considered to exceed the allowable density for the
lot upon which it is located, and shall be deemed to be a residential
use that is consistent with the existing general plan and zoning
designations for the lot. The accessory dwelling unit shall not be
considered in the application of any local ordinance, policy, or
program to limit residential growth.
(b) When a local agency that has not adopted an ordinance
governing accessory dwelling units in accordance with subdivision
(a) receives an application for a permit to create an accessory
dwelling unit pursuant to this subdivision, the local agency shall
approve or disapprove the application ministerially without
discretionary review pursuant to subdivision (a). The permitting
agency shall act on the application to create an accessory dwelling
unit or a junior accessory dwelling unit within 60 days from the
date the local agency receives a completed application if there is
an existing single-family or multifamily dwelling on the lot. If the
permit application to create an accessory dwelling unit or a junior
accessory dwelling unit is submitted with a permit application to
create a new single-family dwelling on the lot, the permitting
agency may delay acting on the permit application for the accessory
dwelling unit or the junior accessory dwelling unit until the
permitting agency acts on the permit application to create the new
single-family dwelling, but the application to create the accessory
dwelling unit or junior accessory dwelling unit shall still be
considered ministerially without discretionary review or a hearing.
If the applicant requests a delay, the 60-day time period shall be
tolled for the period of the delay. If the local agency has not acted
upon the completed application within 60 days, the application
shall be deemed approved.
(c) (1) Subject to paragraph (2), a local agency may establish
minimum and maximum unit size requirements for both attached
and detached accessory dwelling units.
(2) Notwithstanding paragraph (1), a local agency shall not
establish by ordinance any of the following:
(A) A minimum square footage requirement for either an
attached or detached accessory dwelling unit that prohibits an
efficiency unit.
(B) A maximum square footage requirement for either an
attached or detached accessory dwelling unit that is less than either
of the following:
   (i) 850 square feet.
   (ii) 1,000 square feet for an accessory dwelling unit that provides
        more than one bedroom.
(C) Any other minimum or maximum size for an accessory
dwelling unit, size based upon a percentage of the proposed or
existing primary dwelling, or limits on lot coverage, floor area
ratio, open space, and minimum lot size, for either attached or
detached dwellings that does not permit at least an 800 square foot
accessory dwelling unit that is at least 16 feet, or 18 feet for
an accessory dwelling unit on a lot that has an existing multifamily
and multistory dwelling, in height with four-foot side and rear yard
setbacks to be constructed in compliance with all other local
development standards.
(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

1. The accessory dwelling unit is located within one-half mile walking distance of public transit.
2. The accessory dwelling unit is located within an architecturally and historically significant historic district.
3. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
5. When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
   (i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
   (ii) The space has exterior access from the proposed or existing single-family dwelling.
   (iii) The side and rear setbacks are sufficient for fire and safety.
   (iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling...
A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited
to, design, development, and historic standards on said accessory
dwelling units. These standards shall not include requirements on
minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling
units shall be determined in accordance with Chapter 5
(commencing with Section 66000) and Chapter 7 (commencing
with Section 66012).

(2) An accessory dwelling unit shall not be considered by a
local agency, special district, or water corporation to be a new
residential use for purposes of calculating connection fees or
capacity charges for utilities, including water and sewer service,
unless the accessory dwelling unit was constructed with a new
single-family dwelling.

(3) (A) A local agency, special district, or water corporation
shall not impose any impact fee upon the development of an
accessory dwelling unit less than 750 square feet. Any impact fees
charged for an accessory dwelling unit of 750 square feet or more
shall be charged proportionately in relation to the square footage
of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same
meaning as the term “fee” is defined in subdivision (b) of Section
66000, except that it also includes fees specified in Section 66477.
“Impact fee” does not include any connection fee or capacity
charge charged by a local agency, special district, or water
corporation.

(4) For an accessory dwelling unit described in subparagraph
(A) of paragraph (1) of subdivision (e), a local agency, special
district, or water corporation shall not require the applicant to
install a new or separate utility connection directly between the
accessory dwelling unit and the utility or impose a related
connection fee or capacity charge, unless the accessory dwelling
unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in
subparagraph (A) of paragraph (1) of subdivision (e), a local
agency, special district, or water corporation may require a new
or separate utility connection directly between the accessory
dwelling unit and the utility. Consistent with Section 66013, the
connection may be subject to a connection fee or capacity charge
that shall be proportionate to the burden of the proposed accessory
dwelling unit, based upon either its square feet or the number of
its drainage fixture unit (DFU) values, as defined in the Uniform
Plumbing Code adopted and published by the International
Association of Plumbing and Mechanical Officials, upon the water
or sewer system. This fee or charge shall not exceed the reasonable
cost of providing this service.

(g) This section does not limit the authority of local agencies
to adopt less restrictive requirements for the creation of an
accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance
adopted pursuant to subdivision (a) to the Department of Housing
and Community Development within 60 days after adoption. After
adoption of an ordinance, the department may submit written
findings to the local agency as to whether the ordinance complies
with this section.

(2) (A) If the department finds that the local agency’s ordinance
does not comply with this section, the department shall notify the
local agency and shall provide the local agency with a reasonable
time, no longer than 30 days, to respond to the findings before
taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the
department pursuant to subparagraph (A) and shall do one of the
following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency
shall include findings in its resolution adopting the ordinance that
explain the reasons the local agency believes that the ordinance
complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in
response to the department’s findings or does not adopt a resolution
with findings explaining the reason the ordinance complies with
this section and addressing the department’s findings, the
department shall notify the local agency and may notify the
Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency
is in violation of state law, the department may consider whether
a local agency adopted an ordinance in compliance with this section

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

(j) As used in this section, the following terms mean:

1. “Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

   A. An efficiency unit.
   B. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

2. “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

3. “Efficiency unit” has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

4. “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

5. “Local agency” means a city, county, or city and county, whether general law or chartered.

6. “Nonconforming zoning condition” means a physical improvement on a property that does not conform to current zoning standards.

7. “Passageway” means a pathway that is unobstructed, clear to the sky, and extends from a street to one entrance of the accessory dwelling unit.

8. “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

9. “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

10. “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
(k) A local agency shall not issue a certificate of occupancy for
an accessory dwelling unit before the local agency issues a
certificate of occupancy for the primary dwelling.

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

(m) A local agency may count an accessory dwelling unit for
purposes of identifying adequate sites for housing, as specified in
subdivision (a) of Section 65583.1, subject to authorization by the
department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1
(commencing with Section 17960) of Chapter 5 of Part 1.5 of
Division 13 of the Health and Safety Code for an accessory
dwelling unit described in paragraph (1) or (2) below, a local
agency, upon request of an owner of an accessory dwelling unit
for a delay in enforcement, shall delay enforcement of a building
standard, subject to compliance with Section 17980.12 of the
Health and Safety Code:

(1) The accessory dwelling unit was built before January 1,
2020.

(2) The accessory dwelling unit was built on or after January
1, 2020, in a local jurisdiction that, at the time the accessory
dwelling unit was built, had a noncompliant accessory dwelling
unit ordinance, but the ordinance is compliant at the time the
request is made.

(o) This section shall become operative on January 1, 2025.

SEC. 4. No reimbursement is required by this act pursuant to
Section 6 of Article XIIIB of the California Constitution because
a local agency or school district has the authority to levy service
charges, fees, or assessments sufficient to pay for the program or
level of service mandated by this act, within the meaning of Section
REVISIONS:

Heading—Line 1.
Item B-5
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: March 8, 2022
SUBJECT: Assembly Bill 1445 (Levine) - Planning and Zoning: Regional Housing Need Allocation: Climate Change Impacts

ATTACHMENTS: 1. Summary Memo – AB 1445
                2. Bill Text – AB 1445

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

Assembly Bill 1445 (Levine) - Planning and Zoning: Regional Housing Need Allocation: Climate Change Impacts (AB 1445) involves a policy matter that may have a nexus to the City's adopted Legislative Platform language. Specifically, the following statements may apply to AB 1445:

- 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.

However, the City also has the following adopted statement which could also be considered for basing a position of support for AB 1445:

- Support legislation to combat climate change and improve air quality that results in turning back global warming to minimize drought and wildland fires.

Given this legislation could either be opposed or supported by the statements in the City's adopted Legislative Platform, the Liaisons may wish to consider a position of neutral as a third option.

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1445 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1445, the Liaisons may recommend the following actions:

- Oppose AB 1445;
- Support AB 1445;
- Support if amended AB 1445;
- Oppose unless amended AB 1445;
- Remain neutral; or
- Provide other direction to City staff.

Any position recommended by the Legislative / Lobby Liaisons most likely will require the concurrence of the City Council.
Attachment 1
**Version**
As amended in the State Assembly on January 3, 2022

**Summary**
Requires, beginning January 1, 2025, a council of governments (COG), its delegate subregion, or the Department of Housing and Community Development (HCD) additionally consider the impacts of climate change, including wildfire risk, sea level rise, emergency evacuation route capacity and other impacts in its methodology to determine the allocation of regional housing needs.

**Background and Existing Law**
Current law, known as the State Housing Element law, sets forth a process to determine each community’s fair share of housing through the regional housing needs allocation (RHNA) process, which is composed of three main stages:

(a) the Department of Finance and the HCD develop regional housing needs estimates.

(b) COGs allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and

(c) cities and counties incorporate their allocations into their housing elements.

The RHNA process requires cities and counties to produce a housing element to help fulfill the state’s housing goals. These housing elements must be submitted to HCD for review and certification. In metropolitan areas, these housing elements are required every eight years. Each housing element must contain the following specific elements:

- An assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs;

- A statement of the community’s goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing;

- An implementation plan that identifies any programs or strategies to meet their goals and objectives, including their RHNA target.
• An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period; and

• Where the inventory of sites does not identify adequate sites to accommodate the need for groups of all household income levels, plans for rezoning of those sites by a specified deadline.

Current law lays out the process for distribution of projected regional housing need to cities and counties for areas outside of COGs. The distribution of regional housing need must consider several factors, including market demand for housing, assumed growth and distribution of housing within the county, employment and commuting patterns, suitable sites for development, area homelessness, local agreements for growth in incorporated cities, and other considerations at the request of the local jurisdictions.

Local jurisdictions must submit plans that include consideration of suitable housing sites or land suitable for urban development. The plans must include scenarios involving current zoning ordinances and alternate scenarios that involve increased residential development under zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

According to the author, “Climate disasters and the impacts of climate change on our state have made more and more places risky to live. In 2020, California experienced another devastating and record-breaking wildfire season; 4,257,863 acres burned, thirty-three lives lost and 10,488 structures damaged or destroyed. The August Complex fire burned more than one million acres, crossing seven counties – spanning an area larger than the state of Rhode Island – becoming California’s largest recorded wildfire. In addition to fires, severe drought and periods of record-breaking heat, science has shown that climate change will result in a gradual and permanent rise in global sea levels.

Assemblymember Levine states further that “AB 1445 requires a council of governments, a delegate subregion or HCD to, starting on January 1, 2025, additionally consider among other required factors, emergency evacuation route capacity, wildfire risk, seal level rise and other impacts of climate change. This bill will ensure local governments are considering the impending impacts of climate change and disasters on risk to residents when planning for housing in their communities.”

The state plans for housing through the RHNA and housing element process, which occurs on an eight-year cycle (except for the state’s most rural areas, where it occurs every five years). Currently, the state is in a transitional period where jurisdictions are either wrapping up the fifth eight-year cycle or beginning their sixth cycle. In between cycles the Legislature frequently adjusts the statutory requirements to the RHNA process, influencing the number of units allocated as well as where those units are allocated across the state.

SB 375 (Steinberg) adopted in 2008 represents the land use component of the state’s wider strategy to address climate change. The law requires California’s MPOs (which are often also COGs) to create a Sustainable Communities Strategy (SCS) as a part of their federally mandated Regional Transportation Plan (RTP). The SCS demonstrates how the region will meet its GHG emissions reduction targets through land use, housing, and transportation strategies. SB 375 also aligned the RHNA cycle with the RTP and SCS planning cycle.
A recent working paper by the UC Berkeley Terner Center for Housing Innovation found that, after SB 375, RHNA targeted more housing development with high job proximity in most MPOs. In addition to aligning planning processes, SB 375 also provided limited CEQA exemptions designed to further infill development that is consistent with a region's SCS. More recent revisions to the RHNA process will increase the housing units that COGs must distribute to their jurisdictions in a manner that furthers the region's SCS, which should lead to more infill development in jobs-rich areas.

In the period between the 5th and 6th revisions of the housing element, the Legislature modified the RHNA process and methodology to ensure that housing needs reflected not just current demand, but unmet demand as well. As such, throughout the state, many cities and counties must plan for more growth than before.

For example, in the 5th RHNA cycle the Southern California Association of Governments (SCAG) received a RHNA of 409,000 – 438,000. By contrast, in the 6th RHNA Cycle, SCAG received a RHNA of 1,341,827. The goal is for the state to have identified land sufficiently zoned to accommodate its current housing needs.

**Status of Legislation**

AB 1445 (Levine) was approved on the Assembly Floor on January 31, 2022. Fifty-seven members of the State Assembly voted Aye. Sixteen Assembly members voted No and three members of the Assembly Abstained or were absent.

**Support**
League of Women Voters of California  
Sierra Club California

**Opposition**
None listed at this time.
Attachment 2
An act to amend, repeal, and add Sections 65584.04 and 65584.06 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

AB 1445, as amended, Levine. Planning and zoning: regional housing need allocation: climate change impacts.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that includes, among other mandatory elements, a housing element. For the 4th and subsequent revisions of the housing element, existing law requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region. Existing law requires that the final regional housing plan adopted by a council of governments, or a delegate subregion, as applicable, be based on a methodology that includes specified factors, and similarly requires that the department take into consideration specified factors in distributing regional housing need, as provided.

This
Commencing January 1, 2025, this bill would require that a council of governments, a delegate subregion, or the department, as applicable, additionally consider among these factors emergency evacuation route capacity, wildfire risk, sea level rise, and other impacts caused by climate change. By adding to the duties of local officials in allocating regional housing need, 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 65584.04 of the Government Code is amended to read:

(a) At least two years before a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop, in consultation with the department, a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall further the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months before the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (e) that will allow the development of a methodology based upon the factors established in subdivision (e).

(2) With respect to the objective in paragraph (5) of subdivision (d) of Section 65584, the survey shall review and compile information that will allow the development of a methodology based upon the issues, strategies, and actions that are included, as available, in an Analysis of Impediments to Fair Housing Choice or an Assessment of Fair Housing completed by any city or county
or the department that covers communities within the area served by the council of governments, and in housing elements adopted pursuant to this article by cities and counties within the area served by the council of governments.

3 The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

4 The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

5 If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (e) before the public comment period provided for in subdivision (d).

6 The council of governments shall electronically report the results of the survey of fair housing issues, strategies, and actions compiled pursuant to paragraph (2) of subdivision (b). The report shall describe common themes and effective strategies employed by cities and counties within the area served by the council of governments, including common themes and effective strategies around avoiding the displacement of lower income households. The council of governments shall also identify significant barriers to affirmatively furthering fair housing at the regional level and may recommend strategies or actions to overcome those barriers. A council of governments or metropolitan planning organization, as appropriate, may use this information for any other purpose, including publication within a regional transportation plan adopted pursuant to Section 65080 or to inform the land use assumptions that are applied in the development of a regional transportation plan.

7 Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the
community as well as members of protected classes under Section 12955. The proposed methodology, along with any relevant underlying data and assumptions, an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, how each of the factors listed in subdivision (e) is incorporated into the methodology, and how the proposed methodology furthers the objectives listed in subdivision (d) of Section 65584, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written or electronic request for the proposed methodology and published on the council of governments’, or delegate subregion’s, internet website. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(e) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction’s existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased
residential densities. The council of governments may not limit
its consideration of suitable housing sites or land suitable for urban
development to existing zoning ordinances and land use restrictions
of a locality, but shall consider the potential for increased
residential development under alternative zoning ordinances and
land use restrictions. The determination of available land suitable
for urban development may exclude lands where the Federal
Emergency Management Agency (FEMA) or the Department of
Water Resources has determined that the flood management
infrastructure designed to protect that land is not adequate to avoid
the risk of flooding.
(C) Lands preserved or protected from urban development under
existing federal or state programs, or both, designed to protect
open space, farmland, environmental habitats, and natural resources
on a long-term basis, including land zoned or designated for
agricultural protection or preservation that is subject to a local
ballot measure that was approved by the voters of that jurisdiction
that prohibits or restricts conversion to nonagricultural uses.
(D) County policies to preserve prime agricultural land, as
defined pursuant to Section 56064, within an unincorporated area
and land within an unincorporated area zoned or designated for
agricultural protection or preservation that is subject to a local
ballot measure that was approved by the voters of that jurisdiction
that prohibits or restricts its conversion to nonagricultural uses.
(3) The distribution of household growth assumed for purposes
of a comparable period of regional transportation plans and
opportunities to maximize the use of public transportation and
existing transportation infrastructure.
(4) Agreements between a county and cities in a county to direct
growth toward incorporated areas of the county and land within
an unincorporated area zoned or designated for agricultural
protection or preservation that is subject to a local ballot measure
that was approved by the voters of the jurisdiction that prohibits
or restricts conversion to nonagricultural uses.
(5) The loss of units contained in assisted housing developments,
as defined in paragraph (9) of subdivision (a) of Section 65583,
that changed to non-low-income use through mortgage prepayment,
subsidy contract expirations, or termination of use restrictions.
(6) The percentage of existing households at each of the income
levels listed in subdivision (e) (f) of Section 65584 that are paying
more than 30 percent and more than 50 percent of their income in rent.

(7) The rate of overcrowding.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) The housing needs of individuals and families experiencing homelessness. If a council of governments has surveyed each of its member jurisdictions pursuant to subdivision (b) on or before January 1, 2020, this paragraph shall apply only to the development of methodologies for the seventh and subsequent revisions of the housing element.

(11) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis.

(12) The region’s greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.

(13) Emergency evacuation route capacity, wildfire risk, sea level rise, and other impacts caused by climate change.

(14) Any other factors adopted by the council of governments, that further the objectives listed in subdivision (d) of Section 65584, provided that the council of governments specifies which of the objectives each additional factor is necessary to further. The council of governments may include additional factors unrelated to furthering the objectives listed in subdivision (d) of Section 65584 so long as the additional factors do not undermine the objectives listed in subdivision (d) of Section 65584 and are applied equally across all household income levels as described in subdivision (f) of Section 65584 and the council of governments makes a finding that the factor is necessary to address significant health and safety conditions.

(f) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (e) was incorporated into the methodology and how the methodology furthers the objectives listed in...
subsection (d) of Section 65584. The methodology may include numerical weighting. This information, and any other supporting materials used in determining the methodology, shall be posted on the council of governments’, or delegate subregion’s, internet website.

(g) The following criteria shall not be a justification for a determination or a reduction in a jurisdiction’s share of the regional housing need:

(1) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county.

(2) Prior underproduction of housing in a city or county from the previous regional housing need allocation, as determined by each jurisdiction’s annual production report submitted pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(3) Stable population numbers in a city or county from the previous regional housing needs cycle.

(h) Following the conclusion of the public comment period described in subdivision (d) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, and as a result of consultation with the department, each council of governments, or delegate subregion, as applicable, shall publish a draft allocation methodology on its internet website and submit the draft allocation methodology, along with the information required pursuant to subdivision (e), to the department.

(i) Within 60 days, the department shall review the draft allocation methodology and report its written findings to the council of governments, or delegate subregion, as applicable. In its written findings the department shall determine whether the methodology furthers the objectives listed in subdivision (d) of Section 65584. If the department determines that the methodology is not consistent with subdivision (d) of Section 65584, the council of governments, or delegate subregion, as applicable, shall take one of the following actions:

(1) Revise the methodology to further the objectives listed in subdivision (d) of Section 65584 and adopt a final regional, or subregional, housing need allocation methodology.
(2) Adopt the regional, or subregional, housing need allocation methodology without revisions and include within its resolution of adoption findings, supported by substantial evidence, as to why the council of governments, or delegate subregion, believes that the methodology furthers the objectives listed in subdivision (d) of Section 65584 despite the findings of the department.

(j) If the department’s findings are not available within the time limits set by subdivision (i), the council of governments, or delegate subregion, may act without them.

(k) Upon either action pursuant to subdivision (i), the council of governments, or delegate subregion, shall provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion, as applicable, and to the department, and shall publish the adopted allocation methodology, along with its resolution and any adopted written findings, on its internet website.

(l) The department may, within 90 days, review the adopted methodology and report its findings to the council of governments, or delegate subregion.

(m) (1) It is the intent of the Legislature that housing planning be coordinated and integrated with the regional transportation plan. To achieve this goal, the allocation plan shall allocate housing units within the region consistent with the development pattern included in the sustainable communities strategy.

