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
Room 280A
Beverly Hills, CA 90210

IN-PERSON / TELEPHONIC / VIDEO CONFERENCE MEETING

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

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

One tap mobile
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Wednesday, June 14, 2023
12:30 PM

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

In the interest of maintaining appropriate social distancing, members of the public can view this meeting through live webcast at www.beverlyhills.org/live and on BH Channel 10 or Channel 35 on Spectrum Cable, and can participate in the teleconference/video conference by using the link above. Written comments may be emailed to mayorandcitycouncil@beverlyhills.org and will also be taken during the meeting when the topic is being reviewed by the Beverly Hills City Council Liaison / Legislative/Lobby Committee. Beverly Hills Liaison meetings will be in-person at City Hall.

AGENDA

A. Oral Communications
   1. Public Comment

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

B. Direction
   1. S.1514 and H.R.3170 - Homes for Every Local Protector, Educator, and Responder (HELPER) Act
Comment: This item is a request by Mayor Gold for the City of Beverly Hills to take a position on S.1514 and H.R.3170 - Homes for Every Local Protector, Educator, and Responder (HELPER) Act. The HELPER Act would: (1) Create a one-time-use home loan program through FHA for law enforcement officers, firefighters, Emergency Medical Technicians (EMT), paramedics, and pre-K through 12 teachers who are first-time homebuyers; (2) Eliminates a down payment requirement on a mortgage; (3) Removes a monthly mortgage insurance premium (MIP) requirement; and (4) Requires an upfront mortgage insurance premium (UFMIP) to ensure the solvency of the program.

2. Assembly Bill 1620 (Zbur) - Costa-Hawkins Rental Housing Act: permanent disabilities: comparable or smaller units
Comment: This item requests the Legislative / Lobby Liaison Committee consider a request by the City of West Hollywood for the City of Beverly Hills to take a position on AB 1620. This bill would authorize a jurisdiction to require the owner of a residential real property that is subject to an ordinance or charter provision that controls the rental rate to permit a tenant who is not subject to eviction for nonpayment and who has a permanent physical disability related to mobility to move to an available comparable or smaller unit, as defined, located on an accessible floor of the property.

3. Senate Bill 20 (Rubio) - Joint powers agreements: regional housing trusts
Comment: This bill allows local agencies to create regional housing trusts, as specified, without special legislation.

4. Assembly Bill 1287 (Alvarez) - Density Bonus Law: additional density bonus and incentives or concessions: California Coastal Act of 1976
Comment: This item is a request by the California Contract Cities Association for the City to consider taking a position on AB 1287. This bill would require a city, county, or city and county to grant additional density and concessions and incentives if an applicant agrees to include additional low or moderate income units on top of the maximum amount of units for lower, very low, or moderate income units.

5. Senate Bill 584 (Limón) - Laborforce Housing: Short-Term Rental Tax Law
Comment: This item is a request by Councilmember Mirisch for the City of Beverly Hills to take a position on SB 584. This bill would establish, in the State Treasury, the Laborforce Housing Fund, to be continuously appropriated to the department, for the creation of laborforce housing and other specified housing projects by public entities, local housing authorities, and mission-driven nonprofit housing providers, as provided. By creating a new continuously appropriated fund, the bill would make an appropriation.

6. Senate Bill 684 (Caballero) - Land use: streamlined approval processes: development projects of 10 or fewer single-family residential units on urban lots under 5 acres
Comment: This item is a request by Councilmember Mirisch for the City of Beverly Hills to take a position on SB 684. This bill requires a local government to ministerially approve, without discretionary review or a hearing, a parcel map or a tentative and final map for a housing development project that meets certain requirements, including but not limited to:
   (1) The project contains 10 or fewer single-family residential units
   (2) The proposed development is located on a lot that meets both of the following requirements:
(a) Is zoned multifamily residential or vacant and zoned for single-family residential development, and
(b) The lot is no larger than 5 acres and is surrounded by qualified urban uses

7. Senate Bill 747 (Caballero) - Land use; economic development: surplus land
Comment: This bill would authorize a city, county, or city and county, in addition to a sale or lease, to otherwise transfer property to create an economic opportunity. The bill would additionally state the Legislature’s intent is to ensure that residents of the state have access to jobs that allow them to afford housing without the need for public subsidies.

8. Assembly Bill 480 (Ting) - Surplus land
Comment: Existing law requires a local agency to take formal action in a regular public meeting to declare land is surplus and is not necessary for the agency’s use and to declare land as either “surplus land” or “exempt surplus land,” as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency’s policies or procedures. This bill would recast that provision and would exempt a local agency, in specified instances, from making a declaration at a public meeting for land that is “exempt surplus land” if the local agency identifies the land in a notice that is published and available for public comment at least 30 days before the exemption takes effect.

9. Senate Bill 50 (Bradford) - Vehicles: enforcement
Comment: This bill would prohibit a peace officer from stopping or detaining the operator of a motor vehicle or bicycle for a low-level infraction unless a separate, independent basis for a stop exists. The bill would authorize a peace officer who does not have grounds to stop a vehicle or bicycle, but can determine the identity of the owner, to send a citation or warning letter to the owner.

10. Senate Bill 602 (Archuleta) – Trespass
Comment: This bill extends the operative timeframe for trespass letters of authorization from 30 days to the shorter of 12 months or a time period determined by local ordinance for properties where there is a fire hazard or the owner is absent, and from 12 months to 3 years for properties closed to the public and posted as being closed to the public. Additionally, this bill requires trespass letters of authorization to be submitted in a notarized writing on a form provided by law enforcement, and allows for letters to be submitted electronically.

11. Assembly Bill 436 (Alvarez) - Vehicles
Comment: This bill would remove the authorization for a local authority to adopt rules and regulations by ordinance or regulation regarding cruising.

12. Assembly Bill 1463 (Lowenthal) - Automated license plate recognition systems: retention and use of information
Comment: This bill would require an automated license place recognition (ALPR) operator or ALPR end-user that is a public agency, excluding an airport authority, to include in their ALPR policies, procedures, and practices a requirement that ALPR information that does not match information on a hot list be purged in 30 days. The bill would also prohibit those ALPR operators and end-users from accessing an ALPR system that retains that unmatched ALPR information for more than 60 days.
13. Assembly Bill 793 (Bonta) - Privacy: reverse demands
Comment: This item is a request by the Beverly Hills Police Department for the City to consider taking a position AB 793. This bill would prohibit a government entity from seeking or obtaining information from a reverse-location demand or a reverse-keyword demand, and prohibits any person or government entity from complying with a reverse-location demand or a reverse-keyword demand.

14. Senate Bill 411 (Portantino) - Open meetings: teleconferences: neighborhood councils
Comment: This bill authorizes a neighborhood council, as specified, to use alternate teleconferencing provisions related to notice, agenda, and public participation, subject to certain requirements and restrictions, if the city council has adopted an authorizing resolution and two-thirds of an eligible legislative body votes to use the alternate teleconferencing provisions.

15. Senate Bill 537 (Becker) - Open meetings: multijurisdictional, cross-county agencies: teleconferences
Comment: This bill authorizes an eligible legislative body, which is a board, commission, or advisory body of a multijurisdictional, cross county, local agency with appointed members that is subject to the Brown Act, to teleconference their meetings without having to make publicly accessible each teleconference location under certain conditions and limitations.

16. Assembly Bill 557 (Hart) - Open meetings: local agencies: teleconferences
Comment: This bill eliminates the January 1, 2024, sunset date on provisions of law authorizing a local agency's legislative body to use teleconferencing for a public meeting without having to post agendas at each teleconference location, identify each teleconference location in the notice and agenda, make each teleconference location accessible to the public, and require at least a quorum of the legislative body to participate from within the local agency's jurisdiction during a proclaimed state of emergency.

17. Senate Bill 244 (Eggman) - Right to Repair Act
Comment: This item is a request by Councilmember Mirisch for the City of Beverly Hills to take a position on SB 244. This bill would require manufacturers of an electronic or appliance product, as defined, with a wholesale price to the retailer of not less than $50 to make available, on fair and reasonable terms, sufficient service documentation and prescribed functional parts and tools to owners of the product, service and repair facilities, and service dealers for specified timeframes. This bill provides that a city, a county, a city and county, or the state may bring an action in superior court to impose civil liability on a person or entity that knowingly, or reasonably should have known that it violated.

18. Assembly Bill 886 (Wicks) - California Journalism Preservation Act
Comment: This item is a request by Councilmember Mirisch for the City of Beverly Hills to take a position on AB 886. This bill would require a covered platform, as defined, to remit a journalism usage fee to an eligible digital journalism provider, as defined, in an amount determined by a prescribed arbitration process; requires the provider to spend at least 70 percent of the fee received on news journalists and support staff; and prohibits retaliation against a provider who exercises their right to demand the fee.
19. Assembly Bill 1484 (Zbur) - Temporary public employees
Comment: This item is a request by the League of California Cities for the City to consider taking a position of oppose on AB 1484. This bill would amend the Meyers-Milias-Brown Act (MMBA) to require inclusion of temporary employees in the same bargaining unit as permanent employees upon request of the recognized employee organization to the public employer.

20. Assembly Bill 1657 (Wicks) – The Affordable Housing Bond Act
Comment: This item is a request by the League of California Cities for the City to consider taking a position of oppose on AB 1657. This bill authorizes the Affordable Housing Bond Act of 2024 to place a $10 billion housing bond on the March 5, 2024, primary ballot to fund production of affordable housing and supportive housing.

21. Assembly Bill 1637 (Irwin) - Local government: internet websites and email addresses
Comment: This item is a request by the League of California Cities for the City to consider taking a position of oppose on AB 1637. This bill, no later than January 1, 2027, would require a local agency that maintains an internet website for use by the public to ensure that the internet website utilizes a " .gov " top-level domain or a " .ca.gov " second-level domain and would require a local agency that maintains an internet website that is noncompliant with that requirement to redirect that internet website to a domain name that does utilize a " .gov " or " .ca.gov " domain. This bill, no later than January 1, 2027, would also require a local agency that maintains public email addresses to ensure that each email address provided to its employees utilizes a " .gov " domain name or a " .ca.gov " domain name. By adding to the duties of local officials, the bill would impose a state-mandated local program.

22. Assembly Bill 37 (Bonta) - Political Reform Act of 1974: campaign funds: security expenses
Comment: This item is a request by the California Contract Cities Association for the City to consider taking a position on AB 37. This bill would change the Political Reform Act of 1974 to authorize a candidate or elected officer to use campaign funds to pay or reimburse the state for the reasonable costs of installing and monitoring a home or office electronic security system, and for the reasonable costs of providing personal security to a candidate, elected officer, or the immediate family and staff of a candidate or elected officer, if those costs are reasonably related to the candidate or elected officer’s status as a candidate or elected officer. This is currently prohibited by the Political Reform Act of 1974.

23. Senate Bill 24 (Umberg) - Political Reform Act of 1974: public campaign financing
Comment: This bill submits a proposal to voters that would permit a public officer or candidate to expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity established a dedicated fund for this purpose.

24. Assembly Bill 1307 (Wicks) - California Environmental Quality Act: noise impact: residential projects
Comment: This item is a request by Councilmember Mirisch for the City of Beverly Hills to take a position on AB 1307. This bill provides that noise generated by the unamplified voices of residents is not a significant effect on the environment for residential projects, for purposes of the California Environmental Quality Act (CEQA).
25. Assembly Bill 1449 (Alvarez) - Affordable housing: California Environmental Quality Act: exemption
Comment: This item is a request by Councilmember Mirisch for the City of Beverly Hills to take a position on AB 1449. This bill would, until January 1, 2033, exempt from the California Environmental Quality Act (CEQA) certain actions taken by a public agency related to affordable housing projects if certain requirements are met. The bill would require the lead agency, if the lead agency determines an action related to an affordable housing project is exempt from CEQA under this provision and approves or carries out the project, to file a notice of exemption with the Office of Planning and Research and the county clerk of each county in which the project is located. By increasing the duties of a lead agency, this bill would impose a state-mandated local program.

26. Senate Bill 439 (Skinner) - Special motions to strike: priority housing development projects
Comment: This item is a request by Councilmember Mirisch for the City of Beverly Hills to take a position on SB 439. This bill adopts an established special motion to strike mechanism to dismiss frivolous lawsuits seeking to halt affordable housing developments.

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

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

C. Adjournment

Huma Ahmed
City Clerk

Posted: June 8, 2023

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

Pursuant to the Americans with Disabilities Act, the City of Beverly Hills will make reasonable efforts to accommodate persons with disabilities. If you require special assistance, please call (310) 285-1014 (voice) or (310) 285-6881 (TTY). Providing at least twenty-four (24) hours advance notice will help to ensure availability of services. City Hall, including Room 280A is wheelchair accessible.
Item B-1
S.1514 and H.R.3170 - Homes for Every Local Protector, Educator, and Responder (HELPER) Act involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. However, the City may wish to consider taking a position on this bill as it would create a first-time homebuyer loan program under the Federal Housing Administration (FHA) for teachers and first responders who have served at least four years in their respective role. These bills would also amend the National Housing Act to establish a mortgage insurance program for first responders. These two bills are seen as a way to expand access to affordable homeownership.

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

After discussion of the HELPER Act, the Liaisons may recommend the following actions:

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

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

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

DATE: June 2, 2023

RE: Homes for Every Local Protector, Educator, and Responder (HELPER) Act

Representatives John Rutherford (R-FL) and Bonnie Watson Coleman (D-NJ) introduced H.R. 3170, the Homes for Every Local Protector, Educator, and Responder (HELPER) Act. This bipartisan, bicameral bill establishes a new home loan assistance program that makes homeownership more accessible to first responders, including law enforcement officers, firefighters, EMTs, paramedics and teachers, by eliminating certain costly barriers like down payments and monthly mortgage insurance. H.R. 3170 was introduced in the House last month and has been referred to the Financial Services Committee. A companion bill, S.1514, has been introduced in the Senate by Senators Marco Rubio (R-FL), Jon Ossoff (D-GA), Sherrod Brown (D-OH), Raphael Warnock (D-GA), Catherine Cortez Matso (D-NV), Robert Menendez (D-NJ) and Richard Blumenthal (D-CT) and is pending before the Banking, Housing and Urban Affairs Committee.

The HELPER Act creates a new home loan program, administered under the Federal Housing Administration (FHA), that establishes a process for first responders and educators to affordably purchase a home in the communities they serve.

Modeled after the successful VA Home Loan Program that offers home loan benefits to our nation’s servicemembers, the bill removes some of the financial obstacles when buying a house, like a large down payment.

Specifically, the HELPER Act:

- Creates a one-time use home loan program under the FHA for law enforcement officers, firefighters, Emergency Medical Technicians (EMT), paramedics, and pre-K-12 teachers who have been in the field continuously for at least 4 years;

- Eliminates a down payment requirement which can be as high as 20 percent of the purchase price;
• Eliminates a monthly mortgage insurance premium (MIP) requirement usually found in conventional mortgages when the buyer makes a down payment of less than 20 percent of the home’s purchase price;

• Requires a 3.6 percent upfront mortgage insurance (UFMI) premium to ensure the solvency of the program; and

• Requires the program to be reauthorized after five years.

The HELPER Act has been endorsed by: American Association of State Troopers (AAST), American Federation of Teachers (AFT), Federal Law Enforcement Officers Association (FLEOA), Fraternal Order of Police (FOP), International Association of EMTs and Paramedics (IAEP), Major Cities Chiefs Association (MCCA), Major County Sheriffs of America (MCSA), National Association of Police Organizations (NAPO), National Troopers Coalition (NTC), and the International Association of Fire Fighters (IAFF) among others.
Item B-2
Assembly Bill 1620 (Zbur) - Costa-Hawkins Rental Housing Act: permanent disabilities: comparable or smaller units (AB 1620) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. However, the City may wish to consider taking a position on this bill as it would authorize a jurisdiction to require the owner of a residential real property that is subject to an ordinance or charter provision that controls the rental rate to permit a tenant not subject to eviction for nonpayment and who has a permanent physical disability related to mobility to move to an available comparable or smaller unit located on an accessible floor of the property. The bill would require an owner who grants a request to allow the tenant to retain their lease at the same rental rate and terms of the existing lease.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1620 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1620, the Liaisons may recommend the following actions:

1) Support AB 1620;
2) Support if amended AB 1620;
3) Oppose AB 1620;
4) Oppose unless amended AB 1620;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1620, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1620 (Zbur) Costa-Hawkins Rental Housing Act: permanent disabilities: comparable or smaller units.

Version
As Amended in the Assembly May 26, 2023.

Summary
 Allows a jurisdiction with rent control to require an owner of a rent-controlled unit to allow a tenant with a permanent physical disability to relocate to an available comparable or smaller unit located on an accessible floor of the property and retain their same rental rate.

Specifically, this bill does the following:

1. Allows, notwithstanding any other law, a jurisdiction with rent control to require an owner of a rent-controlled unit to permit a tenant who is not subject to eviction for nonpayment of rent and who has a permanent physical disability related to mobility to move to an available comparable or smaller unit located on an accessible floor of the property.

2. Requires an owner subject to the requirements of this bill to allow the tenant to retain their lease at the same rental rate and terms of the existing lease, if the owner must grant a tenant's request for a reasonable accommodation relating to the tenant's physical disability after complying with any interactive process requirement, including California Code of Regulations (CCR) Title 2 Section 12177, and all of the following apply:
   a. The move is determined to be necessary to accommodate the tenant's physical disability related to mobility;
   b. There is no operational elevator that serves the floor of the tenant's current unit;
   c. The new unit is in the same building or on the same parcel with at least three other units and shares the same owner;
   d. The new unit does not require renovation to comply with applicable Health and Safety Code requirements;
   e. The applicable rent control board or authority determines that the owner will continue to receive a fair rate of return or offers an administrative procedure ensuring a fair rate of return for the new unit; and
f. The tenant provides the owner a written request to move into a new accessible unit prior to a unit becoming available.

3. Requires the owner to handle any security deposit paid by the tenant for the initial unit in accordance with existing law governing security deposits upon the tenant moving to the new first floor unit.

4. Defines, for purposes of the bill, "comparable or smaller unit" to mean a dwelling or unit that has the same or less than the number of bedrooms and bathrooms, square footage, and parking spaces as the unit being vacated.

5. Provides that this bill does not apply unless all of the tenants on the lease agree to move to the new accessible unit.

6. Provides that this bill does not apply to a newly available unit if the owner, their spouse, domestic partner, children, grandchildren, parents, or grandparents intend to occupy the available unit.

7. Provides that the requirements of the bill are in addition to those of any other state or federal fair housing laws or regulations and must not be construed to prevent owners from granting reasonable accommodations to change housing units and retain their existing lease at the same rental rate and terms in order to accommodate a disability under existing law.

Existing Law

1. Pursuant to the Costa-Hawkins Rental Housing Act, authorizes, notwithstanding any other provision of law, an owner of residential real property to establish the initial and all subsequent rental rates for a dwelling or a unit about which any of the following is true:
   a. It has a certificate of occupancy issued after February 1, 1995;
   b. It has already been exempt from the residential rent control ordinance of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units; or
   c. It is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision, where the tenancy began on or after January 1, 1996, with certain exceptions. (Civil Code (CC) Section 1954.52)

2. Provides that the authorization in 1) does not apply to any of the following:
   a. A dwelling or unit where the preceding tenancy has been terminated by the owner with a 30-day or 60-day notice to terminate the tenancy, or has been terminated upon a change in the terms of the tenancy, as specified, except a change permitted by law in the amount of rent or fees;
   b. Where the owner has otherwise agreed by contract with a public entity in consideration for a direct financial contribution or any other forms of assistance;
   c. When there is a renewal of the initial hiring by the same tenant, lessee, authorized subtenant, or authorized sublessee for the entire period of his or her occupancy at the rental rate established for the initial hiring; or
   d. Where the dwelling or unit contains serious health and safety violations that have not been abated, as specified. (CC 1954.53)

3. Establishes rules governing how initial rental rates may be set where the previous tenant has voluntarily vacated, abandoned or been evicted from the unit. (CC 1954.53(c))
4. Provides that nothing in the Act can be construed to affect the authority of a public entity that may otherwise exist to regulate or monitor the basis for eviction. (CC 1954.53(e))

5. Provides, pursuant to the Unruh Civil Rights Act, that all persons within the jurisdiction of the state are free and equal, and no matter what characteristics they have, including disability, they are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever. (CC 51(b))

6. Requires individuals with disabilities to be entitled to full and equal access to all housing accommodations offered for rent, lease, or compensation in this state. Prohibits a person renting, leasing, or otherwise providing real property for compensation from refusing to permit an individual with a disability to make reasonable modifications of an existing rented premises if the modifications are necessary to afford the person full enjoyment of the premises, and from refusing to make reasonable accommodations in rules, policies, practices, or services, when those accommodations may be necessary to afford equal opportunity to use and enjoy the premises. (CC 54.1(b)(1))

7. Establishes the state Fair Employment and Housing Act (FEHA), which:
   a. Prohibits the owner of any housing accommodation to discriminate against or harass any person because of a number of characteristics, including disability. (Government Code (GC) 12955(a))
   b. Defines “physical disability” to include, but not be limited to, all of the following:
      i. Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that affects one or more of specified body systems and limits a major life activity;
      ii. Any health impairment that requires special education or related services; or
      iii. Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that meets the criteria of i) and ii) and is known to the employer or other entity covered by FEHA, or certain limited additional circumstances. (GC 12926(m))
   c. Defines “discrimination” to include the refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the premises, and the refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling. (GC 12927(c)(1))
   d. Provides that proof of an intentional violation of FEHA includes, but is not limited to, an act or failure to act that is otherwise covered by FEHA and that demonstrates an intent to discriminate in any manner in violation of FEHA. A person intends to discriminate if one or more of any number of characteristics, including disability, is a motivating factor in committing a discriminatory housing practice even though other factors may have also motivated the practice. (GC 12955.8(a))
   e. Provides that proof of a violation causing a discriminatory effect is shown if an act or failure to act that is otherwise covered by FEHA has the effect, regardless
of intent, of unlawfully discriminating on the basis of one or more of any number of characteristics, including disability. (GC 12955.8(b))

8. Establishes procedures and rules for requesting reasonable accommodations and reasonable modifications in housing accommodations pursuant to Section 12176 of Title 2 of the California Code of Regulations (CCR). Provides “interactive process” requirements for requesting reasonable accommodations and modifications pursuant to 2 CCR § 12177.