(2) The final allocation plan shall ensure that the total regional housing need, by income category, as determined under Section 65584, is maintained, and that each jurisdiction in the region receive an allocation of units for low- and very low income households.

(3) The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the sustainable communities strategy in the regional transportation plan and furthers the objectives listed in subdivision (d) of Section 65584.

(n) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 2. Section 65584.04 is added to the Government Code, to read:

65584.04. (a) At least two years before a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop, in consultation
with the department, a proposed methodology for distributing the
existing and projected regional housing need to cities, counties,
and cities and counties within the region or within the subregion,
where applicable pursuant to this section. The methodology shall
further the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months before the development of a
proposed methodology for distributing the existing and projected
housing need, each council of governments shall survey each of
its member jurisdictions to request, at a minimum, information
regarding the factors listed in subdivision (e) that will allow the
development of a methodology based upon the factors established
in subdivision (e).

(2) With respect to the objective in paragraph (5) of subdivision
(d) of Section 65584, the survey shall review and compile
information that will allow the development of a methodology
based upon the issues, strategies, and actions that are included,
as available, in an Analysis of Impediments to Fair Housing Choice
or an Assessment of Fair Housing completed by any city or county
or the department that covers communities within the area served
by the council of governments, and in housing elements adopted
pursuant to this article by cities and counties within the area served
by the council of governments.

(3) The council of governments shall seek to obtain the
information in a manner and format that is comparable throughout
the region and utilize readily available data to the extent possible.

(4) The information provided by a local government pursuant
to this section shall be used, to the extent possible, by the council
of governments, or delegate subregion as applicable, as source
information for the methodology developed pursuant to this section.
The survey shall state that none of the information received may
be used as a basis for reducing the total housing need established
for the region pursuant to Section 65584.01.

(5) If the council of governments fails to conduct a survey
pursuant to this subdivision, a city, county, or city and county may
submit information related to the items listed in subdivision (e)
before the public comment period provided for in subdivision (d).

(c) The council of governments shall electronically report the
results of the survey of fair housing issues, strategies, and actions
compiled pursuant to paragraph (2) of subdivision (b). The report
shall describe common themes and effective strategies employed
by cities and counties within the area served by the council of
governments, including common themes and effective strategies
around avoiding the displacement of lower income households. The
council of governments shall also identify significant barriers
to affirmatively furthering fair housing at the regional level and
may recommend strategies or actions to overcome those barriers.
A council of governments or metropolitan planning organization,
as appropriate, may use this information for any other purpose,
including publication within a regional transportation plan adopted
pursuant to Section 65080 or to inform the land use assumptions
that are applied in the development of a regional transportation
plan.

(d) Public participation and access shall be required in the
development of the methodology and in the process of drafting
and adoption of the allocation of the regional housing needs.
Participation by organizations other than local jurisdictions and
councils of governments shall be solicited in a diligent effort to
achieve public participation of all economic segments of the
community as well as members of protected classes under Section
12955. The proposed methodology, along with any relevant
underlying data and assumptions, an explanation of how
information about local government conditions gathered pursuant
to subdivision (b) has been used to develop the proposed
methodology, how each of the factors listed in subdivision (e) is
incorporated into the methodology, and how the proposed
methodology furthers the objectives listed in subdivision (d) of
Section 65584, shall be distributed to all cities, counties, any
subregions, and members of the public who have made a written
or electronic request for the proposed methodology and published
on the council of governments’ or delegate subregion’s, internet
website. The council of governments, or delegate subregion, as
applicable, shall conduct at least one public hearing to receive
oral and written comments on the proposed methodology.

(e) To the extent that sufficient data is available from local
governments pursuant to subdivision (b) or other sources, each
council of governments, or delegate subregion as applicable, shall
include the following factors to develop the methodology that
allocates regional housing needs:

(1) Each member jurisdiction’s existing and projected jobs and
housing relationship. This shall include an estimate based on
readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts conversion to nonagricultural uses.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local
ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts its conversion to nonagricultural uses.

(E) Emergency evacuation route capacity, wildfire risk, sea level rise, and other impacts caused by climate change.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of the jurisdiction that prohibits or restricts conversion to nonagricultural uses.

(5) The loss of units contained in assisted housing developments, as defined in paragraph (9) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(6) The percentage of existing households at each of the income levels listed in subdivision (f) of Section 65584 that are paying more than 30 percent and more than 50 percent of their income in rent.

(7) The rate of overcrowding.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) The housing needs of individuals and families experiencing homelessness. If a council of governments has surveyed each of its member jurisdictions pursuant to subdivision (b) on or before January 1, 2020, this paragraph shall apply only to the development of methodologies for the seventh and subsequent revisions of the housing element.

(11) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis.
(12) The region’s greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.

(13) Any other factors adopted by the council of governments, that further the objectives listed in subdivision (d) of Section 65584, provided that the council of governments specifies which of the objectives each additional factor is necessary to further. The council of governments may include additional factors unrelated to furthering the objectives listed in subdivision (d) of Section 65584 so long as the additional factors do not undermine the objectives listed in subdivision (d) of Section 65584 and are applied equally across all household income levels as described in subdivision (f) of Section 65584 and the council of governments makes a finding that the factor is necessary to address significant health and safety conditions.

(f) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (e) was incorporated into the methodology and how the methodology furthers the objectives listed in subdivision (d) of Section 65584. The methodology may include numerical weighting. This information, and any other supporting materials used in determining the methodology, shall be posted on the council of governments’, or delegate subregion’s, internet website.

(g) The following criteria shall not be a justification for a determination or a reduction in a jurisdiction’s share of the regional housing need:

(1) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county.

(2) Prior underproduction of housing in a city or county from the previous regional housing need allocation, as determined by each jurisdiction’s annual production report submitted pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(3) Stable population numbers in a city or county from the previous regional housing needs cycle.

(h) Following the conclusion of the public comment period described in subdivision (d) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as
applicable, as a result of comments received during the public
comment period, and as a result of consultation with the
department, each council of governments, or delegate subregion,
as applicable, shall publish a draft allocation methodology on its
internet website and submit the draft allocation methodology,
along with the information required pursuant to subdivision (e),
to the department.

(i) Within 60 days, the department shall review the draft
allocation methodology and report its written findings to the
council of governments, or delegate subregion, as applicable. In
its written findings the department shall determine whether the
methodology furthers the objectives listed in subdivision (d) of
Section 65584. If the department determines that the methodology
is not consistent with subdivision (d) of Section 65584, the council
of governments, or delegate subregion, as applicable, shall take
one of the following actions:

(1) Revise the methodology to further the objectives listed in
subdivision (d) of Section 65584 and adopt a final regional, or
subregional, housing need allocation methodology.

(2) Adopt the regional, or subregional, housing need allocation
methodology without revisions and include within its resolution
of adoption findings, supported by substantial evidence, as to why
the council of governments, or delegate subregion, believes that
the methodology furthers the objectives listed in subdivision (d)
of Section 65584 despite the findings of the department.

(j) If the department’s findings are not available within the time
limits set by subdivision (i), the council of governments, or delegate
subregion, may act without them.

(k) Upon either action pursuant to subdivision (i), the council
of governments, or delegate subregion, shall provide notice of the
adoption of the methodology to the jurisdictions within the region,
or delegate subregion, as applicable, and to the department, and
shall publish the adopted allocation methodology, along with its
resolution and any adopted written findings, on its internet website.

(l) The department may, within 90 days, review the adopted
methodology and report its findings to the council of governments,
or delegate subregion.

(m) (1) It is the intent of the Legislature that housing planning
be coordinated and integrated with the regional transportation
plan. To achieve this goal, the allocation plan shall allocate
housing units within the region consistent with the development
pattern included in the sustainable communities strategy.
(2) The final allocation plan shall ensure that the total regional
housing need, by income category, as determined under Section
65584, is maintained, and that each jurisdiction in the region
receive an allocation of units for low- and very low income
households.
(3) The resolution approving the final housing need allocation
plan shall demonstrate that the plan is consistent with the
sustainable communities strategy in the regional transportation
plan and furthers the objectives listed in subdivision (d) of Section
65584.
(n) This section shall become operative on January 1, 2025.
SEC. 2.
SEC. 3. Section 65584.06 of the Government Code is amended
to read:
65584.06. (a) For cities and counties without a council of
governments, the department shall determine and distribute the
existing and projected housing need, in accordance with Section
65584 and this section. If the department determines that a county
or counties, supported by a resolution adopted by the board or
boards of supervisors, and a majority of cities within the county
or counties representing a majority of the population of the county
or counties, possess the capability and resources and has agreed
to accept the responsibility, with respect to its jurisdiction, for the
distribution of the regional housing need, the department shall
delegate this responsibility to the cities and county or counties.
(b) The distribution of regional housing need shall, based upon
available data and in consultation with the cities and counties, take
into consideration market demand for housing, the distribution of
household growth within the county assumed in the regional
transportation plan where applicable, employment opportunities
and commuting patterns, the availability of suitable sites and public
facilities, the needs of individuals and families experiencing
homelessness, agreements between a county and cities in a county
to direct growth toward incorporated areas of the county,
emergency evacuation route capacity, wildfire risk, sea level rise,
and other impacts caused by climate change, or other considerations
as may be requested by the affected cities or counties and agreed
to by the department. As part of the allocation of the regional
housing need, the department shall provide each city and county
with data describing the assumptions and methodology used in
calculating its share of the regional housing need. Consideration
of suitable housing sites or land suitable for urban development is
not limited to existing zoning ordinances and land use restrictions
of a locality, but shall include consideration of the potential for
increased residential development under alternative zoning
ordinances and land use restrictions. The determination of available
land suitable for urban development may exclude lands where the
Federal Emergency Management Agency (FEMA) or the
Department of Water Resources has determined that the flood
management infrastructure designed to protect that land is not
adequate to avoid the risk of flooding.

c (c) Within 90 days following the department’s determination
of a draft distribution of the regional housing need to the cities and
the county, a city or county may propose to revise the determination
of its share of the regional housing need in accordance with criteria
set forth in the draft distribution. The proposed revised share shall
be based upon comparable data available for all affected
jurisdictions, and accepted planning methodology, and shall be
supported by adequate documentation.

d (1) Within 60 days after the end of the 90-day time period
for the revision by the cities or county, the department shall accept
the proposed revision, modify its earlier determination, or indicate
why the proposed revision is inconsistent with the regional housing
need.

(2) If the department does not accept the proposed revision,
then, within 30 days, the city or county may request a public
hearing to review the determination.

(3) The city or county shall be notified within 30 days by
certified mail, return receipt requested, of at least one public
hearing regarding the determination.

(4) The date of the hearing shall be at least 10 but not more than
15 days from the date of the notification.

(5) Before making its final determination, the department shall
consider all comments received and shall include a written response
to each request for revision received from a city or county.

(e) If the department accepts the proposed revision or modifies
its earlier determination, the city or county shall use that share. If
the department grants a revised allocation pursuant to subdivision
(d) the department shall ensure that the total regional housing need is maintained. The department’s final determination shall be in writing and shall include information explaining how its action is consistent with this section. If the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the department. The department, within its final determination, may adjust the allocation of a city or county that was not the subject of a request for revision of the draft distribution.

(f) The department shall issue a final regional housing need allocation for all cities and counties within 45 days of the completion of the local review period.

(g) Statutory changes enacted after the date the department issued a final determination pursuant to this section shall not be a basis for a revision of the final determination.

(h) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 4. Section 65584.06 is added to the Government Code, to read:

65584.06. (a) For cities and counties without a council of governments, the department shall determine and distribute the existing and projected housing need, in accordance with Section 65584 and this section. If the department determines that a county or counties, supported by a resolution adopted by the board or boards of supervisors, and a majority of cities within the county or counties representing a majority of the population of the county or counties, possess the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the distribution of the regional housing need, the department shall delegate this responsibility to the cities and county or counties.

(b) The distribution of regional housing need shall, based upon available data and in consultation with the cities and counties, take into consideration market demand for housing, the distribution of household growth within the county assumed in the regional transportation plan where applicable, employment opportunities and commuting patterns, the availability of suitable sites and public facilities, the needs of individuals and families experiencing homelessness, agreements between a county and cities in a county to direct growth toward incorporated areas of the county, emergency evacuation route capacity, wildfire risk, sea level rise,
and other impacts caused by climate change, or other considerations as may be requested by the affected cities or counties and agreed to by the department. As part of the allocation of the regional housing need, the department shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. Consideration of suitable housing sites or land suitable for urban development is not limited to existing zoning ordinances and land use restrictions of a locality, but shall include consideration of the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(c) Within 90 days following the department’s determination of a draft distribution of the regional housing need to the cities and the county, a city or county may propose to revise the determination of its share of the regional housing need in accordance with criteria set forth in the draft distribution. The proposed revised share shall be based upon comparable data available for all affected jurisdictions, and accepted planning methodology, and shall be supported by adequate documentation.

(d) (1) Within 60 days after the end of the 90-day time period for the revision by the cities or county, the department shall accept the proposed revision, modify its earlier determination, or indicate why the proposed revision is inconsistent with the regional housing need.

(2) If the department does not accept the proposed revision, then, within 30 days, the city or county may request a public hearing to review the determination.

(3) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(4) The date of the hearing shall be at least 10 but not more than 15 days from the date of the notification.

(5) Before making its final determination, the department shall consider all comments received and shall include a written
response to each request for revision received from a city or county.

(e) If the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the department grants a revised allocation pursuant to subdivision (d), the department shall ensure that the total regional housing need is maintained. The department’s final determination shall be in writing and shall include information explaining how its action is consistent with this section. If the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the department. The department, within its final determination, may adjust the allocation of a city or county that was not the subject of a request for revision of the draft distribution.

(f) The department shall issue a final regional housing need allocation for all cities and counties within 45 days of the completion of the local review period.

(g) Statutory changes enacted after the date the department issued a final determination pursuant to this section shall not be a basis for a revision of the final determination.

(h) This section shall become operative on January 1, 2025.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIIIIB of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
Item B-6
TO: City Council Liaison/Legislative/Lobby Committee  
FROM: Cynthia Owens, Policy and Management Analyst  
DATE: March 8, 2022  
SUBJECT: Assembly Bill 1551 (Santiago) - Planning and Zoning: Development Bonuses: Mixed-Use Projects  
ATTACHMENTS: 1. Summary Memo – AB 1551  
2. Bill Text – AB 1551  

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

Assembly Bill 1551 (Santiago) - Planning and Zoning: Development Bonuses: Mixed-Use Projects (AB 1551) involves a policy matter that has a nexus to the City’s adopted Legislative Platform language. Specifically, the following statements may apply to AB 1551:

- 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 Antwih Schmelzer & Lange, provided a summary memo for AB 1551 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1551, the Liaisons may recommend the following actions:

- Oppose AB 1551;
- Support AB 1551;
- Support if amended AB 1551;
- Oppose unless amended AB 1551;
- 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 1, 2022

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 1551 (Santiago) Planning and zoning: development bonuses: mixed-use projects

Version
As Amended and Revised in the Assembly on January 13, 2022.

Summary
This bill, until January 1, 2028, reinstates in its entirety the commercial development (density) bonus program for commercial properties that expired on January 1, 2022. Specifically, this bill:

1) Requires, when a commercial development agrees to partner with an affordable housing developer to construct a mixed-use project with housing located onsite, a local government, in addition to granting incentives and concessions under state Density Bonus Law (DBL), also grant the commercial developer exceptions resulting in significant costs reductions over the maximum allowable intensity in the general plan, zoning ordinance or regulation, including, but not limited to, floor area ratios and may include modification to development standards, such as height and parking requirements.
2) Contains a five-year sunset date of January 1, 2028.
3) Declares the development of affordable housing a matter of statewide concern and not a municipal affair, and therefore, this bill applies to all cities, including charter cities.

Background and Existing Law
In 1979, the Legislature enacted DBL to help address the affordable housing shortage and to encourage development of more low- and moderate-income housing units. Density bonus is a tool used by both market-rate and affordable housing developers to encourage the production of affordable housing. In return for inclusion of affordable units in a development, developers are given an increase in density over a city's zoned density and concessions and incentives in order to offset the cost of the affordable units which will be offered at lower rent. Developers that seek a density bonus must agree to restrict very low- and low-income rental units to affordable levels for 55 years. Based on annual production reports local governments submit to the Department of Housing and Community Development (HCD), from 2018 through 2020, the density bonus program provided 880 units per year for lower-income households.

AB 1934 (Santiago), Chapter 747, Statutes of 2016, created a commercial “development bonus” modeled after DBL by similarly granting a number of incentives (including an increase in density) to a commercial developer that facilitates the creation of affordable housing units. However, unlike DBL, AB 1934 did not provide a specified formula regarding the benefits conferred upon the developer in return for provision of affordable housing. Nor did it require the local government to provide clear guidance on the concessions and incentives available to the developer. Instead, the program relied
on the commercial developer, residential developer and local jurisdiction to come to mutual agreement on most of the details of the incentives, including the amount and type of bonus received and the amount and income levels of affordable housing developed. It did, however, require the commercial developer to partner with a housing developer that provides at least 30% of the total units for low-income households or at least 15% of the total units for very low-income households.

The commercial development bonus program created by AB 1934 expired on January 1, 2022. AB 1934 required local governments report use of this program to HCD as part of their annual progress reports. Data provided by HCD revealed only five units of affordable housing were created due to the program across three projects. AB 1551 reinstates the commercial development bonus program created by AB 1934.

**Status of Legislation**

The State Assembly approved AB 1551 (Santiago) on January 20, 2022. The bill was on the consent calendar and received 61 Aye votes, zero no votes. Fifteen members of the Assembly either abstained or were absent. This measure is currently pending in the Senate Rules Committee awaiting referral to on or more policy committees in the Senate.

**Support**
None listed at this time.

**Opposition**
None listed at this time.
Attachment 2
An act to add and repeal Section 65915.74 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

AB 1551, as amended, Santiago. Planning and zoning: development bonuses: mixed-use projects.

Existing law, commonly referred to as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development within the city or county with a density bonus and other incentives or concessions, as specified, if the developer agrees to construct specified percentages of units for lower income, very low income, or senior citizen housing, among other things, and meets other requirements. Previously existing law, until January 1, 2022, required a city, county, or city and county to grant a commercial developer a development bonus, as specified, when an applicant for approval of a commercial development had entered into an agreement for partnered housing with an affordable housing developer to contribute affordable housing through a joint project or 2 separate projects encompassing affordable housing.

This bill would reenact the above-described provisions regarding the granting of development bonuses to certain projects. The bill would
require a city or county to annually submit to the Department of Housing and Community Development information describing an approved commercial development bonus. *The bill would repeal these provisions on January 1, 2028.* By adding to the duties of local planning officials, this bill would impose a state-mandated local program.

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

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

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


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

SECTION 1. Section 65915.7 is added to the Government Code, to read:

65915.7. (a) When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in subdivision (c) to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the city, county, or city and county shall grant to the commercial developer a development bonus as prescribed in subdivision (b). Housing shall be constructed on the site of the commercial development or on a site that is all of the following:

1. Within the boundaries of the local government.
2. In close proximity to public amenities including schools and employment centers.
3. Located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(b) The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the jurisdiction, that may include, but are not limited to, any of the following:

1. Up to a 20-percent increase in maximum allowable intensity in the General Plan.
(2) Up to a 20-percent increase in maximum allowable floor area ratio.
(3) Up to a 20-percent increase in maximum height requirements.
(4) Up to a 20-percent reduction in minimum parking requirements.
(5) Use of a limited-use/limited-application elevator for upper floor accessibility.
(6) An exception to a zoning ordinance or other land use regulation.

(c) For purposes of this section, the agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial developer will contribute affordable housing, and shall be approved by the city, county, or city and county.

(d) For purposes of this section, affordable housing may be contributed by the commercial developer in one of the following manners:

(1) The commercial developer may directly build the units.
(2) The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing.
(3) The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.

(e) For purposes of this section, subparagraph (A) of paragraph (3) of subdivision (c) of Section 65915 shall apply.

(f) Nothing in this section shall preclude any additional allowances or incentives offered to developers by local governments pursuant to law or regulation.

(g) If the developer of the affordable units does not commence with construction of those units in accordance with timelines ascribed by the agreement described in subdivision (c), the local government may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.