Background
Rent Control and the Costa-Hawkins Act: Rent control first came about in California during and after World War II, with the Emergency Price Control Act of 1942. This Act capped rents and the price of other goods and services at a certain amount, but was lifted a few years later after the postwar economy stabilized. The “second generation” of mostly local rent control laws were enacted in California in the 1970s and 1980s during a period of high inflation, and differ from the first generation model in that they are more complex, generally allow for regular rental increases, and may govern other aspects of the landlord-tenant relationship.

No specific state laws governed the structure of these local rent control laws at the time. However, case law generally provides that rent controls are a valid exercise of a city’s police power so long as they are reasonably calculated to eliminate excessive rents and at the same time provide landlords with a “just and reasonable return on their property” (Birkenfeld v. Berkeley (1976) 17 Cal.3d 129). Cities with rent control laws were thus afforded a high degree of flexibility to shape their policies.

However, in response to the rent control laws passed in the 1970s and 1980s, there were numerous attempts over the years, in the courts, the Legislature, and at the statewide ballot, to preempt local rent control. These attempts were unsuccessful until 1995, when the California Legislature passed and the Governor signed AB 1164 (Hawkins), also known as the Costa-Hawkins Rental Housing Act, which fundamentally changed the way rent control laws could be enforced in the state. While local governments maintain the ability to implement rent control laws, they are limited by the parameters of the Act. Key provisions of the Act include the following:

- Rental property owners may establish a new rental rate where the former tenant has voluntarily vacated or is lawfully evicted for cause. This is known as vacancy decontrol.
- Housing constructed after February 1, 1995, must be exempt from rent control, including condos, single-family homes, and multifamily buildings.
- Single-family homes and condos that are separate from the title to any other dwelling units could not be subject to rent control for tenancies beginning after January 1, 1996.
- Housing that was already exempt from a local rent control law in place on or before February 1, 1995, pursuant to an exemption for new construction, must remain exempt. This prohibited cities with existing rent control policies at the time of the Act’s passage from expanding their policies, usually meaning units built after the late 1970s cannot be covered by rent control.
For many years, only 10-15 cities in California had local rent control laws; however, high rent growth and the COVID-19 pandemic have led to a recent increase in the amount of local jurisdictions who have adopted some form of rent control. Tenants Together, a statewide tenant advocacy organization, currently identifies 27 cities with some form of rent control. These policies vary from city to city – for example, some may limit the percentage that rent may be increased annually, while others may limit rent increases based on an index for inflation.

**Status of Legislation**
This measure passed the Assembly Floor on May 31, 56-18, with 6 abstaining. The measure is currently pending in the Senate.

**Support**
City of West Hollywood (Sponsor)
City of Santa Monica (Co-Sponsor)
Coalition for Economic Survival (CES)
Santa Monica Rent Control Board
Voices for Progress Education Fund

**Opposition**
California Association of Realtors
Item B-3
Senate Bill 20 (Rubio) - Joint powers agreements: regional housing trusts (SB 20) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. However, the City may wish to consider taking a position on this bill would authorize two or more local agencies to create a regional housing trust for the purpose of funding housing to assist the homeless population and persons and families of extremely low, very low, and low income within their jurisdictions by entering into a joint powers agreement pursuant to the Joint Exercise of Powers Act.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for SB 20 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 20, the Liaisons may recommend the following actions:

1) Support SB 20;
2) Support if amended SB 20;
3) Oppose SB 20;
4) Oppose unless amended SB 20;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 20, then staff will place the item on a future City Council Agenda for concurrence.
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 20 (Rubio) Joint powers agreements: regional housing trusts

Version
As Amended in the Assembly on May 16, 2023.

Summary
This bill does the following:

1. Authorizes the creation of a regional housing trust (trust) between two or more local agencies by entering into a joint powers agreement. The trust must operate to fund housing to assist the homeless population and persons and families of extremely low-, very low-, and low-income within their jurisdictions, as defined.

2. Allows a federally recognized tribal government to enter into the joint powers agreement. If a tribal government enters into the agreement, the tribal government must designate one of its members to join the board of directors. The tribal government must determine how to select the member.

3. Requires the trust to be governed by a board of directors (board) as follows:
   a. A minimum of five directors.
   b. At least three members shall be elected members from a local agency party to the joint powers agreement.
   c. At least two members shall be experts in homeless or housing policy that are not elected, to be selected by majority vote of the other members of the board.
   d. Additional members must also meet one of these requirements, or be a member of a tribal government appointed pursuant to 2) above, but at least a majority of the board must remain elected officials from the local agencies party to the joint powers agreement.
   e. Requires that members of the board must serve without compensation, but can receive reimbursements for approved expenses.
   f. Provides that members serve two-year terms. If a vacancy occurs, the remaining board members must make an appointment to fill that vacancy for the remainder of the term.

4. Allows the trust to:
   a. Fund any of the following:
i. The planning and construction of housing of all types and tenures for the homeless population and persons and families of extremely low-, very low, and low-income.

ii. The acquisition of housing of five or more units of all types and tenures for the homeless population and persons and families of extremely low-, very low, and low-income.

iii. The acquisition of housing of any number of units for the purpose of assisting a nonprofit corporation as specified.

b. Receive public and private financing and funds.

c. Authorize and issue bonds, certificates of participation, or any other debt instrument repayable from funds and financing received and pledged by the trust.

5. Requires the trust to incorporate into its joint powers agreement annual financial reporting and auditing requirements to maximize transparency and show how the funds have furthered the purposes of the trust.

6. Requires the trust to comply with regulatory guidelines of each state funding source received.

7. Clarifies that this bill does not prohibit a local agency from requesting a special statute that provides exemptions if unique local circumstances exist.

8. Defines local agency to mean a city, county, or council of governments.

**Existing Law**

1. Authorizes, under the Joint Exercise of Powers Act, two or more public agencies to use their powers in common if they sign a joint powers agreement. Such an agreement may create a new, separate government called a joint powers agency or joint powers authority (JPA). Agencies that may exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, federally recognized Indian tribes, and even other JPAs.

2. Authorizes public agencies to use the JPA law and the related Marks-Roos Local Bond Pooling Act to form bond pools to finance public works, working capital, insurance needs, and other public benefit projects. Bond pooling saves money on interest rates and finance charges and allows smaller local agencies to enter the bond market. Because a JPA is an entity separate from its members, bonds issued by JPAs do not have to be approved by voters.

3. Establishes the Local Housing Trust Fund (LHTF) Program under the Department of Housing and Community Development (HCD), which provides matching grants (dollar for dollar) to local housing trust funds that are funded on an ongoing basis from private or public sources.

**Background**

In recent years, the Legislature has created five new JPAs for the purpose of funding the development of housing for homeless and low income individuals and families:

- *Orange County Housing Finance Trust.* The Legislature created the Orange County Housing Finance Trust (OCHFT) in 2018 as a JPA among the County of Orange and 23 of the 34 cities in the county (AB 448, Daly, Chapter 336, Statutes of 2018). According to the OCHFT, its members share the goal of creating 2,700 permanent supportive housing and affordable housing units by June 30, 2025. As of January 2022, OCHFT
has completed or begun construction of 1,676 units, with another 961 awaiting sufficient funding. OCHFT funded these units by leveraging matching grant funds from the state’s Local Housing Trust Fund (LHTF) program to issue deferred payment loans to developers.

- **San Gabriel Valley Regional Housing Trust.** The Legislature created the San Gabriel Valley Regional Housing Trust (SGVRHT) in 2019 as a JPA among some of the cities throughout the San Gabriel Valley (SB 751, Rubio, Chapter 670, Statutes of 2019). In February 2020, the member cities formed SGVRHT, which currently has 21 member cities. According to the SGVRHT, the Trust received $1 million in matching grant funds from the state’s LHTF program for the construction of 71 affordable housing units across two projects in the cities of Claremont and Pomona scheduled for completion in 2022. Additionally, SGVRHT funded a non-congregate emergency shelter pilot program. The Budget Act of 2021 (SB 129, Skinner, Chapter 69, Statutes of 2021) allocated $20 million to SGVRHT, and the Budget Act of 2022 (AB 178, Ting, Chapter 45, Statutes of 2022) allocated another $10 million to the trust’s affordable housing and homelessness projects.

- **Western Riverside County Housing Finance Trust.** In 2021, the Legislature created the Western Riverside County Housing Finance Trust (WRCHFT) (AB 687, Seyarto, Chapter 120, Statutes of 2021).

- **Burbank-Glendale-Pasadena Regional Housing Trust.** In 2022, the Legislature created the Burbank-Glendale-Pasadena Regional Housing Trust (SB 1177, Portantino, Chapter 173, Statutes of 2022) and allocated $23 million to the trust for affordable housing projects (AB 178, Ting, Chapter 45, Statutes of 2022).

- **South Bay Regional Housing Trust.** In 2022, the Legislature created the South Bay Regional Housing Trust (SB 1444, Allen, Chapter 672, Statutes of 2022), which includes the cities that are members of the South Bay Cities Council of Governments.

**Status of Legislation**
Currently in the Assembly Local Government Committee. A hearing date has yet to be set.

**Support**
California Contract Cities Association  
California State Board of Equalization  
CivicWell  
County of Humboldt  
East Bay YIMBY  
Grow the Richmond  
How to ADU  
Leadingage California  
Livable California  
Mountain View YIMBY  
Napa-Solano for Everyone  
Northern Neighbors  
Peninsula for Everyone  
People for Housing Orange County

Progress Noe Valley  
San Francisco YIMBY  
San Gabriel Valley Council of Governments  
San Gabriel Valley Regional Housing Trust  
San Luis Obispo YIMBY  
Santa Cruz YIMBY  
Santa Rosa YIMBY  
South Bay YIMBY  
Southside Forward  
Ventura County YIMBY  
YIMBY Action

**Opposition**
California Association of Realtors

3
TO: City Council Liaison/Legislative/Lobby Committee  
FROM: Cynthia Owens, Municipal Affairs Program Manager  
DATE: June 14, 2023  
SUBJECT: Assembly Bill 1287 (Alvarez) - Density Bonus Law: additional density bonus and incentives or concessions: California Coastal Act of 1976  
ATTACHMENT: 1. Summary Memo – AB 1287

Assembly Bill 1287 (Alvarez) - Density Bonus Law: additional density bonus and incentives or concessions: California Coastal Act of 1976 (AB 1287) 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 1287:

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

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 1287 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1287, the Liaisons may recommend the following actions:

- Oppose AB 1287;
- Support AB 1287;
- Support if amended AB 1287;
- Oppose unless amended AB 1287;
- 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
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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


Version
As Amended April 26, 2023.

Summary
Requires a city, county, or city and county to grant additional density and concessions and incentives if an applicant agrees to include additional moderate income units on top of the maximum amount of units for lower, very low, or moderate income units, and applies Density Bonus Law (DBL) to the Coastal Act without limitation.

Specifically, this bill does the following:

1. Provides that when an applicant for a density bonus proposes to construct the maximum amount allowed under existing law, meaning 24 percent of the base density units to lower income households, 15 percent of the base density units to very low income households, or 44 percent of the total units to moderate-income households, and an applicant includes additional very low or moderate income units above the maximum thresholds, then the city, county, or city and county is required to provide an additional density bonus, as specified.

2. Requires that an applicant for a density bonus shall receive the additional following incentives or concessions:
   a. Four incentives or concessions for projects that include at least 16 percent of the units for very low income households or at least 45 percent for persons and families of moderate income in a development in which the units are for sale.
   b. Five incentives or concessions for a project in which 100 percent of all units are for lower income households (current law provides four incentives)
Existing Law

1. Pursuant to the Density Bonus Law:
   a. 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 households or very low income households, and meets other requirements. (Government Code (Gov Code) 65915 (b)(1))
   b. Provides that the Density Bonus Law does not supersede or in any way alter or lessen the effect or application of the Coastal Act, and requires that any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which an applicant is entitled under the Density Bonus Law be permitted in a manner consistent with the California Coastal Act. (Gov Code 65915 (m))
   c. Requires the review of a housing element for jurisdictions located within a coastal zone to provide an additional analysis of units constructed, demolished and replaced within three miles of a coastal zone to ensure the affordable housing stock with the coastal zone is being protected and provided. (Gov Code 65588 (d))

2. Pursuant to the California Coastal Act of 1976 (Coastal Act):
   a. Regulates development in the coastal zone and requires a new development to comply with specified requirements. (Public Resources Code (PRC) 30000)
   b. Requires any person wishing to perform or undertake any development in the coastal zone, in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, to obtain a coastal development permit. (PRC 30600)
   c. Defines “development” to mean, among other things, the placement or erection of any solid material or structure on land or in water. “Structure” includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (PRC 30106)
   d. Provides that the scenic and visual qualities of coastal areas must be considered and protected as a resource of public importance. Permitted development must be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government must be subordinate to the character of its setting. (PRC 30251)
   e. Requires all new development to minimize risks to life and property in areas of high geologic, flood, and fire hazard; assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs; be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development; minimize energy consumption and vehicle miles traveled; and, where appropriate, protect special communities and neighborhoods that, because of
their unique characteristics, are popular visitor destination points for recreational uses. (PRC 30253 (f))

f. Provides that the Legislature finds and declares that it is important for the California Coastal Commission (Commission) to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low- and moderate income in the coastal zone. (PRC 30604 (g))

Background
Density Bonus Law: DBL was originally enacted in 1979 as an incentive to encourage housing developers to produce affordable units which can be offered at below market-rates. In return for including a certain percentage of affordable units, housing developers receive the ability to add additional units for their project above the jurisdiction’s allowable zoned density for the site (thus the term “density bonus”). In order to qualify for a density bonus a developer of multifamily housing (5+ units) must agree to build housing that includes at least one of the following:

1. 10 percent of all units for lower-income households;
2. 5 percent of all units for very low-income households,
3. Specified senior housing;
4. 10 percent of all units in a CID for moderate income individuals and families;
5. 10 percent of all units for transition age foster youth, disabled veterans, or individuals experiencing homelessness; or
6. 20 percent of all units for lower-income students within in student housing development.

The affordability requirements for units built via density bonus run for a minimum of 55 years. Additionally, DBL specifies concessions and incentives around development standards (e.g., architectural, height, setback requirements) and reductions in vehicle parking requirements that projects can receive to offset the cost of building affordable units. Both market rate and 100% affordable housing projects can use the provisions and all local governments are required to adopt a density bonus ordinance. However, failure to adopt an ordinance does not exempt a local government from complying with state density bonus law.

Concessions and Incentives: Density bonus law provides more density and incentives and concessions to developers the more affordable units provided and the more deeply affordable the units. A developer can get three concessions and incentives for including the maximum amount of lower income (24 percent), very low income (15 percent) and moderate income units (44 percent) in a development. A developer that makes 100% of the units affordable can get four concessions and incentives if located within one-half mile of a major transit stop or a designated low vehicle miles-travelled (VMT) area.

Moderate Income: Density bonus law only applies to moderate income for-sale housing. Although the bill is not currently drafted to apply to moderate income rental housing, the sponsor shared that is their intent. Moderate income is defined as a household that makes 120 percent of the AMI. In some jurisdictions, moderate income is market rate. The purposes of density bonus is to support the inclusion of affordable housing in a development by providing enough density and concession and incentives to offset the cost of the affordable housing without additional ongoing subsidy – in effect, to "pay for" those additional
affordable units. This bill would provide an additional density and concession and incentives if a developer includes the maximum amount of lower, very low and moderate-income units required under density bonus as well as an additional percentage of either very low or moderate-income units.

**Statewide Housing Needs:** According to the California Housing Partnership (CHP), the rate of severe cost burden (paying over half of income in rent) among moderate-income households remains low statewide at just six percent. It jumps to 24 percent for lower-households, 53 percent for very low-income households, and 78% for extremely low-income households. In addition, a recent study by CHP found that in most of the state, median-income renters (those at 100 percent of AMI, the midpoint of the moderate-income range) can afford average rent in 55 out of 58 counties. For very low-income renters there are only four counties where average rent is affordable, and there are no counties affordable to extremely low-income renters. The study further found that median income households can afford average rent in all but 399 of California’s 2,125 ZIP codes. Of those unaffordable ZIP codes, 227 are in Southern California, 67 are on the Central Coast, 47 are in San Diego, 42 are in the Bay Area, 10 are in the San Joaquin Valley, and six are in Greater Sacramento.

**Status of Legislation**
This bill passed out of the Assembly Floor on May 31, 72-1, 7 abstaining. This bill is pending referral in the Senate.

**Support**
Abundant Housing LA
Bay Area Council
Buildcasa
California Community Builders
California Yimby
Circulate San Diego
Civicwell
Council of Infill Builders
East Bay for Everyone
East Bay Yimby
Eden Housing
Fieldstead and Company, INC.
Greenbelt Alliance
Grow the Richmond
Housing Action Coalition
How to Adu
Midpen Housing
Mountain View Yimby
Napa-Solano for Everyone
National Association of Hispanic Real Estate Professionals (NAHREP)
Northern Neighbors SF
Orange County Business Council
Peninsula for Everyone
People for Housing - Orange County
Progress Noe Valley
San Francisco Yimby
San Luis Obispo Yimby
Sand Hill Property Company
Santa Cruz Yimby
Santa Rosa Yimby
Silicon Valley @ Home
Silicon Valley Leadership Group
South Bay Yimby
Southside Forward
Spur
Urban Environmentalists
Ventura County Yimby
Yimby Action
**Opposition**
Azul
California Contract Cities Association
California Coastal Commission
California Coastal Protection Network
California Coastkeeper Alliance
Citizens Preserving Venice
Coastal Environmental Rights Foundation
Coastal San Pedro Neighborhood Council
Environmental Action Committee of West Marin (EAC)
Environmental Center of San Diego
Environmental Defense Center
Friends, Artists and Neighbors of Elkhorn Slough
Humboldt Bay keeper
New Livable California
Ocean Conservation Research
Orange County Coastkeeper
Pacific Palisades Community Council
Planning and Conservation League
Public Trust Alliance, a Project of The Resource Renewal Institute
Resource Renewal Institute
San Diego Coastkeeper
Sierra Club California
So Cal 350 Climate Action
Turtle Island Restoration Network
Westwood South of Santa Monica Blvd.
Homeowners Association
Item B-5
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO:       City Council Liaison/Legislative/Lobby Committee
FROM:     Cynthia Owens, Municipal Affairs Program Manager
DATE:     June 14, 2023
SUBJECT:  Senate Bill 584 (Limón) - Laborforce housing: Short-Term Rental Tax Law
ATTACHMENT: 1. Bill Summary – SB 584

Senate Bill 584 (Limón) - Laborforce housing: Short-Term Rental Tax Law (SB 584) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. Councilmember Mirisch has requested the City of Beverly Hills consider taking a position on SB 584.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 584 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 584 the Liaisons may recommend the following actions:

1) Support SB 584;
2) Support if amended SB 584;
3) Oppose SB 584;
4) Oppose unless amended SB 584;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 584, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 584 (Limon) Laborforce Housing Short-Term Rental Tax Law

Version
As amended in the Senate on May 18, 2023.

Summary
This bill requires a 15% state short-term rental (STR) occupancy tax to be collected, as specified, and allocates the funds for the construction, acquisition and rehabilitation of affordable housing and renter protection programs.

Specifically, this bill:
1. Defines “laborforce housing” or “laborforce housing projects” (projects) as housing that meets all the following requirements:
   a. The housing units are owned and managed by a public entity, a local housing authority, or a non-profit, as specified.
   b. Each development contains units that accommodate a mix of housing of household income ranges at or below moderate income. All units shall be permanently deed-restricted affordable to households at each of those income levels to ensure that every household pays an affordable rent.
   c. Residents shall enjoy specified tenant protections outlined below.
   d. The housing units are protected for the duration of their useful life, and the land associated with the housing units is protected permanently from being sold or transferred to any person or for-profit or public-private partnership.
   e. Residents have the right to participate directly and meaningfully in decision-making affecting the operation and management of the housing units in which they reside.
2. Defines “short-term rental” as the occupancy of a home, house, a room in a home or house or other lodging that is not a hotel, inn, motel, or bed and breakfast in this state for a period of 30 days or less.

State short-term rental tax
3. Requires a renter of an STR, beginning after January 1, 2025, to pay a tax on the occupancy of the STR at the rate of 15% of the rental price of the STR to the
California Department of Tax and Fee Administration (CTFA). “Rental price” means the total amount for which a renter retains the right to occupy an STR, valued in money, whether paid in money or otherwise.