(h) In order to qualify for a development bonus under this section, a commercial developer shall partner with a housing developer that provides at least 30 percent of the total units for
low-income households or at least 15 percent of the total units for
very low-income households.
(i) Nothing in this section shall preclude an affordable housing
developer from seeking a density bonus, concessions or incentives,
waivers or reductions of development standards, or parking ratios
under Section 65915.
(j) A development bonus pursuant to this section shall not
include a reduction or waiver of the requirements within an
ordinance that requires the payment of a fee by a commercial
developer for the promotion or provision of affordable housing.
(k) A city or county shall submit to the Department of Housing
and Community Development, as part of the annual report required
by Section 65400, information describing a commercial
development bonus approved pursuant to this section, including
the terms of the agreements between the commercial developer
and the affordable housing developer, and the developers and the
local jurisdiction, and the number of affordable units constructed
as part of the agreements.
(l) For purposes of this section, “partner” means formation of
a partnership, limited liability company, corporation, or other entity
recognized by the state in which the commercial development
applicant and the affordable housing developer are each partners,
members, shareholders or other participants, or a contract or
agreement between a commercial development applicant and
affordable housing developer for the development of both the
commercial and the affordable housing properties.
(m) This section shall remain in effect only until January 1,
2028, and as of that date is repealed.
SEC. 2. The Legislature finds and declares that the development
of affordable housing is a matter of statewide concern and is not
a municipal affair as that term is used in Section 5 of Article XI
of the California Constitution. Therefore, Section 1 of this act
adding Section 65915.7 to the Government Code applies to all
cities, including charter cities.
SEC. 3. No reimbursement is required by this act pursuant to
Section 6 of Article XIIIB of the California Constitution because
a local agency or school district has the authority to levy service
charges, fees, or assessments sufficient to pay for the program or
level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
Item B-7
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: March 8, 2022
SUBJECT: Assembly Bill 1690 (Rivas, Luz) - Tobacco Products: Single-Use Components

ATTACHMENTS: 1. Summary Memo – AB 1690
                2. Bill Text – AB 1690

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

Assembly Bill 1690 (Rivas, Luz) - Tobacco Products: Single-Use Components (AB 1690) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language.

The City's state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 1690 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1690, the Liaisons may recommend the following actions:
- Oppose AB 1690;
- Support AB 1690;
- Support if amended AB 1690;
- Oppose unless amended AB 1690;
- Remain neutral; or
- Provide other direction to City staff.

Any position 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 1, 2022

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 1690 (L. Rivas) Tobacco products: single-use components.

Introduction and Background
On January 24, Assemblymember Luz Rivas introduced AB 1690, the Smoking Waste Pollution Prevention Act, which would prohibit the sale of single-use vapes and tobacco filters found in cigarettes and cigars. According to the author, “in 1964, the Surgeon General declared cigarette filters useless in reducing harm to the average smoker. Currently, 98 percent of cigarette filters are made of non-biodegradable cellulose acetate, which are plastic fibers that can take a decade or more for the sun’s ultraviolet rays to break down into microplastics, which can be ingested. Additionally, vapes can contain heavy metals, battery acid, nicotine, and other harmful chemicals. Microplastics and hazardous chemicals accumulate in the food chain and affect whole ecosystems, including the health of soils used to grow our food.”

This bill is joint authored by Assemblymembers Mark Stone and Cottie Petrie-Norris and co-authored by Assemblymembers Phil Ting, Cristina Garcia, Rebecca Bauer-Kahan, Marc Berman, Tasha Boerner Horvath, Laura Friedman, Alex Lee, Adrin Nazarian, Bill Quirk, and Buffy Wicks, as well as Senators Ben Allen, Josh Becker, Monique Limón, Josh Newman, Anthony Portantino, and Scott Wiener.

Specifically, this bill would:
- Prohibit a person or entity from selling, giving, or furnishing to another person of any age in this state a cigarette utilizing a single-use filter made of any material, an attachable and single-use plastic device meant to facilitate manual manipulation or filtration of a tobacco product, or a single-use electronic cigarette or vaporizer device.
- Authorizes a city attorney, county counsel, or district attorney to assess a $500 civil fine against each person determined to have violated those prohibitions in a proceeding conducted pursuant to the procedures of the enforcing agency, as specified.

Status of Legislation
AB 1690 (L. Rivas) was introduced in the Assembly on January 24, 2022. The bill has been referred to Assembly Health and Judiciary Committees. The hearing dates for these committee hearings are yet to be set.

Support
National Stewardship Action Council
Action on Smoking and Health (ASH)
Association of California Healthcare Districts
Breathe Southern California
Californians Against Waste
California Product Stewardship Council
Cigarette Butt Pollution Project
Families Advocating for Chemical and Toxics, Safety (FACTS)
Heal the Bay
Northern California Recycling Association
Ocean
Ocean Conservancy
Plastic Oceans International
Plastic Pollution Coalition
Recology
Republic Services
Save Our Shores
Seventh Generation Advisors
Surfrider
The 5 Gyres Institute
The Center for Oceanic Awareness Research, and Education (COARE)
Upstream
Wishtoyo Chumash Foundation
Zero Waste USA.

**Opposition**
None identified at this time.
Attachment 2
ASSEMBLY BILL No. 1690

Introduced by Assembly Members Luz Rivas, Petrie-Norris, and Stone
(Principal coauthors: Assembly Members Cristina Garcia and Ting)
(Coauthors: Assembly Members Bauer-Kahan, Berman, Boerner Horvath, Friedman, Lee, Nazarian, Quirk, and Wicks)
(Coauthors: Senators Allen, Becker, Limón, Newman, Portantino, and Wiener)

January 24, 2022

An act to add Article 6 (commencing with Section 104559.6) to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, relating to tobacco products.

LEGISLATIVE COUNSEL’S DIGEST

AB 1690, as introduced, Luz Rivas. Tobacco products: single-use components.

Under existing law, the Stop Tobacco Access to Kids Enforcement Act, an enforcing agency, as defined, may assess civil penalties against any person, firm, or corporation that sells, gives, or furnishes specified tobacco and cigarette related items, including cigarette papers, to a person who is under 21 years of age, except as specified. The existing civil penalties range from $400 to $600 for a first violation, up to $5,000 to $6,000 for a 5th violation within a 5-year period.

Existing law prohibits the sale, distribution, or nonsale distribution of tobacco products directly or indirectly to any person under 21 years of age through the United States Postal Service or other public or private postal or package delivery service. Under existing law, a district attorney, city attorney, or the Attorney General may assess civil penalties
against a violator of not less than $1,000 or more than $2,000 for the first violation and up to $10,000 for a 5th or subsequent violation within a 5-year period.

Under existing law, every person, firm, or corporation that knowingly or under circumstances in which it has knowledge, or should otherwise have grounds for knowledge, sells, gives, or furnishes a cigarette, among other specified items, to another person who is under 21 years of age is, except as specified, subject to either a criminal action for a misdemeanor or to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of $200 for the first offense, $500 for the 2nd offense, and $1,000 for the 3rd offense.

This bill would prohibit a person or entity from selling, giving, or furnishing to another person of any age in this state a cigarette utilizing a single-use filter made of any material, an attachable and single-use plastic device meant to facilitate manual manipulation or filtration of a tobacco product, or a single-use electronic cigarette or vaporizer device. The bill would prohibit that selling, giving, or furnishing, whether conducted directly or indirectly through an in-person transaction, or by means of any public or private method of shipment or delivery to an address in this state.

This bill would authorize a city attorney, county counsel, or district attorney to assess a $500 civil fine against each person determined to have violated those prohibitions in a proceeding conducted pursuant to the procedures of the enforcing agency, as specified.


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

SECTION 1. Article 6 (commencing with Section 104559.6) is added to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, to read:

Article 6. Prohibition on Cigarettes Utilizing Single-Use Filters and Single-Use Electronic Cigarettes or Vaporizer Devices

104559.6. (a) A person or entity shall not sell, give, or in any way furnish to another person, of any age, in this state, any of the following:
(1) A cigarette utilizing a single-use filter made of any material, including cellulose acetate, any other fibrous plastic material, or any organic or biodegradable material.

(2) An attachable and single-use plastic device meant to facilitate manual manipulation or filtration of a tobacco product.

(3) A single-use electronic cigarette.

(4) A single-use vaporizer device.

(b) The prohibition under subdivision (a) applies to any direct or indirect transaction, whether made in person in this state or by means of any public or private method of shipment or delivery to an address in this state.

(c) The sale, gift, or other furnishing of one to 20 items specified in paragraphs (1) to (4), inclusive, of subdivision (a) constitutes a single violation of this section.

104559.7. (a) (1) A city attorney, county counsel, or district attorney may assess a civil fine of five hundred dollars ($500) for each violation of Section 104559.6. Only a city attorney, county counsel, or district attorney may assess the civil fine against each person determined to be in violation of Section 104559.6.

(2) Proceedings under this section shall be conducted pursuant to the procedures of the enforcing agency that are consistent with Section 131071 and in accordance with Article 6 (commencing with Section 11425.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Fine moneys assessed pursuant to this section shall be deposited in the treasury of the city or county, respectively, of the city attorney, county counsel, or district attorney that assessed the fine.

104559.8. A city attorney, county counsel, or district attorney acting as an enforcing agency, as defined in subdivision (b) of Section 22950.5 of the Business and Professions Code, is encouraged, but not required, to develop guidelines for its agency to conduct tobacco control investigations of violations of subdivision (a) of Section 104559.6 concurrent with investigations of violations of Section 308 of the Penal Code or Division 8.5 (commencing with Section 22950) of the Business and Professions Code, conducted in accordance with Section 22952 of the Business and Professions Code, or concurrent with investigations of
violations of any tobacco control provisions created by local ordinance in its jurisdiction.
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: March 8, 2022
SUBJECT: Assembly Bill 1847 (Valladares) - Criminal Procedure: Victims’ Rights

ATTACHMENTS:
1. Summary Memo – AB 1847
2. Bill Text – AB 1847

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

Assembly Bill 1847 (Valladares) - Criminal Procedure: Victims’ Rights (AB 1847) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1847 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1847, the Liaisons may recommend the following actions:
- Oppose AB 1847;
- Support AB 1847;
- Support if amended AB 1847;
- Oppose unless amended AB 1847;
- Remain neutral; or
- Provide other direction to City staff.

Any position 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 1, 2022

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 1847 (Valladares) Criminal procedure: victims’ rights.

**Introduction and Background**
Existing law authorizes a court, under specified circumstances, to resentence a defendant convicted of a felony offense. Under existing law, resentencing can be granted without a hearing upon stipulation of the parties. AB 1847, by Assemblymember Suzette Martinez Valladares, would require a hearing if requested by a victim of the crime.

Additionally, AB 1847 would limit the amount of notice that the Department of Corrections and Rehabilitation may require from any of these persons to no more than ten (10) days for in-person attendance or participation, and no more than 5 days for hearings held by videoconference. The bill would also, subject to specified conditions, prohibit the department from denying in-person attendance to these parties at any hearing in which the inmate or inmate’s counsel attends in person.

**Status of Legislation**
AB 1847 (Valladares) was introduced in the Assembly on February 8, 2022. The bill will be heard on March 15 in Assembly Public Safety Committee.

**Support**
None identified at this time.

**Opposition**
None identified at this time.
Attachment 2
Introduced by Assembly Member Valladares

February 8, 2022

An act to amend Sections 1170.03 and 3043 of the Penal Code, relating to crime victims.

LEGISLATIVE COUNSEL’S DIGEST

AB 1847, as introduced, Valladares. Criminal procedure: victims’ rights.

Existing law authorizes a court, under specified circumstances, to resentence a defendant convicted of a felony offense. Under existing law, resentencing can be granted without a hearing upon stipulation of the parties.

This bill would require a hearing if requested by a victim of the crime.

Existing law requires any person, except the victim, who is entitled to attend a parole hearing and intends to do so, to provide at least 30 days’ notice to the Board of Parole Hearings. Existing regulations of the Department of Corrections and Rehabilitation require victims, the victim’s next of kin, members of the victim’s family, victim representatives, counsel for any of these persons, and victim support persons to give notice of their intention to attend, to the department, as specified.

This bill would limit the amount of notice that the department may require from any of these persons to no more than 10 days for in-person attendance or participation, and no more than 5 days for hearings held by videoconference. The bill would also, subject to specified conditions, prohibit the department from denying in-person attendance to these
parties at any hearing in which the inmate or inmate’s counsel attends in person.


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

SECTION 1. Section 1170.03 of the Penal Code is amended to read:

1170.03. (a) (1) When a defendant, upon conviction for a felony offense, has been committed to the custody of the Secretary of the Department of Corrections and Rehabilitation or to the custody of the county correctional administrator pursuant to subdivision (h) of Section 1170, the court may, within 120 days of the date of commitment on its own motion, at any time upon the recommendation of the secretary or the Board of Parole Hearings in the case of a defendant incarcerated in state prison, the county correctional administrator in the case of a defendant incarcerated in county jail, the district attorney of the county in which the defendant was sentenced, or the Attorney General if the Department of Justice originally prosecuted the case, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if they had not previously been sentenced, whether or not the defendant is still in custody, and provided the new sentence, if any, is no greater than the initial sentence.

(2) The court, in recalling and resentencing under this subdivision, shall apply the sentencing rules of the Judicial Council and apply any changes in law that reduce sentences or provide for judicial discretion so as to eliminate disparity of sentences and to promote uniformity of sentencing.

(3) The resentencing court may, in the interest of justice and regardless of whether the original sentence was imposed after a trial or plea agreement, do the following:

(A) Reduce a defendant’s term of imprisonment by modifying the sentence.

(B) Vacate the defendant’s conviction and impose judgment on any necessarily included lesser offense or lesser related offense, whether or not that offense was charged in the original pleading, and then resentence the defendant to a reduced term of
imprisonment, with the concurrence of both the defendant and the
district attorney of the county in which the defendant was sentenced
or the Attorney General if the Department of Justice originally
prosecuted the case.

(4) In recalling and resentencing pursuant to this provision, the
court may consider postconviction factors, including, but not
limited to, the disciplinary record and record of rehabilitation of
the defendant while incarcerated, evidence that reflects whether
age, time served, and diminished physical condition, if any, have
reduced the defendant’s risk for future violence, and evidence that
reflects that circumstances have changed since the original
sentencing so that continued incarceration is no longer in the
interest of justice. The court shall consider if the defendant has
experienced psychological, physical, or childhood trauma,
including, but not limited to, abuse, neglect, exploitation, or sexual
violence, if the defendant was a victim of intimate partner violence
or human trafficking prior to or at the time of the commission of
the offense, or if the defendant is a youth or was a youth as defined
under subdivision (b) of Section 1016.7 at the time of the
commission of the offense, and whether those circumstances were
a contributing factor in the commission of the offense.

(5) Credit shall be given for time served.

(6) The court shall state on the record the reasons for its decision
to grant or deny recall and resentencing.

(7) (A) Resentencing may be granted without a hearing upon
stipulation by the parties.

(B) Notwithstanding subparagraph (A), if a victim of a crime
wishes to be heard pursuant to the provisions of Section 28 of
Article I of the California Constitution, or pursuant to any other
 provision of law applicable to the hearing, the court shall hold a
hearing for that purpose.

(8) Resentencing shall not be denied, nor a stipulation rejected,
without a hearing where the parties have an opportunity to address
the basis for the intended denial or rejection. If a hearing is held,
the defendant may appear remotely and the court may conduct the
hearing through the use of remote technology, unless counsel
requests their physical presence in court.

(b) If a resentencing request pursuant to subdivision (a) is from
the Secretary of the Department of Corrections and Rehabilitation,
the Board of Parole Hearings, a county correctional administrator,
a district attorney, or the Attorney General, all of the following
shall apply:
(1) The court shall provide notice to the defendant and set a
status conference within 30 days after the date that the court
received the request. The court’s order setting the conference shall
also appoint counsel to represent the defendant.
(2) There shall be a presumption favoring recall and resentencing
of the defendant, which may only be overcome if a court finds the
defendant is an unreasonable risk of danger to public safety, as
declared in subdivision (c) of Section 1170.18.
SEC. 2. Section 3043 of the Penal Code is amended to read:
3043. (a) (1) Upon request to the Department of Corrections
and Rehabilitation and verification of the identity of the requester,
notice of any hearing to review or consider the parole suitability
for any inmate in a state prison shall be given by telephone,
certified mail, regular mail, or electronic mail, using the method
of communication selected by the requesting party, if that method
is available, by the Board of Parole Hearings at least 90 days before
the hearing to any victim of any crime committed by the inmate,
or to the next of kin of the victim if the victim has died, to include
the commitment crimes, determinate term commitment crimes for
which the inmate has been paroled, and any other felony crimes
or crimes against the person for which the inmate has been
convicted. The requesting party shall keep the board apprised of
his or her current contact information in order to receive the
notice.
(2) No later than 30 days before the date selected for the hearing,
any person, other than the victim, entitled to attend the
hearing, hearing, other than the victim, victim’s next of kin, member
of the victim’s family, victim’s representative, counsel representing
any of these persons, or victim support persons, shall inform the
board of his or her intention to attend the hearing and the
name and identifying information of any other person entitled to
attend the hearing who will accompany him or her.
(3) No later than 14 days before the date selected for the hearing,
the board shall notify every person entitled to attend the hearing
confirming the date, time, and place of the hearing.
(4) The department and the board may require no more than
10 days’ notice for in-person attendance, and no more than 5 days’
otice for attendance by videoconference, by a victim, victim’s
next of kin, member of the victim's family, victim's representative, counsel representing any of these persons, or victim support persons, of their intention to attend the hearing.

(5) (A) The department shall not deny a victim, victim's next of kin, member of the victim's family, victim's representative, counsel representing any of these persons, or victim support persons the right to attend a hearing in person if the inmate or their counsel are permitted to attend in person.

(B) Notwithstanding subparagraph (A), the department may condition in-person attendance on background checks, proof of immunization or vaccination, and the notice requirements authorized in this section, to the same extent that these conditions are required for inmate's counsel.

(b) (1) The victim, next of kin, members of the victim's family, and two representatives designated as provided in paragraph (2) of this subdivision have the right to appear, personally or by counsel, at the hearing and to adequately and reasonably express his, her, or their views concerning the inmate and the case, including, but not limited to the commitment crimes, determinate term commitment crimes for which the inmate has been paroled, any other felony crimes or crimes against the person for which the inmate has been convicted, the effect of the enumerated crimes on the victim and the family of the victim, the person responsible for these enumerated crimes, and the suitability of the inmate for parole.

(2) Any statement provided by a representative designated by the victim or next of kin may cover any subject about which the victim or next of kin has the right to be heard including any recommendation regarding the granting of parole. The representatives shall be designated by the victim or, in the event that the victim is deceased or incapacitated, by the next of kin. They shall be designated in writing for the particular hearing before the hearing.

(c) A representative designated by the victim or the victim's next of kin for purposes of this section may be any adult person selected by the victim or the family of the victim. The board shall permit a representative designated by the victim or the victim's next of kin to attend a particular hearing, to provide testimony at a hearing, and to submit a statement to be included in the hearing as provided in Section 3043.2, even though the victim, next of kin,
or a member of the victim’s immediate family is present at the hearing, and even though the victim, next of kin, or a member of the victim’s immediate family has submitted a statement as described in Section 3043.2.

(d) The board, in deciding whether to release the person on parole, shall consider the entire and uninterrupted statements of the victim or victims, next of kin, immediate family members of the victim, and the designated representatives of the victim or next of kin, if applicable, made pursuant to this section and shall include in its report a statement whether the person would pose a threat to public safety if released on parole.

(e) In those cases where there are more than two immediate family members of the victim who wish to attend any hearing covered in this section, the board shall allow attendance of additional immediate family members to include the following: spouse, children, parents, siblings, grandchildren, and grandparents.

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Item B-9
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 2147 (Ting) - Pedestrians (AB 2147) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language.

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 2147 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 2147, the Liaisons may recommend the following actions:
- Oppose AB 2147;
- Support AB 2147;
- Support if amended AB 2147;
- Oppose unless amended AB 2147;
- Remain neutral; or
- Provide other direction to City staff.

Any position 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 1, 2022

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 2147 (Ting) Pedestrians

Introduction and Background
On February 15, Assemblymember Phil Ting introduced AB 2147, The Freedom To Walk Act, which would decriminalize jaywalking when the roadway is safe to cross. Last year, Assemblymember Ting introduced AB 1238, which would authorize jaywalking and prohibit any related fines or criminal penalties for pedestrians entering a roadway when no cars are present, until January 1, 2029. Governor Gavin Newsom vetoed AB 1238 due to concerns that this measure will unintentionally reduce pedestrian safety and potentially increase fatalities or serious injuries caused by pedestrians that enter our roadways at inappropriate locations.

According to the author, AB 2147 would address the Governor’s concerns last year by defining when an officer can stop a pedestrian for jaywalking - specified as only when a reasonably careful person would realize there’s an immediate danger of a collision instead of repealing the state’s jaywalking laws.

Specifically, AB 2147 would prohibit a peace officer, as defined, from stopping a pedestrian for specified traffic infractions unless a reasonably careful person would realize there is an immediate danger of collision with a moving vehicle or other device moving exclusively by human power.