4. Provides that an STR facilitator or operator with de minimis facilitations of STR is not required to collect the tax in (3). De minimis facilitations of STR means the facilitator or operator derived less than $100,000 from STRs during the prior calendar year.

5. Requires funds collected by CTFA shall be deposited in the Laborforce Housing Fund (Fund). Moneys in the fund shall be available upon appropriation by the Legislature.

Laborforce housing administration and funding uses

6. Authorizes public entities, local housing authorities, and nonprofit housing provides to receive funding from the Fund.

7. Authorizes HCD to use any funds for administration purposes.

8. Requires no less than 65% of the funds to be allocated to the creation of laborforce housing through new construction.

9. Requires no more than 30% of the funds to be used for the creation of laborforce housing through the acquisition and rehabilitation of existing housing.

10. Requires a maximum of 5% of the funds to be used to meet the operating needs of projects and for planning and implementation of local housing or renter protection programs, and authorizes up to 5% to be utilized for administration.

Labor standards

11. Requires funds to be used to pay for construction or rehabilitation work on a project only if either of the following is true:
   a. All construction and rehabilitation work is subject to a project labor agreement that requires payments of at least the applicable prevailing wage rate to all construction workers on the project.
   b. HCD or a local public agency has obtained an enforceable commitment from the prime contractor or other entity undertaking the work that all contractors and subcontractors at every tier will use a skilled and trained workforce to complete the project.

Tenant protections

12. Requires all of the following protections to apply to tenants in a property funded by this bill:
   a. Tenants shall be protected from termination or eviction except for just cause, as specified.
   b. A tenant who qualifies at the time of the creation of the tenancy shall not be terminated solely on the basis of a subsequent change in income.
   c. No household or member of a household that resides in the property at the time of its acquisition shall be evicted, nor shall their tenancy be terminated on the ground of their income or other eligibility requirements for deed-restricted units in the property.
   d. The maximum allowable rent increase for any unit shall not exceed the lesser of 3% of the rent or 6% of the California Consumer Price Index.
e. No tenant in a property acquired with funding by this bill shall be deprived of any rights or protections under state or local law that they enjoyed prior to the time of its acquisition. Tenants shall enjoy full rights of association and free speech including the right to organize tenant unions and shall be protected from any act of discrimination, harassment, or retaliation.

Existing Law
Existing law establishes several housing programs, administered by HCD, that finance housing rehabilitation and new construction, including but not limited to the following:

1. Multifamily Housing Program (MHP) – assists the new construction, rehabilitation, and preservation of permanent and transitional rental housing for lower-income households.
2. Joe Serna Jr., Farmworker Housing Grant Program – finances the new construction, rehabilitation, and acquisition of owner-occupied and rental units for agricultural workers, with a priority for lower-income households.

Background
Developing housing that is affordable to very low- and low-income families requires some amount of public investment. The high cost of land and construction, as well as regulatory barriers, in California generally makes it economically impossible to build new housing that can be sold or rented at prices affordable to those households. The private sector sometimes provides financial subsidies or land donations mandatorily through inclusionary zoning policies or voluntarily through density bonus ordinances. In most cases, some amount of public financial subsidy is needed from federal, state, and/or local governments.

Prior to 1974, the federal government invested heavily in affordable housing construction. When those units began to deteriorate, the Housing Community and Development Act ended most new construction of public housing and the Housing Choice Voucher Program (Section 8) was created in its place. This new program allowed eligible tenants to pay only a portion of their rent (based on their income) and shifted funds from public housing authorities to the private sector. The goal was to eliminate concentrations of low-income people in housing developments. In 1981, the Reagan administration dismantled federal affordable housing funding. From 1978 to 1983, the funding for low- to moderate-income housing decreased by 77%. In 1970, there were 300,000 more low-cost rental units (6.5 million) than low-income renter households (6.2 million). By 1985, however, the number of low-cost units had fallen to 5.6 million, and the number of low-income renter households had grown to 8.9 million, a disparity of 3.3 million units.

At the state level, California has invested significantly in affordable housing construction and rehabilitation in recent years through the passage of one-time discretionary actions in the budget and the passage of voter approved bonds. Only funds from the Affordable Housing and Sustainable Communities program (AHSC), federal and state low income housing tax credits, and funds from SB 2 (Atkins, Chapter 364, Statutes of 2017), are ongoing sources of funding. Additionally, investments provided by voter approved general obligation bonds have been fully allocated. These investments, while critical, have not made up for decades of disinvestment from the federal level.
**Status of Legislation**
This measure passed off the Senate Floor on May 31, 27-11, 2 abstaining. This bill is pending in the Assembly.

**Support**
State Building and Construction Trades Council of California (source)
California Community Land Trust Network
California Democratic Party Renters Council
California Federation of Teachers AFL-CIO
Housing Now! CA
Inner City Law Center
Public Advocates Inc.
Tenants Together
Tenemos Que Reclamar Y Unidos Salvar LA Tierra - South LA

**Opposition**
Airbnb
Airbnb Host Community of The East Bay
California Association of Realtors
California Housing Partnership Corporation
Coastal Orange County Area Airbnb Host Community
Fresno Area Airbnb Host Community
Home Sharers Democratic Club
Housing Contractors of California
Lake Arrowhead Airbnb Host Community
Long Beach Hosting Club
Sonoma, Napa and Marin County Area Host Community
Western Electrical Contractors Association
Bay Area Council
CalAsian Chamber
California Chamber of Commerce
Chamber of Progress
Expedia Group
San Francisco Travel Association
Silicon Valley Leadership Group
TechNet
Item B-6
Senate Bill 684 (Caballero) - Land use: streamlined approval processes: development projects of 10 or fewer single-family residential units on urban lots under 5 acres (SB 684) involves a policy matter that may have a nexus to the City’s adopted Legislative Platform language. Specifically, the following statements may apply to SB 684:

- 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 SB 684 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 684, the Liaisons may recommend the following actions:

- Oppose SB 684;
- Support SB 684;
- Support if amended SB 684;
- Oppose unless amended SB 684;
- 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
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 684 (Caballero) Land use: streamlined approval processes: development projects of 10 or fewer single-family residential units on urban lots under 5 acres

Version
As Amended in the Senate on March 22, 2023.

Summary
This bill requires local agencies to ministerially approve subdivision maps and building permits for smaller projects in urban areas that include ten (10) housing units or less.

Specifically, this bill does the following:
1. Requires a local government to ministerially approve, without discretionary review or a hearing, a parcel map or a tentative and final map for a housing development project that meets the following requirements:
   a. The project contains ten (10) or fewer single-family residential units.
   b. The proposed development is located on a lot that meets both of the following sets of requirements:
      i. The lot is either zoned multifamily residential or vacant and zoned for single-family residential development.
      ii. The lot is no larger than five acres and substantially surrounded by qualified urban uses.
   c. The single-family units are constructed on fee simple ownership lots.
   d. The proposed development will meet one of the following:
      i. If identified in the housing element, the development will result in at least as many units as projected for that parcel.
      ii. If not identified in the housing element, the development will result in at least as many units as the maximum allowable residential density, unless the zoning for the site allows for midrange density.
      iii. If midrange density is specified for the site, the development will result in at least as many units as are allowed under the midrange development standard.
   e. The residential properties within 500 feet of the site are zoned to have allowable density of less than 30 dwelling units per acre.
f. The site complies with the external existing site front, side, and rear setback requirements.
g. The proposed units comply with existing height limits, if applicable.
h. The jurisdiction has adopted a housing element deemed by HCD to be in substantial compliance with housing element law.
i. The site is not identified in the housing element as a site to accommodate the jurisdiction’s regional housing need for low-income or very low-income households.
j. The average total area of floorspace of the proposed units does not exceed 1,750 net habitable square feet.
k. The development complies with any local inclusionary ordinance.
l. The development does not require the demolition or alteration of any of the following types of housing:
   i. Housing subject to a recorded covenant, ordinance, or law that restricts rent to levels affordable to persons and families of moderate, low or very low incomes.
   ii. Housing that is subject to any form of rent or price control.
   iii. Housing occupied by tenants within the last seven years preceding the date of application.
   iv. A parcel on which an owner has not exercised their rights under the Ellis Act in the last 15 years.
m. The development is not located on a parcel that meets any of the following:
   i. Farmland;
   ii. Wetlands;
   iii. Within a very high fire hazard severity zone;
   iv. Within specified hazardous waste sites;
   v. Within specified earthquake fault zones;
   vi. Within specified flood zones;
   vii. Land identified for conservation in an adopted natural community conservation plan;
   viii. Habitat for protected species; or
   ix. Land under conservation easement.
2. Requires a local agency to issue a building permit for a subdivision if the applicant has received a tentative map approval or parcel map approval subject to 1) above, and has met the following requirements to the satisfaction of the local agency:
   a. The applicant agrees that the local agency issued the building permit on the condition that the local agency will not issue a certificate of occupancy unless the final map has been recorded; and
   b. The total number of units created does not exceed ten units.
3. Provides that the local agency must issue the building permit based upon the tentative or parcel map approved pursuant to 1) and its conditions of approval. Any dedication, improvement, and sewer requirements identified in the approved tentative or parcel map or its conditions of approval must be guaranteed to the satisfaction of the local agency at the time the building permit is issued.
Existing Law

1. Governs, pursuant to the Subdivision Map Act, how local officials regulate the division of real property into smaller parcels for sale, lease, or financing.

2. Authorizes local governments to impose a wide variety of conditions on subdivision maps.

3. Provides that each community’s fair share of housing be determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages:
   a. The Department of Finance and the Department of Housing and Community Development (HCD) develop regional housing needs estimates;
   b. Councils of government (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.

4. Requires cities and counties to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must consist of an identification and analysis of existing and projected housing needs and a statement of goals, policy objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.

5. Requires a locality’s inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the locality’s share of the regional housing need for all income levels as specified.

6. Requires a local government to determine whether each site in the site inventory can accommodate some portion of the jurisdiction’s share of the RHNA by income category during the housing element planning period. A community either must use the “default zoning densities” or “Mullin densities” to determine whether a site is adequately zoned for lower income housing or must provide an alternative analysis.

7. Establishes, pursuant to SB 35 (Wiener, Chapter 366, Statutes of 2017), a streamlined, ministerial approval process, for certain infill multifamily affordable housing projects proposed in local jurisdictions that have not met their Regional Housing Needs Assessment (RHNA) allocation.

Background

Planning and Zoning Law. Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially, or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meeting standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review; instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and
approval are subject to review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

**Small lot subdivisions.** One strategy to reduce the cost of housing is to facilitate the construction of “missing-middle” housing types that accommodate more units per acre, but are not inherently expensive to build. This includes medium-density housing, such as duplexes, fourplexes, garden apartments, town homes, and so forth. Several cities have sought to encourage the development of smaller “starter homes,” such as town homes and bungalows in single family neighborhoods, as well as in areas zoned for commercial and multifamily development that remain undeveloped or underdeveloped by adopting small lot ordinances that streamline the development process for smaller homes. For example, using its existing authority under the Map Act, the City of Los Angeles allows for the development of small lot subdivisions that relax minimum lot sizes, setbacks, and other requirements to allow for the creation of small homes on separately saleable lots.

**Status of Legislation**

This measure passed the Senate Floor on May 24, 34-0, with 6 abstaining. The measure is currently pending in the Assembly.

**Support**

California Community Builders (co-source)
California YIMBY (co-source)
Central Valley Urban Institute (co-source)
LISC San Diego (co-source)
21st Century Alliance
Abundant Housing LA
All Home
Asian Business Association of Silicon Valley
Bay Area Council
California Association of Realtors
California Black Chamber of Commerce
California Building Industry Association
California Journal for Filipino Americans
California Reinvestment Coalition
Casita Coalition
Central City Association
Community Build, INC.
Community Consumer Defense League
Community Housing Opportunities Corp
Cornerstone Construction
Council of Infill Builders
East Bay YIMBY
Faith and Community Empowerment

Farmworkers Institute of Education & Leadership Development
Fremont for Everyone
Groundswell for Water Justice
Grow the Richmond
Habitat for Humanity California
Hope through Housing Foundation
How to ADU
Inclusive Lafayette
Inland Empire Latino Coalition
Jesse Miranda Center for Hispanic Mountain View YIMBY
Napa-Solano for Everyone
National Diversity Coalition
National Federation of Filipino American Associations
New California Coalition
New Way Homes
North Bay Leadership Council
Northern Neighbors
Peninsula for Everyone
People for Housing - Orange County
Progress Noe Valley
Salef
San Francisco Bay Area Planning and Urban Research Association
San Francisco YIMBY
San Luis Obispo YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
South Bay YIMBY
Southern California Black Chamber of Commerce
Southern California Leadership Council
Southside Forward
Sustainable Growth Yolo
Tentmakers INC
Terrahome

**Opposition**
None Received.
Item B-7
Senate Bill 747 (Caballero) - Land use; economic development: surplus land (SB 747) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it aims to “rebalance the provisions of the Surplus Land Act” to provide local agencies with more opportunity to retain land for agency use, and declare it as exempt surplus land, so cities can use it for economic development opportunities.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 747 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 747 the Liaisons may recommend the following actions:

1) Support SB 747;
2) Support if amended SB 747;
3) Oppose SB 747;
4) Oppose unless amended SB 747;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 747, then staff will place the item on a future City Council Agenda for concurrence.
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 747 (Caballero) Surplus Land Act; Exemptions; Leases

Version
As Amended in the Senate on May 18, 2023.

Summary
This bill makes numerous changes to the Surplus Land Act to clarify procedures and provide local agencies with economic development opportunities.

Specifically, this bill does the following:

1. Adds new categories of land to the list of “exempt surplus land,” including:
   a. Land that is jointly developed or used for specified joint developments between a transit operator and another public agency.
   b. Land purchased using federal funds and for which a federal agency has authorized its use for specific purposes.
   c. Land transferred to a community land trust that meets the following conditions:
      i. The property is being developed or rehabilitated as an owner-occupied single-family dwelling, an owner-occupied unit in a multifamily dwelling, a member-occupied unit in a limited equity housing cooperative, or a rental housing development.
      ii. Improvements will be available for use and ownership or for rent by low and moderate-income households.
      iii. Includes a deed restriction or other instrument that requires an enforceable restriction on the sale or resale value of owner-occupied units, or the affordability of rental units, to be recorded before the lien date following the community land trust’s acquisition of the property.
   d. Additional categories of exempt surplus land that the California Department of Housing and Community Development (HCD) determines, including sites that are not suitable for housing.
2. Modifies the existing definition of “exempt surplus land” as follows:
   a. Expands the exemption for the sale of smaller parcels that are not contiguous to land a state or local agency owns and uses for open space or affordable housing to include leases.
b. Expands the exemption for local agencies transferring surplus land to another public entity to include third-party intermediaries for future dedication for the receiving agency's use.

c. Adds parking lots to the type of exempt surplus land that can be conveyed to an owner of an adjacent property.

d. Removes the requirement for certain affordable housing projects to be put out to open, competitive bids to qualify as exempt surplus land.

e. Expands the current exemption for mixed-use developments over one acre and over 300 housing units with at least 25 percent units reserved for low income households to include any mixed-use development with more than one publicly owned parcel that restricts at least 25 percent of units to lower income households.

f. For surplus land exempt due to valid legal restrictions, the measure provides that valid legal restrictions include:
   i. Existing constraints under ownership rights or contractual obligations that prevent the use of the property for housing.
   ii. Conservation or other easements or encumbrances that prevent housing development.
   iii. Existing leases, or other contractual obligations or restrictions.
   iv. A voter-approval requirement to transfer the property.
   v. Provides that feasible methods to mitigate or avoid a valid legal restriction do not include a requirement that the local agency acquire additional property rights or property interests belonging to third parties.
   vi. Prior to the disposition of the surplus land, requires the local agency to include the relevant legal restrictions in its adopted written findings for the disposal.

3. Expands the definition of “agency’s use” to include parcels used or planned for use for transit or transit-oriented development, port property used to support logistics, airports, state tidelands, sites for broadband equipment or wireless facilities, and buffer sites near waste disposal sites.

4. Provides that the SLA's definition of district, for which “agency use” can include commercial or industrial uses, includes the following types of districts if the land is located within the jurisdiction of a city, county, or city and county that has adopted a substantially compliant housing element and has been designated as prohousing: infrastructure finance districts, enhanced infrastructure financing districts, community revitalization and investment authorities, affordable housing authorities, transit village development districts, and climate resilience districts.

5. Adds a definition of “dispose” to mean the sale of surplus land, or the lease of surplus land for longer than 15 years, including renewal options included in the initial lease.

6. Modifies SLA procedures in the following ways:
   a. Allows a local agency to administratively declare land as “exempt surplus land” if it meets all the following criteria:
      i. The land is located within a city, county, or city and county that has adopted a substantially compliant housing element, as specified.
      ii. The land is located within a city, county, or city and county that is designated prohousing, as specified.
iii. The local agency has posted, on the local agency’s website, or published the declaration and written findings available for public comment, and provided notice to specified entities at least 30 days before the declaration takes effect.

b. Does not require a local agency to send notification of availability for surplus land prior to disposing of the property, or entering negotiations for its disposal, if it is disposing of the property to, or entering negotiations with, an affordable housing developer proposing to develop an affordable housing project that meets or exceeds the Surplus Land Act’s (SLA) 25 percent affordability threshold.

c. Requires a local agency that proceeds with a disposal of surplus land to consider the matter at a public meeting within 30 days after receiving a notice of violation from HCD.

d. Extends deadlines for surplus land disposals where a city or county entered into a legally binding agreement to dispose of the property prior to September 30, 2019, and the transferee has exercised one or more unilateral extension options included in the original agreement, until December 31, 2025, before they become subject to the SLA.

7. Requires HCD to solicit public comments on its proposed guidelines prior to adopting, amending, or repealing them, and require the department to consider and respond to public comments in writing.

8. Requires HCD to provide the local agency an appeals process to overturn an adverse action taken by HCD, which must be overseen by an independent trier of fact, as specified.

9. Clarifies that the provisions of the Economic Opportunity Law are an alternative to any other authority granted to, or procedures required by law for, cities and counties to acquire, sell, lease, or otherwise transfer property owned by cities or counties.

Existing Law

1. Requires a local agency that wants to dispose of property to follow specified procedures under the Surplus Land Act (SLA).

2. Defines “surplus land” as land owned by any local agency that is determined to be no longer necessary for the agency’s use.

3. Requires a local agency that is disposing of surplus land to notify certain public entities and housing sponsors that surplus land is available for one of the following purposes:
   a. Low- and moderate-income housing;
   b. Park and recreation, and open space;
   c. School facilities; or,
   d. Infill opportunity zones or transit village plans

4. Requires that, if another agency or housing sponsor wants to buy or lease the surplus land for one of these purposes, it must inform the disposing agency of its interest within 60 days, and if multiple entities want to purchase the land, the housing sponsor that proposes to provide the greatest level of affordable housing gets priority. The disposing agency and the interested entity have an additional 90 days to negotiate a mutually satisfactory price and terms in good faith. If they cannot agree, the agency that owns the surplus land can dispose of the land on the private market.
5. Requires that if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15 percent of the units must be sold or rented at an affordable cost to lower-income households.

6. Designates certain categories of surplus land as “exempt surplus land,” which does not have to meet the requirements of the SLA.

7. Allows property to be disposed of under the SLA as the law read on December 31, 2019, if disposition is completed before December 31, 2022, for certain types of properties.

**Background**

**AB 1486 (Ting, Chapter 664, Statutes of 2019).** In 2019, the Legislature substantially revised the SLA to increase the emphasis on affordable housing and address concerns that some local agencies were bypassing the SLA’s requirements (AB 1486, Ting). Among other changes, AB 1486 broadened the definition of surplus land and required land to be designated as surplus prior to the local agency selling the land, which ensures that local agencies must comply with the SLA. AB 1486 prohibited local agencies from counting the sale of land for economic development purposes as being “for the agency’s use.” This means that local agencies must open their properties up to affordable housing developers first, even if they have different purposes in mind for the property. Additionally, AB 1486 instituted a requirement that if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15 percent of the units must be sold or rented at an affordable cost to lower income households.

Finally, AB 1486 imposed penalties on local agencies that dispose of surplus land in violation of the SLA totaling 30 percent of the sales price of land disposed of in violation of the SLA for a first violation, and 50 percent of the price of the land for subsequent violations. These penalty revenues must be deposited in a local housing trust fund.

AB 1486’s amendments to the SLA gave HCD the authority to adopt guidelines to implement the penalty provisions of the SLA. These guidelines are not subject to the Administrative Procedures SLA, which prescribes the state’s procedures for adopting regulations that are designed to provide the public with a meaningful opportunity to participate in the adoption of regulations or rules. HCD issued guidelines pursuant to this authority in April 2021, to implement the SLA, and establish terms, conditions, forms, and procedures for the proper identification and disposition of various types of surplus land. Among other provisions, the guidelines provided that disposal included both sales and leases of land and required local agencies to notify HCD not only prior to agreeing to terms on surplus land, but also 30 days prior to disposing of exempt surplus land. To date, HCD has tracked 525 exempt surplus land dispositions and 237 standard surplus land dispositions.