Background and Existing Law
Existing law imposes various duties relating to the rules of the road, including, but not limited to, traffic signs, symbols, and markings, and pedestrians’ rights and duties. It additionally prohibits pedestrians from entering roadways and crosswalks, except under specified circumstances, and makes this violation an infraction. Existing law also establishes procedures for peace officers to make arrests for violations of the Vehicle Code without a warrant for offenses committed in their presence.

In October 2021, the City of Beverly Hills joined key federal transportation agencies to celebrate National Pedestrian Safety Month. The City of Beverly Hills has initiated numerous projects aimed at improving the pedestrian safety, including:

- Installing additional "Leading Pedestrian Interval" (LPI) timing throughout City traffic lights which allow for pedestrians to get a four-second head start to begin crossing before drivers receive a green light, increasing visibility and prioritizing pedestrians in the crosswalk, like the provisions of AB 2264 (Bloom).
- Designing pedestrian crossing enhancements with curb extensions and flashing beacons throughout the city (construction to begin in 2022).
Implementing the “Complete Streets Plan” and Metro’s “First and Last Mile Plans” to improve pedestrian access and wayfinding to the future D (Purple) Line Stations.

Continuing the City’s “Neighborhood Slow Streets Program” which identifies neighborhoods throughout the city in which the entire street width can be utilized for walking, cycling and other modes of non-motorized transportation.

Adding additional bike parking corrals which free up sidewalk space for improved pedestrian travel (the city has already added five new on-street bike parking corrals on South Beverly Drive).

In 2022, the City will also participate in its very first CicLAvia in Beverly Hills which will open a segment of North Santa Monica Boulevard for walking, cycling and other modes of non-motorized transportation.

**Status of Legislation**
AB 2147 (Ting) was introduced in the Assembly on February 15, 2022. The bill has been referred to Assembly Transportation Committees. The hearing dates this committee hearing is yet to be set.

**Support**
None identified at this time.

**Opposition**
None identified at this time.
Attachment 2
An act to amend Sections 21451, 21452, 21453, 21456, 21461.5, 21462, 21950, 21953, 21954, 21955, 21956, 21961, and 21966 of the Vehicle Code, relating to pedestrians.

LEGISLATIVE COUNSEL’S DIGEST

AB 2147, as introduced, Ting. Pedestrians.

Existing law imposes various duties relating to the rules of the road, including, but not limited to, traffic signs, symbols, and markings, and pedestrians’ rights and duties. Existing law prohibits pedestrians from entering roadways and crosswalks, except under specified circumstances. Under existing law, a violation of these provisions is an infraction. Existing law establishes procedures for peace officers to make arrests for violations of the Vehicle Code without a warrant for offenses committed in their presence, as specified.

This bill would prohibit a peace officer, as defined, from stopping a pedestrian for specified traffic infractions unless a reasonably careful person would realize there is an immediate danger of collision with a moving vehicle or other device moving exclusively by human power.


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

SECTION 1. Section 21451 of the Vehicle Code is amended to read:

1
(a) A driver facing a circular green signal shall proceed straight through or turn right or left or make a U-turn unless a sign prohibits a U-turn. Any driver, including one turning, shall yield the right-of-way to other traffic and to pedestrians lawfully within the intersection or an adjacent crosswalk.

(b) A driver facing a green arrow signal, shown alone or in combination with another indication, shall enter the intersection only to make the movement indicated by that green arrow or any other movement that is permitted by other indications shown at the same time. A driver facing a left green arrow may also make a U-turn unless prohibited by a sign. A driver shall yield the right-of-way to other traffic and to pedestrians lawfully within the intersection or an adjacent crosswalk.

(c) A pedestrian facing a circular green signal, unless prohibited by sign or otherwise directed by a pedestrian control signal as provided in Section 21456, may proceed across the roadway within any marked or unmarked crosswalk, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown.

(d) A pedestrian facing a green arrow turn signal, unless otherwise directed by a pedestrian control signal as provided in Section 21456, shall not enter the roadway.

(e) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (c) or (d) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 2. Section 21452 of the Vehicle Code is amended to read:

(a) A driver facing a steady circular yellow or yellow arrow signal is, by that signal, warned that the related green movement is ending or that a red indication will be shown immediately thereafter.

(b) A pedestrian facing a steady circular yellow or a yellow arrow signal, unless otherwise directed by a pedestrian control
signal as provided in Section 21456, is, by that signal, warned that there is insufficient time to cross the roadway and shall not enter the roadway.

(c) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (b) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 3. Section 21453 of the Vehicle Code is amended to read:

21453. (a) A driver facing a steady circular red signal alone shall stop at a marked limit line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain stopped until an indication to proceed is shown, except as provided in subdivision (b).

(b) Except when a sign is in place prohibiting a turn, a driver, after stopping as required by subdivision (a), facing a steady circular red signal, may turn right, or turn left from a one-way street onto a one-way street. A driver making that turn shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to any vehicle that has approached or is approaching so closely as to constitute an immediate hazard to the driver, and shall continue to yield the right-of-way to that vehicle until the driver can proceed with reasonable safety.

(c) A driver facing a steady red arrow signal shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another signal, shall stop at a clearly marked limit line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain stopped until an indication permitting movement is shown.

(d) Unless otherwise directed by a pedestrian control signal as provided in Section 21456, a pedestrian facing a steady circular red or red arrow signal shall not enter the roadway.
(e) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (d) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 4. Section 21456 of the Vehicle Code is amended to read:

21456. If a pedestrian control signal showing the words “WALK” or “WAIT” or “DON’T WALK” or other approved symbol is in place, the signal shall indicate as follows:

(a) A “WALK” or approved “Walking Person” symbol means a pedestrian facing the signal may proceed across the roadway in the direction of the signal, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown.

(b) A flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol with a “countdown” signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal may start to cross the roadway in the direction of the signal but must complete the crossing prior to the display of the steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol when the “countdown” ends.

(c) A steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol or a flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” without a “countdown” signal indicating the time remaining for a pedestrian to cross the roadway means a pedestrian facing the signal shall not start to cross the roadway in the direction of the signal, but any pedestrian who started the crossing during the display of the “WALK” or approved “Walking Person” symbol and who has partially completed crossing shall proceed to a sidewalk or safety zone or otherwise leave the roadway while the steady “WAIT” or “DON’T WALK” or approved “Upraised Hand” symbol is showing.

(d) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not
stop a pedestrian for a violation of this section unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 5. Section 21461.5 of the Vehicle Code is amended to read:

21461.5. (a) It shall be unlawful for any pedestrian to fail to obey any sign or signal erected or maintained to indicate or carry out the provisions of this code or any local traffic ordinance or resolution adopted pursuant to a local traffic ordinance, or to fail to obey any device erected or maintained pursuant to Section 21352.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (a) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 6. Section 21462 of the Vehicle Code is amended to read:

21462. (a) The driver of any a vehicle, the person in charge of any an animal, any a pedestrian, and the motorman motorist of any a streetcar shall obey the instructions of any an official traffic signal applicable to him them and placed as provided by law, unless otherwise directed by a police or traffic officer or when it is necessary for the purpose of avoiding a collision or in case of other emergency, subject to the exemptions granted by Section 21055.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (a) unless a reasonably careful person would realize there is an immediate
danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 7. Section 21950 of the Vehicle Code is amended to read:

21950. (a) The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter.

(b) This section does not relieve a pedestrian from the duty of using due care for his or her safety. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close as to constitute an immediate hazard. No pedestrian may unnecessarily stop or delay traffic while in a marked or unmarked crosswalk.

(c) The driver of a vehicle approaching a pedestrian within any marked or unmarked crosswalk shall exercise all due care and shall reduce the speed of the vehicle or take any other action relating to the operation of the vehicle as necessary to safeguard the safety of the pedestrian.

(d) Subdivision (b) does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within any marked crosswalk or within any unmarked crosswalk at an intersection.

(e) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of this section unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 8. Section 21953 of the Vehicle Code is amended to read:
21953. (a) Whenever any pedestrian crosses a roadway other than by means of a pedestrian tunnel or overhead pedestrian crossing, if a pedestrian tunnel or overhead crossing serves the place where the pedestrian is crossing the roadway, such pedestrian shall yield the right-of-way to all vehicles on the highway so near as to constitute an immediate hazard.

(b) This section shall not be construed to mean that a marked crosswalk, with or without a signal device, cannot be installed where a pedestrian tunnel or overhead crossing exists.

c (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (a) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 9. Section 21954 of the Vehicle Code is amended to read:

21954. (a) Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway so near as to constitute an immediate hazard.

(b) The provisions of this section shall not relieve the driver of a vehicle from the duty to exercise due care for the safety of any pedestrian upon a roadway.

(c) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (a) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.
SEC. 10. Section 21955 of the Vehicle Code is amended to read:

21955. (a) Between adjacent intersections controlled by traffic control signal devices or by police officers, pedestrians shall not cross the roadway at any place except in a crosswalk.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (a) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 11. Section 21956 of the Vehicle Code is amended to read:

21956. (a) No pedestrian may walk upon any roadway outside of a business or residence district otherwise than close to his or her the pedestrian’s left-hand edge of the roadway.

(b) A pedestrian may walk close to his or her their right-hand edge of the roadway if a crosswalk or other means of safely crossing the roadway is not available or if existing traffic or other conditions would compromise the safety of a pedestrian attempting to cross the road.

(c) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of this section unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 12. Section 21961 of the Vehicle Code is amended to read:
21961. (a) This chapter does not prevent local authorities from adopting ordinances prohibiting pedestrians from crossing roadways at other than crosswalks.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of an ordinance adopted by a local authority pursuant to this section, unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within the roadway.

SEC. 13. Section 21966 of the Vehicle Code is amended to read:

21966. (a) A pedestrian shall not proceed along a bicycle path or lane where there is an adjacent adequate pedestrian facility.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall not stop a pedestrian for a violation of subdivision (a) unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

(2) This subdivision does not relieve a pedestrian from the duty of using due care for their safety.

(3) This subdivision does not relieve a bicyclist from the duty of exercising due care for the safety of any pedestrian within the roadway.
Item B-10
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Policy and Management Analyst

DATE: March 8, 2022

SUBJECT: Assembly Bill 2264 (Bloom) – Pedestrian Crossing Signals

ATTACHMENTS: 1. Summary Memo – AB 2264
                2. Bill Text – AB 2264

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

Assembly Bill 2264 (Bloom) – Pedestrian Crossing Signals (AB 2264) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 2264 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 2264, the Liaisons may recommend the following actions:
- Oppose AB 2264;
- Support AB 2264;
- Support if amended AB 2264;
- Oppose unless amended AB 2264;
- Remain neutral; or
- Provide other direction to City staff.

Any position 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
Summary
Requires the Department of Transportation (Caltrans) and local authorities to update all pedestrian control signals to be timed to provide pedestrians with a three to seven-second head start to enter an intersection with a corresponding circular green signal in the same direction of travel.

The bill also specifies that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to current law.

Background and Existing Law
Existing law allows a pedestrian who is facing a pedestrian control signal showing a "WALK" or a "Walking Person" symbol, to proceed across the roadway in the direction of the signal but requires the pedestrian to yield the right-of-way to vehicles lawfully within the intersection at the time the signal begins to flash.

Under existing law, a pedestrian control signal showing a "WALK" or approved “Walking Person” symbol means a pedestrian may proceed across the roadway in the direction of the signal. Under existing law, a pedestrian facing a flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol with a “countdown” signal, as specified, means a pedestrian may start crossing the roadway in the direction of the signal but requires the pedestrian to finish crossing prior to the display of the steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol.

Caltrans is required to adopt rules and regulations prescribing uniform standards for traffic control devices in the state. Caltrans established the California Traffic Control Devices Committee (CTCDC) to fulfill this mandate. The CTCDC reviews rules and regulations and makes recommendations to the Caltrans director, who adopts and publishes them in the California Manual of Uniform Traffic Control Devices (MUTCD). The CTCDC has representation from Caltrans, the California Highway Patrol (CHP), and local governments, and consults with technical advisors.

In October 2021, the City of Beverly Hills joined key federal transportation agencies to celebrate National Pedestrian Safety Month. The City of Beverly Hills has initiated numerous projects aimed at improving the pedestrian safety, including:

- Installing additional “Leading Pedestrian Interval” (LPI) timing throughout City traffic lights which allow for pedestrians to get a four-second head start to begin crossing before drivers receive a green light, increasing visibility and prioritizing pedestrians in the crosswalk, like the provisions of AB 2264 (Bloom).
• Designing pedestrian crossing enhancements with curb extensions and flashing beacons throughout the city (construction to begin in 2022).

• Implementing the “Complete Streets Plan” and Metro’s “First and Last Mile Plans” to improve pedestrian access and wayfinding to the future D (Purple) Line Stations.

• Continuing the City’s “Neighborhood Slow Streets Program” which identifies neighborhoods throughout the city in which the entire street width can be utilized for walking, cycling and other modes of non-motorized transportation.

• Adding additional bike parking corrals which free up sidewalk space for improved pedestrian travel (the city has already added five new on-street bike parking corrals on South Beverly Drive).

In 2022, the city will also participate in its very first CicLAvia in Beverly Hills which will open a segment of North Santa Monica Boulevard for walking, cycling and other modes of non-motorized transportation.

**Status of Legislation**
Assemblyman Bloom introduced AB 2264 on February 16, 2022. This measure will be eligible for its first hearing in an Assembly policy Committee on or after March 19, 2022. The bill has not been referred to a policy committee yet.

**Support**
None identified at this time.

**Opposition**
None identified at this time.
Attachment 2
An act to add Section 21368.5 to the Vehicle Code, relating to pedestrians.

LEGISLATIVE COUNSEL’S DIGEST

AB 2264, as introduced, Bloom. Pedestrian crossing signals.

Under existing law, a pedestrian control signal showing a “WALK” or approved “Walking Person” symbol means a pedestrian may proceed across the roadway in the direction of the signal. Under existing law, a pedestrian facing a flashing “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol with a “countdown” signal, as specified, means a pedestrian may start crossing the roadway in the direction of the signal but requires the pedestrian to finish crossing prior to the display of the steady “DON’T WALK” or “WAIT” or approved “Upraised Hand” symbol, as specified.

This bill would require the Department of Transportation and local authorities to update all pedestrian control signals to operate giving a pedestrian a head start between 3 to 7 seconds to enter an intersection with a corresponding circular green signal, as specified.

Because this would increase the level of services imposed on certain local governments, this bill would impose a state-mandated local program.

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


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

SECTION 1. Section 21368.5 is added to the Vehicle Code, to read:

21368.5. The Department of Transportation and local authorities shall update all pedestrian control signals to operate using a leading pedestrian interval of three to seven seconds to give pedestrians a head start when entering an intersection with a corresponding circular green signal in the same direction of travel.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
Item B-11
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 2336 (Friedman) - Vehicles: Speed Safety System Pilot Program (AB 2336) involves a policy matter that has a nexus to the City’s adopted Legislative Platform language. Specifically, the following statement applies to AB 2336:

- Support legislation, which would allow local jurisdictions to install speed enforcement cameras.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 2336 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 2336, the Liaisons may recommend the following actions:

- Oppose AB 2336;
- Support AB 2336;
- Support if amended AB 2336;
- Oppose unless amended AB 2336;
- Remain neutral; or
- Provide other direction to City staff.

Should the Liaisons recommend a position of support, 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 1, 2022

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 2336 (Friedman and Ting) Vehicles: Speed Safety System Pilot Program

Introduction and Background
On February 16, Assemblymembers Laura Friedman and Phil Ting introduced AB 2336, the Speed Safety Cameras Pilot Program, which creates a five-year pilot program authorizing the cities of Los Angeles, San Francisco, San Jose, Oakland and two unspecified cities to use speed cameras to enforce speed limits on their highest injury streets, in school zones, and on streets with a history of speed contests and motor vehicle exhibitions of speed.

Specifically, this bill:
1) Authorizes, until January 1, 2028, the Cities of Los Angeles, Oakland, San Jose, two unspecified cities, and the City and County of San Francisco, to establish the Speed Safety System Pilot Program.
2) Require the participating cities or city and county to adopt a Speed Safety System Use Policy and a Speed Safety System Impact Report before implementing the program, and would require the city or city and county to engage in a public information campaign at least 30 days before implementation of the program, including information relating to when the systems would begin detecting violations and where the systems would be utilized.
3) Require the participating cities or city and county to issue warning notices rather than notices of violations for violations detected within the first 30 calendar days of the program.
4) The bill would designate all photographic, video, or other visual or administrative records made by a system as confidential and would only authorize public agencies to use and allow access to these records for specified purposes.
5) Specifies that any violation of a speed law recorded by a speed safety system authorized by these provisions would be subject only to the provided civil penalties.
6) Sets fines of $50, $100, $200 or $500 for breaking speed limit by 11 mph, 16 mph, 26 mph, or going over 100 mph. Requires cities to reduce fines for those under the poverty line by 80% or offer community service, and requires cities to reduce fines by 50% for individuals 200% above the poverty level.
7) Requires revenues generated by the tickets to spent on administering the program and pay for traffic-calming measures.

Status of Legislation
AB 2336 (Friedman and Ting) was introduced in the Assembly on February 16, 2022. The bill has not been referred to a policy committee yet.
Support
None identified at this time.

Opposition
None identified at this time.
Attachment 2
An act to amend, repeal, and add Section 70615 of the Government Code, and to amend, repeal, and add Section 9800 of, and to add and repeal Article 3 (commencing with Section 22425) of Chapter 7 of Division 11 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL’S DIGEST

AB 2336, as introduced, Friedman. Vehicles: Speed Safety System Pilot Program.

Existing law establishes a basic speed law that prohibits a person from driving a vehicle upon a highway at a speed greater than is reasonable or prudent given the weather, visibility, traffic, and highway conditions, and in no event at a speed that endangers the safety of persons or property.

This bill would authorize, until January 1, 2028, the Cities of Los Angeles, Oakland, San Jose, ____, and ____, and the City and County of San Francisco, to establish the Speed Safety System Pilot Program if the system meets specified requirements. The bill would require the participating cities or city and county to adopt a Speed Safety System Use Policy and a Speed Safety System Impact Report before implementing the program, and would require the city or city and county to engage in a public information campaign at least 30 days before implementation of the program, including information relating to when the systems would begin detecting violations and where the systems would be utilized. The bill would require the participating cities or city and county to issue warning notices rather than notices of violations.
for violations detected within the first 30 calendar days of the program. The bill would require the participating cities or city and county to develop uniform guidelines for, among other things, the processing and storage of confidential information. The bill would designate all photographic, video, or other visual or administrative records made by a system as confidential, and would only authorize public agencies to use and allow access to these records for specified purposes.

This bill would specify that any violation of a speed law recorded by a speed safety system authorized by these provisions would be subject only to the provided civil penalties. The bill would, among other things, provide for the issuance of a notice of violation, an initial review, an administrative hearing, and an appeals process, as specified, for a violation under this program. The bill would require any program created pursuant to these provisions to offer a diversion program for indigent speed safety system violation recipients, as specified. The bill would require a city or city and county participating in the pilot program to submit reports to the Legislature, as specified, to evaluate the speed safety system to determine the system’s impact on street safety and economic impact on the communities where the system is utilized.

Existing law establishes a $25 filing fee for specified appeals and petitions.

This bill would require a $25 filing fee for an appeal challenging a notice of violation issued as a result of a speed safety system until January 1, 2028.

Existing law establishes that payments for specified charges and penalties, including penalties for offenses relating to the parking of a vehicle, constitute a lien on the vehicle and on any other vehicle owned by the owner of that vehicle.

This bill, until January 1, 2028, would also include as constituting a lien on those vehicles payments for penalties for offenses detected by a speed safety system for which a notice of violation has been served on the owner or recipient of a reissued citation and any delinquent fees added to the penalty.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Cities of Los Angeles, Oakland, San Jose, ____, and ____, and the City and County of San Francisco.

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

This bill would make legislative findings to that effect.


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

1   SECTION 1. The Legislature finds and declares all of the following:
2   (a) Speed is a major factor in traffic collisions that result in fatalities or injuries.
3   (b) State and local agencies employ a variety of methods to reduce speeding, including traffic engineering, education, and enforcement.
4   (c) Traffic speed enforcement is critical to efforts in California to reduce factors that contribute to traffic collisions that result in fatalities or injuries.
5   (d) However, traditional enforcement methods have had a well-documented disparate impact on communities of color, and implicit or explicit racial bias in police traffic stops puts drivers of color at risk.
6   (e) Additional tools, including speed safety systems, are available to assist cities and the state in addressing excessive speeding and speed-related crashes.
7   (f) Speed safety systems offer a high rate of detection, and, in conjunction with education and traffic engineering, can significantly reduce speeding, improve traffic safety, and prevent traffic-related fatalities and injuries, including roadway worker fatalities.
8   (g) Multiple speed safety system programs implemented in other states and cities outside of California have proven successful in reducing speeding and addressing traffic safety concerns.
9   (h) The Transportation Agency’s “CalSTA Report of Findings: AB 2363 Zero Traffic Fatalities Task Force,” issued in January 2020, concluded that international and domestic studies show that speed safety systems are an effective countermeasure to speeding that can deliver meaningful safety improvements, and identified several policy considerations that speed safety system program guidelines could consider.
In a 2017 study, the National Transportation Safety Board (NTSB) analyzed studies of speed safety system programs, and found they offered significant safety improvements in the forms of reduction in mean speeds, reduction in the likelihood of speeding more than 10 miles per hour over the posted speed limit, and reduction in the likelihood that a crash involved a severe injury or fatality. The same study recommended that all states remove obstacles to speed safety system programs to increase the use of this proven approach, and notes that programs should be explicitly authorized by state legislation without operational and location restrictions.

The National Highway Traffic Safety Administration (NHTSA) gives speed safety systems the maximum 5-star effectiveness rating. NHTSA issued speed enforcement camera systems operational guidelines in 2008, and is expected to release revised guidelines in 2021 that should further inform the development of state guidelines.

Speed safety systems can advance equity by improving reliability and fairness in traffic enforcement while making speeding enforcement more predictable, effective, and broadly implemented, all of which helps change driver behavior.

Enforcing speed limits using speed safety systems on streets where speeding drivers create dangerous roadway environments is a reliable and cost-effective means to prevent further fatalities and injuries.

SEC. 2. Section 70615 of the Government Code is amended to read:

70615. The fee for filing any of the following appeals to the superior court is twenty-five dollars ($25):

(a) An appeal of a local agency’s decision regarding an administrative fine or penalty under Section 53069.4.

(b) An appeal under Section 40230 of the Vehicle Code of an administrative agency’s decision regarding a parking violation.

(c) An appeal under Section 99582 of the Public Utilities Code of a hearing officer’s determination regarding an administrative penalty for fare evasion or a passenger conduct violation.

(d) A petition under Section 186.35 of the Penal Code challenging a law enforcement agency’s inclusion of a person’s information in a shared gang database.
(e) An appeal under Section 22428 of the Vehicle Code of a hearing officer’s determination regarding a civil penalty for an automated speed violation, as defined in Section 22425 of the Vehicle Code.

(f) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 3. Section 70615 is added to the Government Code, to read:

70615. The fee for filing any of the following appeals to the superior court is twenty-five dollars ($25):

(a) An appeal of a local agency’s decision regarding an administrative fine or penalty under Section 53069.4.

(b) An appeal under Section 40230 of the Vehicle Code of an administrative agency’s decision regarding a parking violation.

(c) An appeal under Section 99582 of the Public Utilities Code of a hearing officer’s determination regarding an administrative penalty for fare evasion or a passenger conduct violation.

(d) A petition under Section 186.35 of the Penal Code challenging a law enforcement agency’s inclusion of a person’s information in a shared gang database.

(e) This section shall become operative on January 1, 2028.

SEC. 4. Section 9800 of the Vehicle Code is amended to read:

9800. (a) Payments for any of the following, and any interest, penalties, or service fees added thereto, required to register or transfer the registration of a vehicle, constitute a lien on the vehicle on which they are due or which was involved in the offense, and on any other vehicle owned by the owner of that vehicle:

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

(5) Penalties for offenses relating to the standing or parking of a vehicle for which a notice of parking violation has been served on the owner, and any administrative service fee added to the penalty.

(6) Any court-imposed fine or penalty assessment, and any administrative service fee added thereto, which is subject to collection by the department.

(7) Penalties for offenses detected by a speed safety system, as defined in Section 22425, for which a notice of violation has been

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served on the owner or recipient of a reissued citation and any
delinquent fees added to the penalty.

(b) Notwithstanding subdivision (a), if a person is cited for a
foreign registered auxiliary dolly, semitrailer, or trailer having
been operated without current year registration or valid California
permits or registration, an amount equal to the minimum
registration fees or transfer fees, and any penalty added thereto,
from the date they became due, shall, by election of the power unit
operator, constitute a lien upon the California registered power
unit which was pulling the dolly, semitrailer, or trailer. However,
this subdivision is not applicable if the citation is issued at a scale
operated by the Department of the California Highway Patrol and
registration for the vehicle can be issued there immediately upon
payment of the fees due.

(c) Every lien arising under this section expires three years from
the date the fee, tax, or parking penalty first became due unless
the lien is perfected pursuant to subdivision (d).

(d) A lien is perfected when a notice is mailed to the registered
and legal owners at the addresses shown in the department’s
records and the lien is recorded on the electronic vehicle
registration records of the department. A perfected lien shall expire
five years from the date of perfection.

(e) Employees and members of the Department of the California
Highway Patrol assigned to commercial vehicle scale facilities
may possess and sell trip permits approved by the Department of
Motor Vehicles.

(f) This section shall remain in effect only until January 1, 2028,
and as of that date is repealed, unless a later enacted statute that
is enacted before January 1, 2028, deletes or extends that date.

SEC. 5. Section 9800 is added to the Vehicle Code, to read:

9800. (a) Payments for any of the following, and any interest,
penalties, or service fees added thereto, required to register or
transfer the registration of a vehicle, constitute a lien on the vehicle
on which they are due or which was involved in the offense, and
on any other vehicle owned by the owner of that vehicle:

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.
(5) Penalties for offenses relating to the standing or parking of a vehicle for which a notice of parking violation has been served on the owner, and any administrative service fee added to the penalty.

(6) Any court-imposed fine or penalty assessment, and any administrative service fee added thereto, which is subject to collection by the department.

(b) Notwithstanding subdivision (a), if a person is cited for a foreign registered auxiliary dolly, semitrailer, or trailer having been operated without current year registration or valid California permits or registration, an amount equal to the minimum registration fees or transfer fees, and any penalty added thereto, from the date they became due, shall, by election of the power unit operator, constitute a lien upon the California registered power unit which was pulling the dolly, semitrailer, or trailer. However, this subdivision is not applicable if the citation is issued at a scale operated by the Department of the California Highway Patrol and registration for the vehicle can be issued there immediately upon payment of the fees due.

(c) Every lien arising under this section expires three years from the date the fee, tax, or parking penalty first became due unless the lien is perfected pursuant to subdivision (d).

(d) A lien is perfected when a notice is mailed to the registered and legal owners at the addresses shown in the department’s records and the lien is recorded on the electronic vehicle registration records of the department. A perfected lien shall expire five years from the date of perfection.

(e) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities may possess and sell trip permits approved by the Department of Motor Vehicles.

(f) This section shall become operative on January 1, 2028.

SEC. 6. Article 3 (commencing with Section 22425) is added to Chapter 7 of Division 11 of the Vehicle Code, to read:

Article 3. Speed Safety System Pilot Program

22425. (a) As used in this article, the following definitions apply:
(1) “Automated speed violation” means a violation of a speed law detected by a speed safety system operated pursuant to this article.

(2) “Indigent” has the same meaning as defined in subdivision (c) of Section 40220.

(3) “Local department of transportation” means a city or city and county’s department of transportation or, if a city or city and county does not have a department of transportation, their administrative division, including, but not limited to, a public works department that administers transportation and traffic matters under this code.

(4) “Speed safety system” or “system” means a fixed or mobile radar or laser system or any other electronic device that utilizes automated equipment to detect a violation of speeding laws and is designed to obtain a clear photograph, video recording, or other visual image of a vehicle license plate.

(b) (1) The Cities of Los Angeles, Oakland, San Jose, _____, and _____, and the City and County of San Francisco, may establish a program utilizing a speed safety system for speed enforcement, to be operated by a local department of transportation, in the following areas:

(A) On a street meeting the standards of a safety corridor under Section 22358.7.

(B) On a street a local authority has determined to have had a high number of incidents for motor vehicle speed contests or motor vehicle exhibitions of speed.

(C) School zones, subject to subdivision (d).

(2) A municipality operating a speed safety system pilot program under this article may have speed safety systems operational on no more than 15 percent of the municipality’s streets at any time during the pilot program.

(3) (A) A municipality operating a speed safety pilot program under this article may have the following number of speed safety systems operational at any time during the pilot program:

(i) For a jurisdiction with a population over 3,000,000, no more than 125 systems.

(ii) For a jurisdiction with a population between 800,000 and 3,000,000, inclusive, no more than 33 systems.

(iii) For a jurisdiction with a population of 300,000 up to 800,000, no more than 18 systems.
(iv) For a jurisdiction with a population of less than 300,000, no more than nine systems.

(B) For purposes of this paragraph, a “speed safety system” may include up to two fixed or mobile radar or laser systems at the same location in order to detect speed violations on two-way or multidirectional streets.

(c) The Speed Safety System Pilot Program shall not be operated on any California state route, including all freeways and expressways, United States Highway, Interstate Highway or any public road in an unincorporated county where the Commissioner of the California Highway Patrol has full responsibility and primary jurisdiction for the administration and enforcement of the laws, and for the investigation of traffic accidents, pursuant to Section 2400.

(d) If a school zone has a posted speed limit of 30 miles per hour or higher when children are not present, a city or county may operate a speed safety system two hours before the regular school session begins and two hours after regular school session concludes.

(e) A speed safety system for speed limit enforcement may be utilized pursuant to subdivision (b) if the program meets all of the following requirements:

(1) Clearly identifies the presence of the speed safety system by signs stating “Photo Enforced,” along with the posted speed limit within 500 feet of the system. The signs shall be visible to traffic traveling on the street from the direction of travel for which the system is utilized, and shall be posted at all locations as may be determined necessary by the Department of Transportation through collaboration with the California Traffic Control Devices Committee.

(2) Identifies the streets or portions of streets that have been approved for enforcement using a speed safety system and the hours of enforcement on the municipality’s internet website, which shall be updated whenever the municipality changes locations of enforcement.

(3) Ensures that the speed safety system is regularly inspected and certifies that the system is installed and operating properly. Each camera unit shall be calibrated in accordance with the manufacturer’s instructions, and at least once per year by an independent calibration laboratory. Documentation of the regular
inspection, operation, and calibration of the system shall be retained until the date on which the system has been permanently removed from use.

(4) Utilizes fixed or mobile speed safety systems that provide real-time notification when violations are detected.

(f) Prior to enforcing speed laws utilizing speed safety systems, the city or city and county shall do both of the following:

(1) Administer a public information campaign for at least 30 calendar days prior to the commencement of the program, which shall include public announcements in major media outlets and press releases. The public information campaign shall include the draft Speed Safety System Use Policy pursuant to subdivision (g), the Speed Safety System Impact Report pursuant to subdivision (h), information on when systems will begin detecting violations, the streets, or portions of streets, where systems will be utilized, and the city’s internet website, where additional information about the program can be obtained. Notwithstanding the above, no further public announcement by the municipality shall be required for additional systems that may be added to the program.

(2) Issue warning notices rather than notices of violation for violations detected by the speed safety systems during the first 30 calendar days of enforcement under the program. If additional systems are utilized on additional streets after the initial program implementation, the city or city and county shall issue warning notices rather than notices of violation for violations detected by the new speed safety systems during the first 30 calendar days of enforcement for the additional streets added to the program.

(g) The local governing body shall adopt a Speed Safety System Use Policy before entering into an agreement regarding a speed safety system, purchasing or leasing equipment for a program, or implementing a program. The Speed Safety System Use Policy shall include the specific purpose for the system, the uses that are authorized, the rules and processes required prior to that use, and the uses that are prohibited. The policy shall include the data or information that can be collected by the speed safety system and the individuals who can access or use the collected information, and the rules and processes related to the access or use of the information. The policy shall also include provisions for protecting data from unauthorized access, data retention, public access, third-party data sharing, training, auditing, and oversight to ensure
compliance with the Speed Safety System Use Policy. The Speed Safety System Use Policy shall be made available for public review, including, but not limited to, by posting it on the local governing body’s internet website at least 30 calendar days prior to adoption by the local governing body.

(h) (1) The local governing body also shall approve a Speed Safety System Impact Report prior to implementing a program. The Speed Safety System Impact Report shall include all of the following information:

(A) Assessment of potential impact of the speed safety system on civil liberties and civil rights and any plans to safeguard those public rights.

(B) Description of the speed safety system and how it works.

(C) Fiscal costs for the speed safety system, including program establishment costs, ongoing costs, and program funding.

(D) If potential deployment locations of systems are predominantly in low-income neighborhoods, a determination of why these locations experience high fatality and injury collisions due to unsafe speed.

(E) Locations where the system may be deployed and traffic data for these locations.

(F) Proposed purpose of the speed safety system.

(2) The Speed Safety System Impact Report shall be made available for public review at least 30 calendar days prior to adoption by the governing body.

(3) The local governing body shall consult and work collaboratively with relevant local stakeholder organizations, including racial equity, privacy protection, and economic justice groups, in developing the Speed Safety System Use Policy and Speed Safety System Impact Report.

(i) The municipality shall develop uniform guidelines for both of the following:

(1) The screening and issuing of notices of violation.

(2) The processing and storage of confidential information and procedures to ensure compliance with confidentiality requirements.

(j) Notices of violation issued pursuant to this section shall include a clear photograph, video recording, or other visual image of the license plate and rear of the vehicle only, the Vehicle Code violation, the camera location, and the date and time when the
violation occurred. Notices of violation shall exclude images of the rear window area of the vehicle.

(k) The photographic, video, or other visual evidence stored by a speed safety system does not constitute an out-of-court hearsay statement by a declarant under Division 10 (commencing with Section 1200) of the Evidence Code.

(l) (1) Notwithstanding Sections 6253 and 6262 of the Government Code, or any other law, photographic, video, or other visual or administrative records made by a system shall be confidential. Public agencies shall use and allow access to these records only for the purposes authorized by this article or to assess the impacts of the system.

(2) Confidential information obtained from the Department of Motor Vehicles for the administration of speed safety systems and enforcement of this article shall be held confidential, and shall not be used for any other purpose.

(3) Except for court records described in Section 68152 of the Government Code, or as provided in paragraph (4), the confidential records and evidence described in paragraphs (1) and (2) may be retained for up to 60 days after final disposition of the notice of violation. The municipality may adopt a retention period of less than 60 days in the Speed Safety System Use Policy. Administrative records described in paragraph (1) may be retained for up to 120 days after final disposition of the notice of violation. Notwithstanding any other law, the confidential records and evidence shall be destroyed in a manner that maintains the confidentiality of any person included in the record or evidence.

(4) Notwithstanding Section 26202.6 of the Government Code, photographic, video, or other visual evidence that is obtained from a speed safety system that does not contain evidence of a speeding violation shall be destroyed within five business days after the evidence was first obtained. The use of facial recognition technology in conjunction with a speed safety system shall be prohibited.

(5) Information collected and maintained by a municipality using a speed safety system shall only be used to administer an program, and shall not be disclosed to any other persons, including, but not limited to, any other state or federal government agency or official for any other purpose, except as required by state or
federal law, court order, or in response to a subpoena in an individual case or proceeding.

(m) Notwithstanding subdivision (f), the registered owner or an individual identified by the registered owner as the driver of the vehicle at the time of the alleged violation shall be permitted to review the photographic, video, or visual evidence of the alleged violation.

(n) A contract between the municipality and a manufacturer or supplier of speed safety systems shall allow the local authority to purchase materials, lease equipment, and contract for processing services from the manufacturer or supplier based on the services rendered on a monthly schedule or another schedule agreed upon by the municipality and contractor. The contract shall not include provisions for payment or compensation based on the number of notices of violation issued by a designated municipal employee, or as a percentage of revenue generated, from the use of the system. The contract shall include a provision that all data collected from the speed safety systems is confidential, and shall prohibit the manufacturer or supplier of speed safety systems from sharing, repurposing, or monetizing collected data, except as specifically authorized in this article. The municipality shall oversee and maintain control over all enforcement activities, including the determination of when a notice of violation should be issued.

(o) Notwithstanding subdivision (n), a municipality may contract with a vendor for the processing of notices of violation after a designated municipal employee has issued a notice of violation. The vendor shall be a separate legal and corporate entity from, and unrelated or affiliated in any manner with, the manufacturer or supplier of speed safety systems used by the municipality. Any contract between the municipality and a vendor to provide processing services may include a provision for the payment of compensation based on the number of notices of violation processed by the vendor.

(p) (1) A speed safety system shall no longer be operated on any given street if within the first 18 months of installation of a system, at least one of the following thresholds has not been met:

(A) Percentage of automated speed violations decreased by at least 25 percent.

(B) Percentage of violators who received two or more violations decreased by at least 50 percent.
This subdivision does not apply if a city or city and county adds traffic-calming measures to the street. “Traffic-calming measures” include, but are not limited to:

- Bicycle lanes.
- Chicanes.
- Chokers.
- Curb extensions.
- Median islands.
- Raised crosswalks.
- Road diets.
- Roundabouts.
- Speed humps or speed tables.
- Traffic circles.

A city or city and county may continue to operate a speed safety system with a fixed or mobile vehicle speed feedback sign while traffic-calming measures are being planned or constructed, but shall halt their use if construction has not begun within two years.

If the percentage of violations has not decreased by the metrics identified pursuant to paragraph (1) within one year after traffic-calming measures have completed construction, a city or county shall either construct additional traffic-calming measures or cease operation of the system on that street.

Notwithstanding any other law, a violation of Section 22350, or any other speed law pursuant to this chapter that is recorded by a speed safety system authorized pursuant to Section 22425 shall be subject only to a civil penalty, as provided in subdivision (c), and shall not result in the department suspending or revoking the privilege of a violator to drive a motor vehicle or in a violation point being assessed against the violator.

The speed safety system shall capture images of the rear license plate of vehicles that are traveling 11 miles per hour or more over the posted speed limit and notices of violation shall only be issued to vehicles based on that evidence.

A civil penalty shall be assessed as follows:

1. Fifty dollars ($50) for a speed violation from 11 up to 15 miles per hour over the posted speed limit.
2. One hundred dollars ($100) for a speed violation from 16 up to 26 miles per hour over the posted speed limit.
(3) Two hundred dollars ($200) for a speed violation from 25 up to 100 miles per hour over the posted speed limit.

(4) Five hundred dollars ($500) for a speed violation 100 miles per hour or greater over the posted speed limit.

(d) A civil penalty shall not be assessed against an authorized emergency vehicle.

(e) The written notice of violation shall be issued to the registered owner of the vehicle within 15 calendar days of the date of the violation. The notice of violation shall include all of the following information:

(1) The violation, including reference to the speed law that was violated.

(2) The date, approximate time, and location where the violation occurred.

(3) The vehicle license number and the name and address of the registered owner of the vehicle.

(4) A statement that payment is required to be made no later than 30 calendar days from the date of mailing of the notice of violation, or that the violation may be contested pursuant to Section 22427.

(5) The amount of the civil penalty due for that violation and the procedures for the registered owner, lessee, or rentee to pay the civil penalty or to contest the notice of violation.

(6) An affidavit of nonliability, and information of what constitutes nonliability, information as to the effect of executing the affidavit, and instructions for returning the affidavit to the processing agency. If the affidavit of nonliability is returned to the processing agency within 30 calendar days of the mailing of the notice of violation, together with proof of a written lease or rental agreement between a bona fide rental or leasing company and its customer that identifies the rentee or lessee, the processing agency shall serve or mail a notice of violation to the rentee or lessee identified in the affidavit of nonliability.

(f) Mobile radar or laser systems shall not be used until at least two years after the installation of the first fixed radar or laser system.

(g) (1) Revenues derived from any program utilizing a speed safety system for speed limit enforcement shall first be used to recover program costs. Program costs include, but are not limited to, the construction of traffic calming measures for the purposes
of complying with subdivision (p) of Section 22425, the installation of speed safety systems, the adjudication of violations, and reporting requirements as specified in this section.

(2) Jurisdictions shall maintain their existing commitment of local funds for traffic-calming measures in order to remain authorized to participate in the pilot program, and shall annually expend not less than the annual average of expenditures for traffic-calming measures during the 2016–17, 2017–18, and 2018–19 fiscal years. For purposes of this subdivision, in calculating average expenditures on traffic-calming measures, restricted funds that may not be available on an ongoing basis, including those from voter-approved bond issuances or tax measures, shall not be included. Any excess revenue shall be used for traffic calming measures within three years. If traffic-calming measures are not planned or constructed after the third year, excess revenue shall revert to the Active Transportation Program established pursuant to Chapter 8 (commencing with Section 2380) of the Streets and Highways Code, to be allocated by the California Transportation Commission pursuant to Section 2381 of the Streets and Highways Code.