**Economic Opportunity Law.** SB 470 (Wright, Chapter 659, Statutes of 2013) created a process for a city, county, or city and county to sell or lease properties, that are returned to them as part of the long-range property management plan of a former redevelopment agency (RDA), for economic development purposes. The bill provided that its provisions were an alternative to any other authority granted to local agencies to dispose of their property. The disposal process under Economic Opportunity Law includes various steps, including a
requirement for the local agency to pass a resolution or ordinance approving the sale or lease of the property, which must include a finding that the property's sale or lease will assist in the creation of economic opportunity.

**Status of Legislation**
This measure passed the Senate Floor on May 31, 8-0, with 2 abstaining. The measure is currently pending in the Assembly.

**Support**
Antelope Valley Economic Development & Growth Enterprise
Calaveras County Economic & Community Development
California Association for Local Economic Development
California Business Properties Association
Cities of Bakersfield, Bell Gardens, Bellflower, Brentwood, Corona, Elk Grove, Fowler, Fullerton, Indian Wells, Inglewood, Kerman, Lakewood, Merced, Montclair, Murrieta, Oceanside, Ontario, Palmdale, Paramount, Salinas, San Marcos, Suisun City, Tustin, Vista, and West Sacramento
County of San Bernardino
Irvine Ranch Water District
Kosmont Companies
Rural County Representatives of California
Solano Economic Development Corporation
Tri-County Chamber Alliance
Tulare Chamber of Commerce
Urban Counties of California

**Opposition**
Centro Legal De LA Raza
EAH Housing
East Bay Housing Organizations
Generation Housing
Merritt Community Capital Corporation
Monument Impact
Non-profit Housing Association of Northern California
San Diego Housing Federation
Session Real Estate
Western Center on Law & Poverty
Item B-8
TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: June 14, 2023

SUBJECT: Assembly Bill 480 (Ting) - Surplus land

ATTACHMENT: 1. Bill Summary – AB 480

Assembly Bill 480 (Ting) - Surplus land (AB 480) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it requires local agencies to notify the Department of Housing and Community Development (HCD) 30 days prior to disposing of exempt surplus land.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 480 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 480 the Liaisons may recommend the following actions:

1) Support AB 480;
2) Support if amended AB 480;
3) Oppose AB 480;
4) Oppose unless amended AB 480;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 480, then staff will place the item on a future City Council Agenda for concurrence.
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 480 (Ting) Surplus Land Act: Exemptions

Version
As amended in the Assembly on April 5, 2023.

Summary
Amends the Surplus Land Act (SLA), including changing the penalty provisions to factor in the appraised value of the land, exempting specified public-use airports from the SLA, and making procedural changes to the noticing provisions regarding disposal of surplus land.

Specifically, this bill:

1) Amends the penalty provisions of the SLA to require local agencies that dispose of surplus land in violation of the SLA are liable for a penalty which is a specified percentage of the independently appraised fair market value of the surplus land at the time of the disposition, if the appraised value is greater than the sales price.

2) Adds to the definition of “exempt surplus land” land that is owned by a California public-use airport on which residential use is prohibited pursuant to Federal Aviation Administration (FAA) Order 5190.6B, as specified.

3) Requires local agencies to notify the Department of Housing and Community Development (HCD) 30 days prior to disposing of exempt surplus land.

4) Specifies a local agency is not required to declare at a public meeting that specified types of surplus land are “exempt surplus land” if the local agency identifies the land in a notice which is published and available for public comment at least 30 days before the exemption takes place.

5) Specifies “exempt surplus land” that is exempt due to a valid legal restriction on the land which is not imposed by the local agency is only exempt if the legal restrictions are documented and verified in writing by the relevant agencies that impose the restrictions.

6) Requires HCD to do all of the following:
a) Provide a link on its website to all notices of availability of surplus land that it receives from local agencies;

b) Provide a list of all entities, including housing sponsors, which have notified HCD of their interest in acquiring surplus land for the purpose of developing affordable housing;

c) Prescribe the form of the written notice of availability for land developable for low- and moderate-income housing which local agencies must send to specified parties when disposing of land; and

d) Prescribe the form of the written notice of findings that a local agency must provide to HCD 30 days prior to disposing of exempt surplus land.

7) Makes a number of conforming and technical changes.

Existing Law
Establishes the SLA that, among other provisions, provides the following:
1) Defines “surplus land” as land owned by any local agency which is determined to be no longer necessary for the agency’s use.

2) Requires each local agency to annually make an inventory of all lands, surplus lands, and all lands held in excess of foreseeable needs, to make this inventory a matter of public record, and to share this information with HCD in its annual progress report.

3) Requires a local agency to declare land either “surplus land” or “exempt surplus land,” as supported by written findings, before a local agency may take any action to dispose of it.

4) Exempts certain types of surplus land owned by local agencies from the requirements of the SLA.

5) Provides the following regarding disposal of non-exempt surplus land:

a) Requires a local agency that is disposing of non-exempt surplus land to notify certain public entities and housing sponsors that surplus land is available for low- and moderate-income housing, parks, recreation, open space, school facilities, and infill opportunity zones or transit village plans.

b) Requires that, if another agency or housing sponsor wants to buy or lease the surplus land for one of these purposes, it must inform the disposing agency of its interest within 60 days.

c) Specifies that, if multiple entities want to purchase the land, the housing sponsor that proposes to provide the greatest level of affordable housing has priority. The disposing agency and the entity have an additional 90 days to negotiate a mutually
satisfactory price and terms in good faith. If they cannot agree, the agency that owns the surplus land can dispose of the land on the private market.

d) Requires a local agency, prior to agreeing to the terms for the disposition of surplus land, to provide specified information about its disposition process to HCD. Requires HCD to submit to the local agency, within 30 days, written findings of any process violations which have occurred. The law provides a local agency at least 30 days to either correct the violations or adopt a resolution with findings explaining why the process is not in violation.

6) Provides that a local agency which disposes of land in violation of the SLA following a notification from HCD is liable for a penalty of 30 percent of the final sale price for a first violation and 50 percent for subsequent violations. Requires that penalty assessments must be deposited into a local housing trust fund, the state Building Homes and Jobs Fund, or the Housing Rehabilitation Loan Fund, as specified. (Government Code Sections 54220-54234)

**Background**

The SLA requires local agencies to prioritize the development of affordable housing when disposing of their surplus land. Local agencies must annually create a list of all properties owned by the agency that are surplus and are not necessary for the agency's use. Local agencies then have the opportunity to declare at a public meeting which of these lands are “exempt surplus land,” meaning they are exempt from the requirements of the SLA.

For surplus land that is not exempt, the SLA spells out the process the local agency must undertake when disposing of it. This includes notifying specified parties of the availability of the surplus land, who then have 60 days to convey their interest. Except where the surplus land is currently used for park or recreational purposes, the local agency must give priority to the entity that proposes to provide the greatest level of affordable housing on the land. If the surplus land is currently used for park or recreational purposes, the disposing agency must give first priority to an entity that agrees to continue to use the site for park or recreational purposes. If the local agency and any of the prioritized entities are not able to negotiate a mutually satisfactory price after 90 days of good faith negotiations, the local agency may proceed to sell the land on the open market. In that case, any project that includes residential uses must ensure that at least 15 percent of the units are affordable to lower income households.

In March 2023, HCD provided data to the Committee on local surplus land dispositions that occurred since January of 2021. According to their data, surplus land transactions have resulted in 8,387 housing units, including over 5,800 units of housing affordable to lower-income households.

**Exempt Surplus Land:** To be exempt from the SLA, surplus land must meet one of the 12 specified exemptions in the SLA, which include:

- Land which is transferred for the construction of affordable housing, as specified;
• Land that is transferred to or exchanged with another government agency which will be utilized by that agency;
• Land that is difficult or impossible to build upon, such as small sites and sites subject to valid legal restrictions that prohibit housing; and
• Land whose future use meets specified criteria, such as land put to open bid for use as 100 percent affordable housing or larger mixed-use projects with at least 25 percent affordable housing.

This bill would add a 13th exemption for land owned by a California public-use airport on which residential use is prohibited pursuant to the FAA.

Most of the supporters of the bill are affordable housing advocates that argue that the bill will further the SLA’s stated purpose of facilitating affordable housing. According to the Public Interest Law Project and other co-sponsors of the bill, “AB 480 will strengthen the Surplus Lands Act by closing enforcement loopholes in the SLA, creating an administrative declaration process for specific types of exempt surplus lands, standardizing public notices of availability, and additional technical changes for consistency and clarity. The bill works in partnership with local governments, by providing new streamlining opportunities for compliance with the SLA, thus ensuring they are not overly burdened with unnecessary bureaucratic processes. It also ensures that the spirit of the SLA is protected with improved enforcement protocols and standardizing the process of notifying affordable housing builders of land availability and making those notices available to the public.”

Other supporters of the bill represent public use airports, who appreciate that the bill would add disposition by such airports to the list of exemptions to the SLA. They say this exemption of the SLA is warranted, because facilitating the construction of residential housing on airport property would be a violation of legal obligations not to do so, pursuant to the FAA.

Opponents of the bill include specific cities, counties, and special districts, as well as the organizations that collectively represent them. These groups argue that local agencies should not be required to notify HCD within 30 days of disposal of exempt surplus land, because the SLA provides that it does not apply to the disposal of exempt surplus land (GC 54222.3). This argument highlights an internal discrepancy within the SLA, because elsewhere the SLA requires local agencies to declare land to be exempt surplus land as supported by written findings (GC 54221(b)(1)). This requirement is the basis used by HCD in its SLA Guidelines for requiring local agencies to notify it of disposal of exempt surplus land – a requirement that would be codified in this bill.

**Status of Legislation**
This bill was double referred to the Senate Committee on Governance and Finance and the Senate Committee on Housing.

**Support**
Public Advocates, Inc.
Non-Profit Housing Association of Northern California
Association of California Airports
California Airports Council
San Diego Housing Federation
Public Interest Law Project
Housing Leadership Council of San Mateo County
California Housing Partnership
East Bay Housing Organization

**Opposition**
AV Edge
Calaveras County Economic & Community Development
California Association for Local Economic Development
City of Bellflower
City of Concord
City of Elk Grove
City of Fowler
City of Fullerton
City of Indian Wells
City of Inglewood
City of Inglewood City Hall
City of Lancaster
City of Montclair
City of Morgan Hill
City of Murrieta
City of Palmdale
City of Rancho Cordova
City of Salinas
City of Thousand Oaks
City of West Sacramento
Greater Sacramento Economic Council
Kosmont Companies
Solano Economic Development Corporation
Tulare Chamber of Commerce
Item B-9
TO: City Council Liaison/Legislative/Lobby Committee  
FROM: Cynthia Owens, Municipal Affairs Program Manager  
DATE: June 14, 2023  
SUBJECT: Senate Bill 50 (Bradford) - Vehicles: enforcement  
ATTACHMENT: 1. Bill Summary – SB 50  

**Senate Bill 50 (Bradford) - Vehicles: enforcement** (SB 50) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it provides that notwithstanding any other law, a peace officer shall not stop or detain the operator of a motor vehicle or bicycle for a low-level infraction.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for SB 50 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 50 the Liaisons may recommend the following actions:

1) Support SB 50;  
2) Support if amended SB 50;  
3) Oppose SB 50;  
4) Oppose unless amended SB 50;  
5) Remain neutral; or  
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 50, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 50 (Bradford) Vehicles: enforcement.