22427. (a) For a period of 30 calendar days from the mailing of a notice of violation, a person may request an initial review of the notice by the issuing agency. The request may be made by telephone, in writing, electronically, or in person. There shall be no charge for this review. If, following the initial review, the issuing agency is satisfied that the violation did not occur, or that extenuating circumstances make dismissal of the notice of violation appropriate in the interest of justice, the issuing agency shall cancel the notice of violation. The issuing agency shall advise the processing agency, if any, of the cancellation. The issuing agency or the processing agency shall mail the results of the initial review to the person contesting the notice, and, if cancellation of the notice does not occur following that review, include a reason for that denial, notification of the ability to request an administrative hearing, and notice of the procedure adopted pursuant to paragraph (2) of subdivision (b) for waiving prepayment of the civil penalty based upon an inability to pay.

(b) (1) If the person contesting the notice of violation is dissatisfied with the results of the initial review, the person may, no later than 21 calendar days following the mailing of the results
of the issuing agency’s initial review, request an administrative hearing of the violation. The request may be made by telephone, in writing, electronically, or in person.

(2) The person requesting an administrative hearing shall pay the amount of the civil penalty to the processing agency. The issuing agency shall adopt a written procedure to allow a person to request an administrative hearing without payment of the civil penalty upon satisfactory proof of an inability to pay the amount due.

(3) The administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.

(c) The administrative hearing process shall include all of the following:

(1) The person requesting a hearing shall have the choice of a hearing by mail, video conference, or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency.

(2) If the person requesting a hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility for the automated speed violation without the appointment of a guardian. The processing agency may proceed against the minor in the same manner as against an adult.

(3) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested automated speed violations.

(4) (A) The issuing agency’s governing body or chief executive officer shall appoint or contract with qualified independent examiners or administrative hearing providers that employ qualified independent examiners to conduct the administrative hearings. Examiners shall demonstrate the qualifications, training, and objectivity necessary to conduct a fair and impartial review. The examiner shall be separate and independent from the notice of violation collection or processing function. An examiner’s continued employment, performance evaluation, compensation, and benefits shall not, directly or indirectly, be linked to the amount
of civil penalties collected by the examiner or the number or
percentage of violations upheld by the examiner.

(B) (i) Examiners shall have a minimum of 20 hours of training.
The examiner is responsible for the costs of the training. The
issuing agency may reimburse the examiner for those costs.
Training may be provided through any of the following:

(I) An accredited college or university.

(II) A program conducted by the Commission on Peace Officer
Standards and Training.

(III) A program conducted by the American Arbitration
Association or a similar organization.

(IV) Any program approved by the governing body or chief
executive officer of the issuing agency, including a program
developed and provided by, or for, the agency.

(ii) Training programs may include topics relevant to the
administrative hearing, including, but not limited to, applicable
laws and regulations, enforcement procedures, due process,
evaluation of evidence, hearing procedures, and effective oral and
written communication. Upon the approval of the governing body
or chief executive officer of the issuing agency, up to 12 hours of
relevant experience may be substituted for up to 12 hours of
training. Up to eight hours of the training requirements described
in this subparagraph may be credited to an individual, at the
discretion of the governing body or chief executive officer of the
issuing agency, based upon training programs or courses described
in this subparagraph that the individual attended within the last
five years.

(5) The designated municipal employee who issues a notice of
violation shall not be required to participate in an administrative
hearing. The issuing agency shall not be required to produce any
evidence other than, in proper form, the notice of violation or copy
thereof, including the photograph, video, or other visual image of
the vehicle’s license plate, and information received from the
Department of Motor Vehicles identifying the registered owner
of the vehicle. The documentation in proper form shall be prima
facie evidence of the violation.

(6) The examiner’s final decision following the administrative
hearing may be personally delivered to the person by the examiner
or sent by first-class mail.
(7) Following a determination by the examiner that a person has committed the violation, the examiner may, consistent with the written guidelines established by the issuing agency, allow payment of the civil penalty in installments, or an issuing agency may allow for deferred payment or payments in installments, if the person provides evidence satisfactory to the examiner or the issuing agency, as the case may be, of an inability to pay the civil penalty in full. If authorized by the governing body of the issuing agency, the examiner may permit the performance of community service in lieu of payment of the civil penalty.

(8) If a notice of violation is dismissed following an administrative hearing, any civil penalty, if paid, shall be refunded by the issuing agency within 30 days.

22428. (a) Within 30 days after personal delivery or mailing of the final decision described in subdivision (c) of Section 22427, the contestant may seek review by filing an appeal to the superior court, where the case shall be heard de novo, except that the contents of the processing agency’s file in the case on appeal shall be received in evidence. A copy of the notice of violation shall be admitted into evidence as prima facie evidence of the facts stated in the notice. A copy of the notice of appeal shall be served in person or by first-class mail upon the processing agency by the contestant. For purposes of computing the 30-day period, Section 1013 of the Code of Civil Procedure shall be applicable. A proceeding under this subdivision is a limited civil case.

(b) The fee for filing the notice of appeal shall be as provided in Section 70615 of the Government Code. The court shall request that the issuing agency’s file on the case be forwarded to the court, to be received within 15 calendar days of the request. The court shall notify the contestant of the appearance date by mail or personal delivery. The court shall retain the fee under Section 70615 of the Government Code regardless of the outcome of the appeal. If the appellant prevails, this fee and any payment of the civil penalty shall be promptly refunded by the issuing agency in accordance with the judgment of the court.

(c) The conduct of the hearing on appeal under this section is a subordinate judicial duty that may be performed by a commissioner or other subordinate judicial officer at the direction of the presiding judge of the court.
(d) If a notice of appeal of the examiner’s decision is not filed within the period set forth in subdivision (a), the decision shall be deemed final.

(e) If the civil penalty has not been paid and the decision is adverse to the contestant, the processing agency may, promptly after the decision becomes final, proceed to collect the civil penalty under Section 22426.

22429. (a) A city or city and county shall offer a diversion program for indigent speed safety system violation recipients, to perform community service in lieu of paying the penalty for an automated speed system violation.

(b) A city or city and county shall offer the ability for indigent speed safety system violation recipients to pay applicable fines and penalties over a period of time under a payment plan with monthly installments of no more than twenty-five dollars ($25) and shall limit the processing fee to participate in a payment plan to five dollars ($5) or less.

(c) Notwithstanding subdivisions (a) and (b), a city or city and county shall reduce the applicable fines and penalties by 80 percent for indigent persons, and by 50 percent for individuals 200 percent above the federal poverty level.

22430. A city or city and county shall each develop and submit to their respective governing body a Speed Safety System Report, two years after initial implementation of the program and at the end of the pilot program that includes all of the following information:

(a) A description of how the speed safety system was used.

(b) Whether and how often any system data was shared with outside entities, the name of any recipient entity, the type or types of data disclosed, and the legal reason for the disclosure.

(c) A summary of any community complaints or concerns about the speed safety system.

(d) Results of any internal audits, information about any violations of the Speed Safety System Use Policy, and any actions taken in response.

(e) Information regarding the impact the speed safety system has had on the streets where the speed safety system was deployed.

(f) A summary of any public record act requests.

(g) A list of system locations that did not meet the threshold for continuance of a program pursuant to paragraph (1) of subdivision
(p) of Section 22425, and whether further traffic-calming measures are in planning or construction, or there is a decision to halt operation of the program in those locations.

22431. Any city or city and county that used speed safety systems shall, on or before March 1 of the fifth year in which the system has been implemented, submit to the transportation committees of the Legislature an evaluation of the speed safety system in their respective jurisdictions to determine the system’s impact on street safety and the system’s economic impact on the communities where the system is utilized. The report shall be made available on the internet websites of the respective jurisdictions and shall include all of the following information:

(a) Data, before and after implementation of the system, on the number and proportion of vehicles speeding from 11 to 19 miles per hour over the legal speed limit, inclusive, from 20 to 29 miles per hour over the legal speed limit, inclusive, from 30 to 39 miles per hour over the legal speed limit, inclusive, and every additional 10 miles per hour increment thereafter on a street or portion of a street in which an system is used to enforce speed limits. To the extent feasible, the data should be collected at the same time of day, day of week, and location.

(b) The number of notices of violation issued under the program by month and year, the corridors or locations where violations occurred, and the number of vehicles with two or more violations in a monthly period and a yearly period.

(c) Data, before and after implementation of the system, on the number of traffic collisions that occurred where speed safety systems are used, relative to citywide data, and the transportation mode of the parties involved. The data on traffic collisions shall be categorized by injury severity, such as property damage only, complaint of pain, other visible injury, or severe or fatal injury.

(d) The number of violations paid, the number of delinquent violations, and the number of violations for which an initial review is requested. For the violations in which an initial review was requested, the report shall indicate the number of violations that went to initial review, administrative hearing, and de novo hearing, the number of notices that were dismissed at each level of review, and the number of notices that were not dismissed after each level of review.
(e) The costs associated with implementation and operation of the speed safety systems, and revenues collected by each jurisdiction.

(f) A racial and economic equity impact analysis, developed in collaboration with local racial justice and economic equity stakeholder groups.

22432. This article shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 7. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances with traffic speed enforcement in the Cities of Los Angeles, Oakland, San Jose, ____, and _____, and the City and County of San Francisco.

SEC. 8. The Legislature finds and declares that Section 6 of this act, which adds Section 22425 to the Vehicle Code, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

To protect the privacy interests of persons who are issued notices of violation under a speed safety systems pilot program, the Legislature finds and declares that the photographic, video, or other visual or administrative records generated by the program shall be confidential, and shall be made available only to alleged violators and to governmental agencies solely for the purpose of enforcing these violations and assessing the impact of the use of speed safety systems, as required by this act.
Item B-12
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 2386 (Bloom) - Planning and Zoning: Tenancy in Common Subject to an Exclusive Occupancy Agreement (AB 2386) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 2386 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 2386, the Liaisons may recommend the following actions:

- Oppose AB 2386;
- Support AB 2386;
- Support if amended AB 2386;
- Oppose unless amended AB 2386;
- Remain neutral; or
- Provide other direction to City staff.

Any position recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
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Attachment 1
February 28, 2022

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 2386 (Bloom) Planning and Zoning Tenancy in Common: Exclusive Occupancy

Summary
Specifies that the legislative body of a local agency shall be authorized to adopt ordinances to regulate the design and improvement of any multifamily property held under a tenancy in common subject to an exclusive occupancy agreement, as defined.

Establishes a definition for the term “tenancy in common subject to an exclusive occupancy agreement,” as a development in which an undivided interest in land is coupled with the right of exclusive occupancy of any portion located thereon.

Background and Existing Law
Existing law grants cities and counties the power to make and enforce within their limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. Cities and counties are authorized to adopt ordinances that regulate the use of buildings, structures, and land use between businesses, residences, open space, agriculture, recreation, natural resources, and other purposes.

Under current law, local jurisdictions are authorized to regulate the location, height, bulk, number of stories, and size of buildings and structures and the size and use of lots, yards, courts, and other open spaces. Local ordinances also govern the percentage of a lot that may be occupied by a building or structure as well as the intensity of land use. Further, local jurisdictions establish building setback lines and set requirements for off-street parking and loading. Local ordinances also govern the creation of civic districts, public parks, public buildings, or public grounds and other similar matters.

Using this police power, many cities and counties have adopted ordinances, commonly called "inclusionary zoning" or "inclusionary housing" ordinances, which require developers to ensure that a certain percentage of housing units in a new development be affordable to lower-income households. These ordinances vary widely with respect to the percentage or depth of affordability required, and the options through which a developer may choose to comply. Most, if not all, of such ordinances apply to both rental and ownership housing.

A tenancy in common is a form of co-ownership in which an interest is owned by several persons, not in joint ownership or partnership. A tenancy in common is considered the default by courts, rather than joint tenancy. Tenants in common are permitted to own varying shares of the property, but all co-owners have an equal right to enjoy the entire property. When a co-owner dies, his or her interest may be transferred through probate or other proceeding as the right of survivorship does not apply to a tenancy in common. Additionally, tenants in common may transfer their interest at any time.
without severing the tenancy in common or even affecting the ownership interests of the other co-owners.

**Status of Legislation**
AB 2386 (Bloom) was introduced in the Assembly on February 14, 2022 and may be heard in an Assembly policy committee on or after March 20, 2022. The bill is still awaiting referral to a policy committee.

**Support**
None identified at this time.

**Opposition**
None identified at this time.
Attachment 2
An act to add Section 65850.10 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL’S DIGEST

AB 2386, as introduced, Bloom. Planning and zoning: tenancy in common subject to an exclusive occupancy agreement.

Existing law provides for the adoption and administration of zoning laws, ordinances, rules, and regulations by counties and cities, as specified. Existing law authorizes the legislative body of any county or city to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, open space, including agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other purposes.

This bill would specify that regulation, by ordinance, of the design and improvement of any multifamily property held under a tenancy in common subject to an exclusive occupancy agreement, as defined, is vested in the legislative body of the local agency.


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

1 SECTION 1. Section 65850.10 is added to the Government Code, to read:
65850.10. (a) For purposes of this section, “tenancy in common subject to an exclusive occupancy agreement” means a development in which an undivided interest in land is coupled with the right of exclusive occupancy of any portion located thereon.

(b) Regulation, by ordinance, of the design and improvement of any multifamily property held under a tenancy in common subject to an exclusive occupancy agreement is vested in the legislative body of the local agency.
Item B-13
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: March 8, 2022
SUBJECT: Request by Councilmember Gold to Discuss Senate Bill 1472 (Stern) - Vehicular Manslaughter: Speeding and Reckless Driving

ATTACHMENTS: 1. Summary Memo – SB 1472
2. Bill Text – SB 1472

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

Senate Bill 1472 (Stern) - Vehicular Manslaughter: Speeding and Reckless Driving (SB 1472) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 1472 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 1472, the Liaisons may recommend the following actions:
- Oppose SB 1472;
- Support SB 1472;
- Support if amended SB 1472;
- Oppose unless amended SB 1472;
- Remain neutral; or
- Provide other direction to City staff.

Any position 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 1, 2022

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 1472 (Stern) Vehicular manslaughter: speeding and reckless driving.

Introduction and Background
On February 18, Senator Henry Stern introduced SB 1472, which would create new crimes of vehicular manslaughter when an individual is speeding and driving recklessly. According to the author, the United States Department of Transportation’s National Highway Traffic Safety Administration issued findings that showed while Americans drove less in 2020 due to the pandemic, an estimated 39,000 people died in motor vehicle traffic crashes, which is the largest number of fatalities since 2007, and represents an increase of about 7.2 percent compared to the 36,096 fatalities reported in 2019. Additionally, in 2021, traffic collisions killed 294 individuals in the City of Los Angeles, a 24-percent increase from 2020.

Specifically, this bill:
1) Creates and defines the new crimes of vehicular manslaughter while driving and speeding and vehicular manslaughter while driving in a reckless manner as the unlawful killing of a human being without malice aforethought, where the driving was either a violation of the prohibition against driving a vehicle at a speed greater than 100 miles per hour that occurred within a 3-year period of one or more prior convictions of that crime, or a violation of driving in a reckless manner that occurred within a 3-year period of 2 or more prior convictions of that crime, respectively, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, but without gross negligence, or the proximate result of the commission of a lawful act that might produce death, in an unlawful manner, but without gross negligence.

2) Prescribes penalties for a violation of those crimes to be imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months, or 2 or 4 years and a fine of up to $10,000.

3) Specifies that if probation is granted to a person convicted of the crime, that person shall be punished by imprisonment in the county jail for not less than 60 days, a probationary term of not less than 24 months, and a fine of not less than $500 nor more than $1,000, and would require the court to also suspend the privilege of the person to operate a motor vehicle for a period of 6 months.

4) Requires the court to provide an advisement to a person upon their conviction of driving a vehicle upon a highway at a speed greater than 100 miles per hour or in a reckless manner that they could be charged with vehicular manslaughter.

Existing Law
Prohibits a person from driving a vehicle upon a highway at a speed greater than 100 miles per hour and provides that upon a subsequent conviction of that offense within a certain number of
years, the person shall be punished by a fine and the Department of Motor Vehicles shall suspend their privilege to operate a vehicle. Under existing law, a person who drives a vehicle upon a highway or in an off-street parking facility in willful or wanton disregard for the safety of persons or property is guilty of reckless driving, which is punishable by imprisonment in the county jail or by the payment of a fine, or both imprisonment and a fine.

Additionally, existing law defines the crime of vehicular manslaughter as the unlawful killing of a human being without malice while driving a vehicle under specified circumstances, including in the commission of an unlawful act, not amounting to felony, with or without gross negligence, and provides that vehicular manslaughter is punishable as a misdemeanor or a felony.

**Status of Legislation**
SB 1472 (Stern) was introduced in the Senate on February 18, 2022. The bill has not been referred to a policy committee yet.

**Support**
None identified at this time.

**Opposition**
None identified at this time.
Attachment 2
An act to add Section 191.7 to the Penal Code, and to amend Sections 22348 and 23103 of the Vehicle Code, relating to crimes.

LEGISLATIVE COUNSEL’S DIGEST

SB 1472, as introduced, Stern. Vehicular manslaughter: speeding and reckless driving.

Existing law prohibits a person from driving a vehicle upon a highway at a speed greater than 100 miles per hour, and provides that upon a subsequent conviction of that offense within a certain number of years, the person shall be punished by a fine and the Department of Motor Vehicles shall suspend their privilege to operate a vehicle, as specified. Under existing law, a person who drives a vehicle upon a highway or in an offstreet parking facility in willful or wanton disregard for the safety of persons or property is guilty of reckless driving, which is punishable by imprisonment in the county jail or by the payment of a fine, or both imprisonment and a fine, as specified.

Existing law defines the crime of vehicular manslaughter as the unlawful killing of a human being without malice while driving a vehicle under specified circumstances, including in the commission of an unlawful act, not amounting to felony, with or without gross negligence, and provides that vehicular manslaughter is punishable as a misdemeanor or a felony. Existing law defines vehicular manslaughter while intoxicated as the unlawful killing of a human being without malice aforethought, while driving under the influence of alcohol, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, but without gross negligence, or a lawful act that might produce death, in an unlawful manner, but
without gross negligence, and prescribes penalties for that crime of imprisonment in a county jail for not more than one year or by imprisonment in the state prison for 16 months or 2 or 4 years.

This bill would create and define the new crimes of vehicular manslaughter while driving and speeding and vehicular manslaughter while driving in a reckless manner as the unlawful killing of a human being without malice aforethought, where the driving was either a violation of the prohibition against driving a vehicle at a speed greater than 100 miles per hour that occurred within a 3-year period of one or more prior convictions of that crime, or a violation of driving in a reckless manner that occurred within a 3-year period of 2 or more prior convictions of that crime, respectively, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, but without gross negligence, or the proximate result of the commission of a lawful act that might produce death, in an unlawful manner, but without gross negligence. The bill would prescribe penalties for a violation of those crimes to be imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months, or 2 or 4 years and a fine of up to $10,000. The bill would specify that if probation is granted to a person convicted of the crime, that person shall be punished by imprisonment in the county jail for not less than 60 days, a probationary term of not less than 24 months, and a fine of not less than $500 nor more than $1,000, and would require the court to also suspend the privilege of the person to operate a motor vehicle for a period of 6 months. The bill would require the court to provide an advisement to a person upon their conviction of driving a vehicle upon a highway at a speed greater than 100 miles per hour or in a reckless manner that they could be charged with vehicular manslaughter, as specified. By creating new crimes, the bill would impose a state-mandated local program.

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

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

SEC. 1. This act shall be known, and may be cited, as Ryan’s Law.

SEC. 2. The Legislature finds and declares all of the following:
(a) Ensuring our local streets and highways are protected from reckless drivers and excessive speeding is of the highest priority.
(b) Last year, the United States Department of Transportation’s National Highway Traffic Safety Administration issued findings that showed while Americans drove less in 2020 due to the pandemic, an estimated 39,000 people died in motor vehicle traffic crashes, which is the largest number of fatalities since 2007, and represents an increase of about 7.2 percent compared to the 36,096 fatalities reported in 2019.
(c) In 2020, the State of California reported around 3,723 motor vehicle deaths, a slight increase from the year before.
(d) In 2021, traffic collisions killed 294 individuals in the City of Los Angeles, a 24-percent increase from 2020.
(e) In 2021, traffic accidents in the City of Los Angeles involving serious injury to pedestrians was up by 45 percent and serious injury to bicyclists was up by 34 percent from 2020.
(f) Exacerbating these fatalities and serious injuries is the prevalence of street racing and sideshows. According to the Department of the California Highway Patrol, in 2021, they responded to almost 6,000 of those events, issuing 2,500 citations statewide, making 87 arrests, and recovering 17 firearms.
(g) Recent increases in local street and highway fatalities, serious injuries, and the dangers of street racing is resulting in an epidemic of reckless driving and disregard for public safety.
(h) Law enforcement at the state and local level must be provided increased funding, additional resources, and effective statutory changes to maximize their efforts in combating reckless speeding and street racing.

SEC. 3. Section 191.7 is added to the Penal Code, to read:
191.7. (a) (1) Vehicular manslaughter while driving a vehicle and speeding is the unlawful killing of a human being without malice aforethought, where the driving was a violation of Section 22348 of the Vehicle Code that occurred within a three-year period of one or more prior convictions of that section, and the killing was either the proximate result of the commission of an unlawful...
act, not amounting to a felony, but without gross negligence, or the proximate result of the commission of a lawful act that might produce death, in an unlawful manner, but without gross negligence.

(2) Vehicular manslaughter while driving a vehicle in a reckless manner is the unlawful killing of a human being without malice aforethought, where the driving was a violation of Section 23103 of the Vehicle Code that occurred within a three-year period of two or more prior convictions of that section, and the killing was either the proximate result of the commission of an unlawful act, not amounting to a felony, but without gross negligence, or the proximate result of the commission of a lawful act that might produce death, in an unlawful manner, but without gross negligence.

(b) Vehicular manslaughter in violation of subdivision (a) is punishable by imprisonment in the county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or four years and a fine of up to ten thousand dollars ($10,000).

(c) If probation is granted to a person convicted of a violation of subdivision (a), that person shall be punished by imprisonment in the county jail for not less than 60 days, a probationary term of not less than 24 months, and a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000). The court shall also suspend the person’s privilege to operate a motor vehicle for a period of six months.

SEC. 4. Section 22348 of the Vehicle Code is amended to read:

22348. (a) Notwithstanding subdivision (b) of Section 22351, a person shall not drive a vehicle upon a highway with a speed limit established pursuant to Section 22349 or 22356 at a speed greater than that speed limit.

(b) (1) A person who drives a vehicle upon a highway at a speed greater than 100 miles per hour is guilty of an infraction punishable, as follows:

(A) Upon a first conviction of a violation of this subdivision, by a fine of not to exceed five hundred dollars ($500). The court may also suspend the person’s privilege to operate a motor vehicle for a period not to exceed 30 days pursuant to Section 13200.5.
Upon a conviction under this subdivision of an offense that occurred within three years of a prior offense resulting in a conviction of an offense under this subdivision, by a fine of not to exceed seven hundred fifty dollars ($750). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to subdivision (a) of Section 13355.

Upon a conviction under this subdivision of an offense that occurred within five years of two or more prior offenses resulting in convictions of offenses under this subdivision, by a fine of not to exceed one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to subdivision (b) of Section 13355.

(2) The court shall advise a person convicted of a violation of paragraph (1) as follows:

“You are hereby advised that driving at a speed greater than of 100 miles per hour inhibits your ability to safely operate a motor vehicle. Therefore it is extremely dangerous to human life to drive at a speed greater than of 100 miles per hour. If you continue to drive at a speed greater than of 100 miles per hour within the next three years, and as a result of that driving, someone is killed, you can be charged with manslaughter pursuant to Section 191.7 of the Penal Code.”

(c) A vehicle subject to Section 22406 shall be driven in a lane designated pursuant to Section 21655, or if a lane has not been so designated, in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb. When overtaking and passing another vehicle proceeding in the same direction, the driver shall use either the designated lane, the lane to the immediate left of the right-hand lane, or the right-hand lane for traffic as permitted under this code. If, however, specific lane or lanes have not been designated on a divided highway having four or more clearly marked lanes for traffic in one direction, a vehicle may also be driven in the lane to the immediate left of the right-hand lane, unless otherwise prohibited under this code. This subdivision does not apply to a driver who is preparing for a left- or right-hand turn or who is in the process of entering into or exiting from a highway or to a driver who is required necessarily to drive in a lane other
than the right-hand lane to continue on their intended route.

SEC. 5. Section 23103 of the Vehicle Code is amended to read:

23103. (a) A person who drives a vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) A person who drives a vehicle in an offstreet parking facility, as defined in subdivision (c) of Section 12500, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(c) Except as otherwise provided in Section 40008, persons a person convicted of the offense of reckless driving shall be punished by imprisonment in a county jail for not less than five days nor more than 90 days or by a fine of not less than one hundred forty-five dollars ($145) nor more than one thousand dollars ($1,000), or by both that fine and imprisonment, except as provided in Section 23104 or 23105.

(d) The court shall advise a person convicted of a violation of this section for the second or subsequent time as follows:

“You are hereby advised that driving in a reckless manner inhibits your ability to safely operate a motor vehicle. Therefore it is extremely dangerous to human life to drive in a reckless manner in violation of Section 23103 of the Vehicle Code. If you continue to drive in such a reckless manner within the next three years, and as a result of that reckless driving, someone is killed, you can be charged with manslaughter pursuant to Section 191.7 of the Penal Code.”

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
Item B-14
The City’s state lobbyist will provide an overview of the efforts the state is undertaking to ensure CalPERS and CalSTRS pursue divestment from Russian investments.

As of June 30, 2021, CalPERS had approximately $725 million worth of stock in Russia’s largest companies as shown below:

<table>
<thead>
<tr>
<th>Company</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sberbank</td>
<td>$167,210,877</td>
</tr>
<tr>
<td>Gazprom</td>
<td>$163,315,030</td>
</tr>
<tr>
<td>Novatek</td>
<td>$132,259,327</td>
</tr>
<tr>
<td>Lukoil</td>
<td>$107,724,312</td>
</tr>
<tr>
<td>Norilsk</td>
<td>$49,629,689</td>
</tr>
<tr>
<td>Surgutneftegaz</td>
<td>$43,752,080</td>
</tr>
<tr>
<td>Rosneft</td>
<td>$28,116,181</td>
</tr>
<tr>
<td>Evraz</td>
<td>$10,790,927</td>
</tr>
<tr>
<td>Severstal</td>
<td>$9,373,545</td>
</tr>
<tr>
<td>Transneft</td>
<td>$8,243,136</td>
</tr>
<tr>
<td>YTB</td>
<td>$7,442,022</td>
</tr>
<tr>
<td>Inter RAO</td>
<td>$5,027,071</td>
</tr>
<tr>
<td>Rusal</td>
<td>$3,800,913</td>
</tr>
<tr>
<td>Sistema</td>
<td>$2,845,065</td>
</tr>
<tr>
<td>Tatneft</td>
<td>$2,267,955</td>
</tr>
<tr>
<td>Aeroflot</td>
<td>$2,141,930</td>
</tr>
</tbody>
</table>

Chart: Phillip Reese - Source: CalPERS Investment Report - Get the data
As of June 30, 2021, CalSTRS controlled about $745 million worth of stock in Russia’s largest companies as shown below:

<table>
<thead>
<tr>
<th>Company</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sberbank</td>
<td>$287,825,000</td>
</tr>
<tr>
<td>Lukoil</td>
<td>$192,267,000</td>
</tr>
<tr>
<td>Norilsk</td>
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<tr>
<td>Gazprom</td>
<td>$56,333,669</td>
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<tr>
<td>Novatek</td>
<td>$43,508,000</td>
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<tr>
<td>Magnit</td>
<td>$37,170,000</td>
</tr>
<tr>
<td>Rosneft</td>
<td>$24,464,000</td>
</tr>
<tr>
<td>Severstal</td>
<td>$19,592,000</td>
</tr>
<tr>
<td>Tatneft</td>
<td>$4,092,204</td>
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<tr>
<td>Surgutneftegas</td>
<td>$2,345,000</td>
</tr>
<tr>
<td>Sistema</td>
<td>$1,708,000</td>
</tr>
<tr>
<td>VTB</td>
<td>$20,500</td>
</tr>
</tbody>
</table>

The Liaisons may make any recommendation they wish on this item. Depending on the recommendation by the Liaisons, City Council concurrence may be required.
Attachment 1
FOR IMMEDIATE RELEASE:                                    Contact: Governor's Press Office
Tuesday, March 1, 2022                                   (916) 445-4571

**Governor Newsom Calls for State Sanctions on Russia**

SACRAMENTO – Moving to support the Ukrainian people and protect the interests of Californians, Governor Gavin Newsom today [sent a letter](mailto:sent%20a%20letter) to the leaders of the California Public Employees’ Retirement System (CalPERS), California State Teachers’ Retirement System (CalSTRS) and the University of California retirement system calling for the state to leverage its sizeable global investment portfolio to sanction the Russian government.

“Russia’s brazen and lawless military assault on Ukraine demands our support for the Ukrainian people and exacting an immediate and severe cost upon the Russian government,” the Governor wrote. “The California Constitution is explicit in the fiduciary duties that are required of us on behalf of the hundreds of thousands of Californians who have invested in these systems. These fiduciary obligations and our moral imperative before these atrocities demand that you act to address Russia’s aggressions and immediately restrict Russian access to California’s capital and investments.”

The combined assets of CalPERS, CalSTRS and the UC retirement system amount to $970 billion – equivalent to 60 percent of Russia’s gross domestic product last year. Over $1.5 billion of these California investments are held in a various financial instruments linked to Russia’s financial markets.

The Governor called for the funds to halt the flow of money from the state to Russia, ban the purchase of Russian debt and conduct an assessment to ensure their actions protect the interests of current and future retirees. The Governor also requested recommendations from CalPERS, CalSTRS and the UC on additional measures that can be implemented to protect the state’s investments amid global financial sanctions on Russia.

A copy of the letter can be found [here](mailto:here).

###

Governor Gavin Newsom
1021 O Street, Suite 9000
Sacramento, CA 95814
Attachment 2
February 28, 2022

Theresa Taylor  
Chair, CalPERS  
400 Q St.  
Sacramento, CA 95811  

Cecilia Estolano  
Chair, University of California Regents  
1111 Franklin St., 12th Floor  
Oakland, CA 94607  

Harry Keiley  
Chair, CalSTRS  
100 Waterfront Pl.  
West Sacramento, CA 95605  

Dear Chairs:

Russia’s brazen and lawless military assault on Ukraine demands our support for the Ukrainian people and exacting an immediate and severe cost upon the Russian government in response to its continuing aggression. California has a unique and powerful position of influence given the state’s substantial global investment portfolio.

Alone, our Public Employees’ Retirement System holds roughly $480 billion in assets. In addition, our Teachers’ Retirement System holds $320 billion in assets, and the University of California’s Retirement System another $170 billion. This combined amount, $970 billion, is equivalent to 60 percent of Russia’s entire gross domestic product last year.

Of these California investments, over $1.5 billion are held in a variety of financial instruments — including stock of multinational corporations, private equity and real asset investments, and debt — that have some nexus or relation to Russia’s financial markets.

The California Constitution is explicit in the fiduciary duties that are required of us on behalf of the hundreds of thousands of Californians who have invested in...
these systems. These fiduciary obligations and our moral imperative before these atrocities demand that you act to address Russia's aggressions and immediately restrict Russian access to California's capital and investments. Given heightened financial risks, no fund shall purchase Russian debt and no money shall flow from the state of California to Russia. Furthermore, the funds should immediately assess risk to the retirees of our state and ensure that the actions you take protect the interests of your current and future retirees.

In addition to taking these actions, I would appreciate your recommendations of any additional safeguards that can be put in place to protect California's investments as the U.S. and the world continue to implement financial sanctions on Russia. Please advise me of the steps that you are taking in this effort within 10 days.

I stand ready to work with you to further this important effort.

Sincerely,

[Signature]

Gavin Newsom
Governor of California
Item B-15
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: March 8, 2022
SUBJECT: Overview of Federal Actions Related to Russia’s Invasion of Ukraine
ATTACHMENTS: None

The City’s federal lobbyist will provide an overview of the actions occurring at the federal level regarding Russia’s invasion of Ukraine.

The Liaisons may make any recommendation they wish on this item. Depending on the recommendation by the Liaisons, City Council concurrence may be required.
Item B-1
TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Policy and Management Analyst

DATE: March 8, 2022

SUBJECT: Request Direction for Providing Written Public Comment on the Mitigation in Rating Plans and Wildfire Risk Models Proposed by California Insurance Commissioner Ricardo Lara

ATTACHMENTS: 1. Press Release – Commissioner Lara

Staff is requesting the Legislative / Lobby Liaisons give direction on providing written public comment on the mitigation in rating plans and wildfire risk models proposed by California Insurance Commissioner Ricardo Lara. The deadline for written public comment is April 13, 2022.
Attachment 1
Commissioner Lara announces new regulations to improve wildfire safety and drive down cost of insurance

News: 2022 Press Release

For Release: February 25, 2022
Media Calls Only: 916-492-3566
Email Inquiries: cdipress@insurance.ca.gov

Commissioner Lara announces new regulations to improve wildfire safety and drive down cost of insurance

New proposed regulations incorporate recently announced “Safer from Wildfires” framework to protect existing homes and communities

SACRAMENTO, Calif. — Today Insurance Commissioner Ricardo Lara announced new regulations intended to improve wildfire safety and drive down the cost of insurance for homeowners and businesses. Under the proposed regulations, which could be in effect by this summer, insurance companies would be required to factor consumers’ and businesses’ wildfire safety actions into their pricing of residential and commercial coverage. The new regulations also will provide consumers with transparency about their “wildfire risk score” that insurance companies assign to properties. These regulations address complaints Commissioner Lara heard from many consumers and businesses across the state that insurance companies are unwilling to account for steps taken to harden their properties and communities against wildfire, lowering their risk of loss and damage.

“With more Californians rolling up their sleeves and reaching into their own pockets to protect their homes and businesses, insurance pricing must reflect their efforts,” said Insurance Commissioner Ricardo Lara. “Holding insurance companies accountable for accurately rating wildfire risk in the premiums they charge Californians will help save lives and reduce losses. My new regulations will help encourage a competitive insurance market for all by putting safety first and driving down costs for consumers.”

The announced regulations incorporate the new “Safer from Wildfires” framework, a list of achievable, expert-endorsed actions that will help save lives and reduce risk for property owners. Commissioner Lara unveiled the Safer from Wildfires framework with state emergency leaders on February 14, marking the first time that state agencies have been brought together to identify a common insurance framework of mitigation actions for existing homes and businesses.

By requiring insurance companies to utilize the Safer from Wildfires framework in their pricing for insurance, Commissioner Lara is sending a strong signal to consumers about the need to better prepare for extreme wildfires – which will lead to a more competitive market for all California residents and businesses. Specifically, the regulations will require insurance companies to comply with Proposition 103, passed by voters in 1988 to give the Insurance Commissioner authority to approve rates set by insurance companies, by incorporating the new framework in “wildfire risk scores” that insurance companies commonly use to rate individual and commercial properties.

In community meetings and town halls that Commissioner Lara held across California before the pandemic and in his virtual investigatory wildfire hearing in October 2020, consumers described taking action to protect their homes – often at the cost of thousands of dollars out of pocket – while many insurance companies simply declined to recognize the value of these actions. Still other insurance companies assigned opaque wildfire risk scores to increase the price of insurance for a given property. Consumers rarely know their property’s wildfire risk scores let alone how to improve them, even though these scores are a critical factor in many insurance companies’ decisions about how much to charge for insurance.

These regulations will help Commissioner Lara increase consumer discounts that insurance companies offer for safer homes and businesses, which has been a major focus of his comprehensive strategy to reduce the growing threat of wildfires. Currently, 17 insurance companies representing 40 percent of the insurance marketplace have answered Commissioner Lara’s call to offer discounts, up from just 7 percent of the market when Commissioner Lara took office three years ago, demonstrating expanding options for consumers. View the list of insurance companies currently offering discounts at the Department of Insurance website.

These regulations also increase transparency by providing an opportunity for consumers and businesses to review their property’s risk score or other factors used in pricing for accuracy based on mitigation work they have undertaken. Consumers and businesses will be able to appeal scores or other factors insurance companies use to assess wildfire risk.

Fire chiefs and consumer advocates joined Commissioner Lara in calling for increased wildfire safety efforts.

"By rewarding homeowners and businesses for the wildfire safety actions they take, these regulations will be a huge assist to our efforts to prevent the severe loss of life and property from wildfires like we saw in the devastating Thomas Fire and debris flow that followed," said Montecito Fire Chief Kevin Taylor, who testified at the investigatory hearing the Department of Insurance held in October 2020. "I am glad to see the state supporting local communities like ours with wildfire safety programs like this."

“This is the most significant, concrete step forward on wildfire safety that brings all of the pieces together to help Californians maintain and obtain high quality insurance at a reasonable cost,” said Novato Fire District Chief Bill Tyler, who also testified at the investigatory hearing. “This helps people take back control over their risk by having insurance companies recognize their efforts.”

“Now that experts concur and the Safer from Wildfires framework has been established, we need regulations to ensure that consistent and clear rewards will be in place to incentivize and accomplish wildfire risk reduction at the parcel and community level,” said Amy Bach, United Policyholders’ Executive Director and architect of the Wildfire Risk Reduction and Asset Protection (WRAP) working group that contributed to the Safer from Wildfires framework. “United Policyholders commends Commissioner Lara for this important progress.”

"California's farmers, ranchers and agriculture communities are very appreciative of Commissioner Lara's work to create an insurance framework we can all use to make our businesses safer from wildfires," said Jamie Johansson, President of the California Farm Bureau Federation. "By pricing insurance to recognize farmers' wildfire safety efforts, these regulations will help drive insurance companies to better support our agriculture sector, which is not only critical to our state but to our entire country."

The Department of Insurance invites the public to testify on the new regulations at a hearing on April 13 or in writing.

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Media notes:

- The new regulations are posted on the Department of Insurance website. Click to view the regulations, Initial Statement of Reasons, and Notice of Proposed Action.
- The Safer from Wildfires framework is a consistent approach with three layers of protection -- for the structure, the immediate surroundings, and the community. The list of proposed mitigation actions is available to download from the Department of Insurance website.

Safer from Wildfires in 🌞 1 2 3
Commissioner Lara announces new regulations to improve wildfire safety and drive down cost of insurance.

1 Protecting the structure

- Class-A Fire rated roof
- Maintain a 5 foot ember-resistant zone around a home (including fencing within 5 feet)
- Noncombustible 6 inches at the bottom of exterior walls
- Ember and fire-resistant vents (See Low-Cost Retrofit List, and Chapter 7A)
- Upgraded windows (Double pane or added shutters)
- Enclosed eaves

2 Protecting the immediate surroundings

- Cleared vegetation and debris from under decks
- Removal of combustible sheds and other outbuildings from the immediate surroundings of the home, to at least a distance of 30 feet
- Defensible space compliance (including trimming trees, removal of brush and debris from yard, and compliance with state law and local ordinances)

Commissioner Lara announces new regulations to improve wildfire safety and drive down cost of insurance

The new regulations will incorporate the Safer from Wildfires framework as rating factors in rate filings submitted to the Department of Insurance for review and approval. Under Proposition 103 approved by voters in 1988, residential and commercial insurance companies must submit rate filings for prior approval by the Insurance Commissioner. These rates cannot be excessive, inadequate, or unfairly discriminatory.

Safer from Wildfires was developed after Commissioner Lara initiated a partnership in February 2021 with the Governor’s Office of Emergency Services (CalOES), the Department of Forestry and Fire Protection (CAL FIRE), the Governor’s Office of Planning and Research (OPR), and the California Public Utilities Commission (CPUC). The partnership met with external groups including consumer advocates from United Policyholders and the Consumer Federation of America, local fire chiefs representing the California Fire Chiefs Association, the Insurance Institute for Business and Home Safety (IBHS), and trade associations from the insurance industry, among others. The Safer from Wildfires list of actions is consistent with mitigation actions proposed by United Policyholders’ Wildfire Risk Reduction and Asset Protection (WRAP) working group and wildfire risk reduction research by IBHS, among others.

Working together as a community

- A community should have clearly defined boundary and a local risk assessment in consultation with the local fire district or state fire agency; an identified evacuation route, cleared of vegetative overgrowth, and evacuation plan contingencies; clear funding sources to implement community mitigation activities and meet clear risk reduction goals; and integrated and up-to-date local planning documents pertinent to community wildfire risk.
- Current examples include the Fire Risk Reduction Community designation under development by the Board of Forestry, Firewise USA communities in good standing, and Shelter-in-Place designations.

Led by Insurance Commissioner Ricardo Lara, the California Department of Insurance is the consumer protection agency for the nation’s largest insurance marketplace and safeguards all of the state’s consumers by fairly

regulating the insurance industry. Under the Commissioner’s direction, the Department uses its authority to protect Californians from insurance rates that are excessive, inadequate, or unfairly discriminatory, oversee insurer solvency to pay claims, set standards for agents and broker licensing, perform market conduct reviews of insurance companies, resolve consumer complaints, and investigate and prosecute insurance fraud. Consumers are urged to call 1-800-927-4357 with any questions or contact us at www.insurance.ca.gov via webform or online chat. Non-media inquiries should be directed to the Consumer Hotline at 800-927-4357. Teletypewriter (TTY), please dial 800-482-4833.
Attachment 2
NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

MITIGATION IN RATING PLANS AND WILDFIRE RISK MODELS

February 25, 2022

REG-2020-00015

SUBJECT OF PROPOSED RULEMAKING

Notice is given that California Insurance Commissioner Ricardo Lara will hold a public hearing to consider amending, and the contemplated addition of, California Code of Regulations, Title 10, Chapter 5, Subchapter 4.8, Article 4, section 2644.9.

PUBLIC HEARING

Public Hearing Date and Location

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to these regulations, as follows:

Date: April 13, 2022

Time: 1:00 p.m. The public hearing shall continue until all in attendance wishing to provide comments have commented, or 5:00 p.m.

Location: California Department of Insurance
1901 Harrison Street, 3rd Floor - Room #30000
Oakland, California

Link to Register for the Web-based Virtual Format:
https://us06web.zoom.us/webinar/register/WN_MoTvOKCRdKSE9GAmZE5Hw

ACCESS TO PUBLIC HEARING

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person(s) for the hearing in order to make special arrangements, if necessary.

To increase public participation and improve the quality of regulations, interested parties are invited to attend virtually or in-person, and offer comment, if they so choose. Please be advised
that in-person attendance at the hearing may be limited or curtailed, depending upon any state or local restrictions on public gatherings that may be in effect at the time of the hearing, or due to Covid-19 transmission control precautions implemented by the Department.

The moderated call-in line to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to review available accommodations, if necessary.

Please direct all inquiries regarding these workshops to the contact persons named below.

PRESENTATION OF WRITTEN COMMENTS; CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end on April 13, 2022. Please direct all written comments to the following contact person:

Daniel Wade, Senior Staff Counsel  
Rate Enforcement Bureau  
1901 Harrison Street, 6th Floor  
Oakland, CA 94612  
Phone: (415) 538-4158  
Email: daniel.wade@insurance.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. If he is unavailable, inquiries may be addressed to the following backup contact person:

Lisbeth Landsman-Smith, Senior Staff Counsel  
Rate Enforcement Bureau  
300 Capitol Mall, Suite 1700  
Sacramento, CA 95814  
Tel: 916-492-3561  
Email: Lisbeth.Landsman@insurance.ca.gov

Please note that under the California Public Records Act (Government Code Section 6250, et seq.), your written and oral comments, and associated contact information (e.g., your address, phone number, e-mail, etc.) become part of the public record and can be released to the public upon request.

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact person at the address listed above, by the end of April 13, 2022. Any written materials received after that time may not be considered.
COMMENTS TRANSMITTED BY E-MAIL

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: daniel.wade@insurance.ca.gov.

Comments sent to e-mail addresses other than those designated in this notice will not be accepted. Comments sent by e-mail are subject to the deadline set forth above for written comments.

AUTHORITY AND REFERENCE

The proposed regulations will interpret and make specific the provisions of Insurance Code sections 1858, 1859, 1861.01, 1861.05, and 1861.07, which also provide the rulemaking authority for this action. The Commissioner is authorized to promulgate regulations to implement Proposition 103. 20th Century Ins. Co. v. Garamendi (1994) 8 Cal.4th 216.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

Summary of Existing Law

With the passage of Proposition 103 in 1988, California voters enacted numerous new laws related to the regulation of insurance rates in California, including Insurance Code sections 1861.05(a) and (b). California Insurance Code section 1861.05(a) makes it unlawful for a rate to be approved or remain in effect which is excessive, inadequate, or unfairly discriminatory. California Insurance Code section 1861.05(b) requires an insurer which desires to change any rate to file a complete rate application containing specified information “and such other information as the commissioner may require.” California Code of Regulations Title 10, Chapter 5, Subchapter 4.8, Article 4, sections 2644.1 et seq. provide the rules that insurers must follow to obtain approval of their rate applications.

Proposition 103 sets forth the following findings: (a) “Enormous increases in the cost of insurance have made it both unaffordable and unavailable to millions of Californians.”; (b) “The existing laws inadequately protect consumers and allow insurance companies to charge excessive, unjustified and arbitrary rates.” (Prop. 103, § 1.) The stated purpose of Proposition 103 is “to protect consumers from arbitrary insurance rates and practices, to encourage a competitive insurance marketplace, to provide for an accountable Insurance Commissioner, and to ensure that insurance is fair, available, and affordable for all Californians.” (Prop. 103, § 2.)

Proposition 103 provides the Commissioner substantial authority and flexibility in establishing rules and procedures for assessing insurers proposed rates, which necessarily include rating plans. (20th Century Ins. Co. v. Garamendi (1994) 8 Cal.4th 216, 280; Calfarm Ins. Co. v. Deukmejian (1989) 48 Cal. 3d 805, 824.)

Also, a part of Proposition 103, California Insurance Code section 1861.10 promotes consumer participation by allowing consumers to participate in the ratemaking process and enforce the
rating laws. It requires the Commissioner to notify the public after an insurer files a rate application, subject to certain conditions. California Insurance Code section 1861.07 requires all information provided to the Commissioner in the rate application process to be publicly available. Furthermore, California Insurance Code section 1858 permits any person aggrieved by any rate charged, rating plan, rating system or underwriting rule to also challenge the insurer’s action directly before the commissioner.

In addition, advisory organizations that provide rate manuals to insurers must have such manuals approved by the Commissioner prior to their use. (California Insurance Code section 1855.5.)

Insurance ratemaking requires an assessment of the risks to be insured. In California, property insurers are permitted to classify (segment) wildfire risks depending on how high or low the assessed wildfire risk is in different areas and localities. Different wildfire risks are assigned different wildfire risk scores, which affect the premium policyholders pay. California Insurance Code sections 929 et seq. requires the Commissioner to collect from insurers data regarding wildfire incurred losses for each insured property, wildfire risk scores assigned to those properties by the insurers and the source of those scores.

Irrespective of scores assigned by insurers, some policyholders take proactive measures to reduce — or “mitigate” — the risk of wildfire on their property and in their neighborhood. For example, someone may clear vegetation near their house, or install fire-resistant building materials. Such measures reduce the wildfire risk at their insured property. Likewise, communities may employ mitigation measures such as firebreaks which can reduce the risk of conflagration.

Numerous laws and national standards provide effective methods for mitigation of wildfire risk. For example, Chapter 7A of the 2019 California Building Code (24 CCR 701A) addresses building standards for wildfire areas, including fire resistant vents (24 CCR 706A.2). ASTM E108 and UL 790 are standards set by private entities that all manufacturers follow to create a Class-A fire rated roof. California Public Resources Code 4290.1 identifies criteria for a community to be recognized as a Fire Risk Reduction Community. Those criteria include participation in Firewise USA, a nationally recognized program developed by the National Fire Protection Association, a Massachusetts 501(c)(3) corporation. This program is co-sponsored by the United States Department of Agriculture’s Forest Service and the National Association of State Foresters. And, California Public Resources Code section 4291 sets forth requirements for maintaining defensible space in areas at risk for wildfire.

Current law, however, is silent with respect to the manner in which these mitigation measures must be considered by an insurer and reflected in their rating plan. Thus, a reduction in risk resulting from these mitigation measures may not be considered by insurers and the rates and premium may not reflect the mitigation work accomplished.

Similarly, current law does not provide clear direction to insurance companies to disclose to insurance applicants or policyholders the criteria the insurance company relied upon when calculating a particular insurance premium for a particular consumer. Stated another way, existing law does not specify the level of transparency that an insurance company must maintain
with the consumer so that both the consumer and the insurance company can validate the accuracy of the rating plan when applied to that consumer’s property.

**Effect of Proposed Action**

The proposed regulations will require insurers, for the purposes of segmenting rates, creating a risk differential, or surcharging the premium due to wildfire risk, to reflect and take into account specified mitigation factors in their rating plans. The proposed regulations will at the same time provide flexibility to insurers to incorporate additional factors into their rating plans for the purposes of segmenting rates, creating a risk differential, or surcharging the premium due to wildfire risk, provided such factors are substantially related to the risk of wildfire and will not result in rates which are excessive, inadequate, or unfairly discriminatory. The proposed regulations will help to ensure that rates and premiums corresponding to wildfire risk are not excessive, inadequate, or unfairly discriminatory by ensuring the insurer has accurate information upon which the rate or premium is based. For example, the proposed additions will also require insurers to provide certain mitigation and wildfire risk information to applicants and policyholders, and to provide a process by which applicants and policyholders may appeal a wildfire risk score or classification assigned by the insurer.

**Policy Statement Overview**

*Broad Objectives*

The regulations are intended to promote careful and systematic consideration of wildfire risk by insurers, and to enhance communications by insurers about their rating of properties with respect to wildfire risk, in order to ensure that rates attributable to wildfire risk are not excessive, inadequate or unfairly discriminatory.

For instance, the proposed regulation requires insurers, in assigning wildfire risk scores or otherwise classifying wildfire risks, to conduct a more granular, and thus more accurate risk assessment. By requiring insurers to include wildfire mitigation measures — and the reduction in risk therefrom in their risk assessment — the proposed regulations make insurers’ rates and premiums less likely to be excessive, inadequate, or unfairly discriminatory due to failure to consider mitigation measures. Ensuring that rates and premiums are not excessive, inadequate, or unfairly discriminatory is a central statutory command of Proposition 103.

*Benefits Anticipated*

The proposed additions are expected to: incentivize individual and community mitigation efforts by requiring consideration of property and community-level mitigation against wildfire risk; reduce the risk of loss posed by wildfires; improve accuracy in the classification of wildfire risk and the resulting rates and premiums; increase transparency in, and consumer awareness of, insurers’ rating and/or scoring of wildfire risk; enhance consumer protection by establishing a consumer appeals process; reduce unfair discrimination by enhancing consistency in insurers’ wildfire rating practices and/or risk scoring practices; and potentially improve availability and
affordability of property-casualty insurance for communities and properties where wildfire mitigation measures have been implemented.

Compliance with the regulation does not change the job responsibilities of employees in the affected industries in a way that would impact their safety. Thus, the regulation will neither increase nor decrease worker safety.

The Department believes that long-term the regulation will have a beneficial impact on the state’s environment, as increased wildfire risk mitigation may help to slow or stop the spread of some wildfire events. Better watershed health and wildlife protection may result as toxic debris cleanup after fires is reduced, and fewer wells become contaminated.

The regulation is expected to result in a benefit to the welfare of California insurance consumers by ensuring approved property insurance rates are more closely related to the property’s actual risk of loss. Additionally, if the regulation prevents some future wildfire losses, it could lead to better health outcomes for individuals negatively impacted by the poor air quality caused by California’s recent wildfires.

Consistency or Compatibility with Existing State Regulations

After conducting an evaluation of applicable law, the Department has found that the proposed regulations are not inconsistent or incompatible with any other existing regulations.

NOT MANDATED BY FEDERAL LAW OR REGULATIONS

These regulations are not mandated by federal law. There are no existing federal regulations or statutes comparable to these proposed regulations as no federal statutes or regulations address wildfire mitigation measures or rating factors.

OTHER STATUTORY REQUIREMENTS

The Department evaluated whether there were other requirements prescribed by statute applicable to these regulations by reviewing statutes and regulations relating to this issue, and determined that there were no such specific requirements.

LOCAL MANDATE

The proposed regulations do not impose any mandate on local agencies or school districts.

FISCAL IMPACT

Fiscal Impact on Other State and Local Government Agencies

There are no costs or savings to any other State agencies; however, the Department is expected to incur a fiscal impact, as discussed immediately below under “Fiscal Impact on the Department.” There is no cost to any local agency or school district for which Part 7
(commencing with Section 17500) of Division 4 of the Government Code would require reimbursement. There are no other nondiscretionary costs or savings to local agencies, nor do the regulations impose a cost or savings in federal funding to the state.

**Fiscal Impact on the Department**

The proposed regulation is anticipated to have a fiscal impact on the Department. The Department will incur costs in the administration, review and analysis of all models and rating plans that insurers are required to submit to comply with the proposed regulation. Rate Analysts and Casualty Actuaries are likely to be the primary reviewers of models and rating plans that are likely to be detailed and complex. The Department’s review and approval of rate filings is expected to span multiple state fiscal years at a total cost of $1,047,000.

The proposed regulation is expected to be effective July 2022 and allows 180 days for insurers to file their new rating plan. Therefore, the review of rating plans by the Department is expected to begin in January 2023, or the midpoint of the 2022-23 fiscal year (FY). In a review of rate filings that were completed between January 1, 2019 and September 23, 2020 the Department found the average time to approve a rate filing was 167 days. Given that the average review and approval time is nearly six months and complex filings or initial filings that need modification often take longer to get approved, the Department assumes that 50 percent of the review work will be completed in the first FY (6 months from Jan 2023-June 2023), and the remaining 50 percent will be completed in the second FY (23-24). As a result, the Department expects a fiscal impact of $523,500 in the first year and $523,500 in the second year to review and approve rate filings.

The Department will also likely require support from outside actuaries to verify some of the more complex wildfire models included in insurer submissions. The Department estimates that 6 rate filings will need to be referred to consulting actuaries at an average cost of $15,000 per filing. The outside actuarial reviews are assumed to occur in the first FY, increasing the estimated first-year fiscal impact to $613,500. As a result, the total anticipated fiscal impact on the Department is $1,137,000.

**HOUSING COSTS**

The proposed regulation is not anticipated to impact housing costs.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE**

The types of businesses that will be affected are insurers and insurance producers.

In order to comply with the proposed regulations, insurers will need to file rate applications that include compliant rating plans within the timeframe set forth in the proposed regulation. Rate applications are currently required any time an insurer desires a rate change; the proposed regulation builds upon existing required record keeping and administrative process required by current rate regulations. The proposed regulation, however, would require additional actuarial
support and analysis to be included in the rate application because compliant rate applications must include rating factors not currently required by existing regulations. As such, additional costs may be acquired by insurers to update existing rating plans with new documentation to be compliant with the portions of the proposed regulation which require the inclusion of the specified mitigation factors.

The portion of the proposed regulation that requires the insurer to provide information to a consumer related to their wildfire risk score or classification is a wholly new requirement that would necessitate insurers to create and maintain records they currently do not, and likewise creates a new administrative process for (1) providing information related to the consumer’s wildfire risk score or classification and (2) providing a process for appealing the wildfire risk score or classification; neither of these processes are currently required under existing rate regulations. This portion of the proposed regulation would also impact insurance producers because the regulation permits a consumer to procure a producer’s assistance in filing the appeal of the consumer’s wildfire risk score or classification.

There will likely be an adverse impact on insurance agents and brokers, who will have to document and forward consumer wildfire risk score appeals. To help insurers validate information, some agents and brokers may also incur costs when conducting in-person inspections of residential or commercial properties. Producers who are independent or captive with their own offices or business locations would likely need to implement their own processes separate from an insurers processes (this would not apply to producers who work for an insurer directly or sell on a direct-basis) for assisting a consumer with the wildfire score/classification appeal process. This would include additional costs, recordkeeping, and staff time.

The Department has made an initial determination that the adoption of the proposed regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Department has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- Consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

**STATEMENT OF RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

The Department is required to assess any impact the proposed adoption may have on the following: the creation or elimination of jobs within the State of California (Government Code § 11346.3(b)(1)(A)); the creation of new businesses or the elimination of existing businesses within the State of California (Government Code § 11346.3(b)(1)(B)); and the expansion of businesses currently doing business within the State of California (Government Code § 11346.3(b)(1)(C)).
Below is a summary of the results of the Economic Impact Assessment pursuant to Government Code sections 11346.3(b)(1)(A) through (D).

A. The proposed regulation is estimated to result in the creation of 40 jobs within the State of California. Overall, the impact of jobs created by the proposed regulation is less than one-thousandth of a percent of the total projected civilian employment in California (40 / 19,238,071= 0.0002%).

B. The proposed regulation is estimated to result in the elimination of 131.1 jobs within the State of California. Overall, the impact of jobs lost resulting from the proposed regulation is less than one-thousandth of a percent of the total projected civilian employment in California (131.1 / 19,238,071= 0.0007%)

C. Given that the average direct benefit to an impacted insurer is estimated to be $2,900 ($391,400 / 136 firms), it is not anticipated that the proposed regulation will have a significant impact on the creation of new businesses in California.

D. Given that the initial average direct cost to an impacted insurer is estimated to be $112,500 ($15.3 million / 136 firms), it is not anticipated that the proposed regulation will result in the elimination of existing businesses in California. It is also not expected that the initial average estimated cost of $300 ($562,000 / 1,847) to insurance agents or brokers will result in the elimination of existing businesses in California.

E. It is not anticipated that the proposed regulation will have an impact on the ability of businesses located in California to expand, as most of the costs resulting from the proposed regulation will be incurred by multimillion-dollar businesses. The estimated initial net loss to total output of $32 million suggests that the proposed regulation will have a minimal impact on the multitrillion-dollar California economy as a whole.

F. The proposed regulation is expected to result in a benefit to the health and welfare of California residents, specifically insurance consumers, by ensuring approved property insurance rates are more closely related to the property’s actual risk of loss. Additionally, if the Department’s expectation that the regulation prevents some future wildfire losses is realized, it could benefit the state’s environment and lead to better health outcomes for individuals negatively impacted by the poor air quality caused by California’s wildfires. The proposed regulation is not expected to affect worker safety.

**POTENTIAL COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESSES**

The initial average direct cost to an impacted insurer is estimated to be $112,500 ($15.3 million / 136 firms). The initial average estimated cost to insurance agents or brokers is $300 ($562,000 / 1,847). There are no other cost impacts known to the Department that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
BUSINESS REPORT

The Department finds that it is necessary for the health, safety or welfare of the people of the state that the regulation apply to businesses.

IMPACT ON SMALL BUSINESSES

The proposed regulation is projected to have a direct adverse impact on insurers, however by law insurance companies are not considered small businesses (Government Code § 11342.610(b)(2)).

However, there will also likely be an impact on insurance agents and brokers, who will have to document and forward consumer wildfire risk score appeals. To help insurers validate information, some agents and brokers may conduct in-person inspections of residential or commercial properties. The Department assumes that the vast majority of agents and brokers operating in communities that are more likely to experience the effects of wildfire are small businesses. As such, the Department expects that there will be a total adverse impact on small business of $562,000.

In 2020, there were 16,063 business establishments classified as insurance agents and brokers in California. The Department assumes that only the agents and brokers operating in moderate to very high wildfire risk areas are likely to be impacted, because this is where the properties most likely to appeal their wildfire score are located. In the Establishing a Baseline section, the Department calculated that 11.5 percent of all homes in California are in a moderate to very high wildfire risk area. That percentage was also applied to calculate the number of commercial properties in moderate to very high wildfire risk areas, and is used here to estimate that approximately 1,800 (16,063 x 11.5%) insurance agents and brokers operate in moderate to very high wildfire risk areas. As a result, the Department estimates that the initial average adverse impact on an insurance agent or broker operating as a small business in an impacted moderate to very high wildfire risk area is approximately $300 ($562,400 / 1,847). However, the average cost to small businesses is expected to increase to $610 in year 2, and then decline to $400 per business after 6 years.

ALTERNATIVES INFORMATION

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which this action is proposed; would be as effective and less burdensome to affected private persons than the proposed action; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy underlying Insurance Code section 11736.5.

AVAILABILITY STATEMENTS

The Department has prepared an Initial Statement of Reasons that sets forth the reasons for the proposed action. Upon request, the Initial Statement of Reasons will be made available for inspection and copying. Requests for the Initial Statement of Reasons or questions regarding this
proceeding should be directed to the contact person listed above. Upon request, the Final Statement of Reasons will be made available for inspection and copying once it has been prepared. Requests for the Final Statement of Reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the express terms of the proposed action, the Initial Statement of Reasons, the Economic Impact Assessment, and all the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that are contained in the rulemaking file, is available by appointment for inspection and copying at 300 Capitol Mall, 16th Floor, Sacramento, California, 95814 between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

If the amended regulations adopted by the Department differ from those which have originally been made available but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these amended regulations prior to adoption from the contact person listed above.

AUTOMATIC MAILING

A copy of this Notice (including the Informative Digest, which contains the general substance of the proposed adoption) will be sent to all persons who have previously filed a request with the Department to receive notice of proposed rulemakings.

FINAL STATEMENT OF REASONS

Upon request, the Final Statement of Reasons will be made available for inspection and copying once it has been prepared pursuant to Government Code section 11346.9(a). Requests for the Final Statement of Reasons should be directed to the contact person listed above.

INTERNET ACCESS

Documents concerning proposed regulations are available on the Department’s website at the following link: https://legaldocs.insurance.ca.gov/publicdocs/RegulationList.
Item B-17
Verbal updates on legislative issues will be presented by the City’s state and federal lobbyists.
Item B-18
The Legislative/Lobby Liaison Committee may request items related to the purview of the Committee be placed on the next agenda.