Version
As amended in the Senate on May 18, 2023.

Summary
This bill prohibits peace officers from initiating a traffic stop for specified low-level infractions unless a separate, independent basis for a stop exists, and to authorize local authorities to enforce traffic violations using non-sworn government employees.

Specifically, this bill:

1. Provides that notwithstanding any other law, a peace officer shall not stop or detain the operator of a motor vehicle or bicycle for a low-level infraction.
2. Defines “low-level infraction” as any of the following:
   a. A violation related to the registration of a vehicle or vehicle equipment, as specified.
   b. A violation related to the positioning or number of license plates when at least one plate is clearly displayed, as specified.
   c. A violation related to vehicle lighting equipment not illuminating, if the violation is limited to a single brake light, headlight, rear license plate, or running light, or a single bulb in a larger light of the same, as specified.
   d. A violation related to vehicle bumper equipment, as specified.
   e. A violation related to bicycle equipment or operation, as specified.
3. Specifies that “low-level infraction” does not include violations relating to commercial vehicles.
4. Provides that if an officer does not have grounds to stop or detain the operator of a motor vehicle or bicycle, and the officer can identify the owner of the vehicle, the officer’s agency may, mail a citation to the owner, or send a warning letter identifying the violation and instructing the owner to correct the defect or otherwise remedy the violation.
5. Specifies that existing law does not preclude a county, city, municipality or any other local authority from enforcing a violation provided in the Vehicle Code through government employees who are not peace officers.
6. Specifies local authorities may adopt rules and regulations by ordinance or resolution regarding regulating traffic by means of traffic officers or other government employees.

Existing Law
1. Provides the right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized. (U.S. Const., amend. IV.; Cal. Const., art I, § 13.)
2. Requires each state and local agency that employs peace officers to annually report to the Attorney General data on all stops conducted by that agency’s peace officers for the preceding calendar year. (Government Code §12525.5(a)(1).)
3. Requires reports on stops submitted to the Attorney General to include, at a minimum, the following information:
   a. The time, date, and location of the stop.
   b. The reason for the stop.
   c. The result of the stop, such as: no action, warning, citation, arrest, etc.
   d. If a warning or citation was issued, the warning provided or the violation cited.
   e. If an arrest was made, the offense charged.
   f. The perceived race or ethnicity, gender, and approximate age of the person stopped. For motor vehicle stops, this paragraph only applies to the driver unless the officer took actions with regard to the passenger.
   g. Actions taken by the peace officer, as specified. (Government Code §12525.5(b)(1)-(7).)
4. Provides that law enforcement agencies shall not report personal identifying information of the individuals stopped to the Attorney General, and that all other information in the reports, except for unique identifying information of the officer involved, shall be available to the public. (Government Code §12525.5(d).)
5. Defines “stop,” for the purposes of reports sent by law enforcement agencies to the Attorney General, as ‘any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person’s body or property in the person’s possession or control.’ (Government Code §12525.5(g)(2).)
6. Finds and declares pedestrians, users of public transportation, and vehicular occupants who have been stopped, searched, interrogated, and subjected to a property seizure by a peace officer for no reason other than the color of their skin, national origin, religion, gender identity or expression, housing status, sexual orientation, or mental or physical disability are the victims of discriminatory practices (Penal Code §13519.4(d)(4).)
7. Creates the Racial and Identity Profiling Advisory Board (RIPA), which, among other duties, is required to conduct and consult available, evidence-based research on intentional and implicit biases, and law enforcement stop, search, and seizure tactics. (Penal Code §13519.4(j)(3)(D).)
8. Prohibits a peace officer from engaging in racial or identity profiling, as defined. (Penal Code §13519.4(e),(f).)
9. Provides that the provisions of the Vehicle Code are applicable and uniform throughout the state and in all counties and municipalities therein, and a local authority shall not enact or enforce any ordinance or resolution on matters covered by the Vehicle Code, as specified, unless expressly authorized by that code. (Vehicle Code §21(a).)

10. Provides that local authorities may adopt rules and regulations by ordinance or resolution regarding regulating traffic by means of traffic officers and sets forth the scope of local authority with regard to establishing and enforcing other traffic-related regulations. (Vehicle Code §21100(c), (o).)

11. Provides that a person shall not drive, move, or leave standing upon a highway, or in an off-street public parking facility, any motor vehicle unless it is registered with the DMV and the appropriate fees have been paid, with exceptions. (Vehicle Code §4000).

12. Requires motorists to have their valid driver’s license in their immediate possession when driving a motor vehicle, and to present their license for examination upon demand of a peace officer. (Vehicle Code §12951(a), (b).)

13. Establishes various requirements regarding the equipment specifications and operation of bicycles, as well as related safety devices. (Vehicle Code §§21201, 21212).

14. Establishes various requirements regarding the display of license plates and registration tabs and stickers (Vehicle Code §§5200-5206).

15. Establishes various requirements regarding the functionality of vehicle lighting equipment. (Vehicle Code §§24250 et. seq.).

16. Establishes various requirements regarding vehicle windshields and mirrors. (Vehicle Code §§26700-26712.)

17. Requires every passenger vehicle registered in this state to be equipped with a front bumper and rear bumper. (Vehicle Code §28701.)

18. Requires the California Department of Motor Vehicles (DMV) to include in the California Driver’s Handbook information regarding a person’s civil rights during a traffic stop. (Vehicle Code §1653.6(a)(4).)

19. Makes it unlawful to willfully fail or refuse to comply with a lawful order, signal or direction of a uniformed peace officer or to refuse to submit to a lawful inspection pursuant to the Vehicle Code. (Vehicle Code §2800(a).)

**Background**

According to the author:

*SB 50 will limit law enforcement’s ability to stop people for minor, non-safety-related traffic infractions, unless there is an independent, safety-related basis to initiate the stop. It will also provide technical clarification to ensure that localities can explore non-law enforcement approaches to traffic safety. In doing so, SB 50 will help protect Californians of color from unnecessary harms and help ensure that public dollars dedicated to community safety are used more effectively.*

*Research shows that pretext stops do not significantly benefit public safety, yet use valuable resources that could be directed to more effective public safety approaches. A 2022 study by Catalyst California and ACLU SoCal found that instead of addressing community concerns about serious crime, Sheriff’s deputies in Los Angeles and*
Riverside counties spent nearly 9 out of every 10 hours on stops initiated by officers rather than responding to calls for help. SB 50 builds on recommendations from the California Racial and Identity Profiling Advisory Board and the Committee on Revision of the Penal Code to limit enforcement of minor traffic offenses that pose little to no risk to public safety and result in racially biased harms.

The Fourth Amendment of the United States Constitution provides in part that “the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated.” The United States Supreme Court has held that temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a ‘seizure’ of persons within the meaning of this provision.

In Whren v. United States (decided in 1996) the Court further held that “the temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment's prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.” The Court's decision in Whren has given rise to what have been dubbed “pretext stops,” a practice in which a law enforcement officer uses a minor traffic violation as a pretext to stop a vehicle in order to investigate other possible crimes. Given the litany of possible traffic violations, especially in California, the use of pretext stops as an investigative tool has become widespread since the decision in Whren.

As use of pretext stops has increased, so too has criticism of the practice. Many argue that pretext stops are a driver of racial bias in law enforcement (discussed further below), while others claim that they subvert the spirit, if not the letter, of the Fourth Amendment by giving officers carte blanche to stop a vehicle. Critics also point to the difficulty in contesting a pretext stop in court. That is, if an officer stops a driver based on an observed traffic violation – of which there are dozens – the driver bears the burden of producing evidence to refute the officer’s testimony, that, for instance, the license plate was obscured or a taillight was not properly illuminated on a specific date and time. All of these issues, critics argue, lead to disparate outcomes, primarily based on race, and undermine police legitimacy in the eyes of the communities they serve.

The California Vehicle Code establishes roughly 1,000 infractions related to a wide array of conduct and vehicle types. This bill prohibits officers from initiating a vehicle stop for a “low-level infraction,” unless there is a separate, independent basis for the stop. The bill defines “low-level infraction” as any violation related to vehicle registration or vehicle equipment, the position or number of license plates, vehicle lighting not illuminating if it is a single light or single bulb, window tints or obstructions, bumper equipment and bicycle equipment or operation. Thus, while the bill does limit the permissible bases for a traffic stop to some degree, there are still hundreds of traffic violations for which an officer could initiate a stop, even as a pretext to investigate other potential crimes. For violations where an officer does not have grounds to stop or detain a motorist or bicyclist, and the officer can identify the owner of the vehicle, the bill allows the officer to send a citation or fix-it ticket to the motorists home address.
In addition to the traffic stop-related provisions described above, this bill clarifies that a city, county or other local authority may enforce Vehicle Code violations through the use of government employees who are not sworn peace officers. This change provides firmer legal footing to Berkeley and other local jurisdictions seeking to transfer traffic enforcement responsibility from armed police to unarmed civilians. That is, where such jurisdictions may currently perceive a high risk that such local reforms would be preempted by existing state law, this bill expressly states that such local reforms are not prohibited by the relevant provisions of the Vehicle Code, thereby mitigating that risk.

The California District Attorneys Association and others who oppose this measure, argue that this bill jeopardizes public safety, undermines the rule of law, and reduces accountability for low level infractions. They further argue this bill’s prohibition on detaining drivers for low level infractions deprives peace officers of a very effective investigative tool that is often used by law enforcement to gather information needed in an ongoing criminal investigation, apprehend a suspect who is wanted for having committed an unrelated criminal violation, or to investigate an unrelated offense.

Opponents argue that traffic infractions – especially when instigated by tips from confidential informants - often serve as a “pretext” to investigate another crime without jeopardizing the confidential informant’s safety. This technique is used routinely and effectively. Recently in San Diego, for example, a broken taillight on a boat trailer yielded 20,000 fentanyl pills and 1,000 pounds of methamphetamine. That stop and others like it would not be permitted if SB 50 became law.

Additionally, research has found that increased traffic enforcement is associated with decreases in traffic crashes and injuries from accidents. The low-level infractions defined by SB 50 are, in fact, designed to enhance public safety and notify drivers that their vehicles are out of compliance with traffic safety laws.

Prohibiting a peace officer from detaining and notifying a driver of a hazardous condition ensures that the unsafe vehicle will be driving on the road for a longer time before it is brought into compliance. Mailing the owner of the vehicle a notice of violation, as SB 50 contemplates, does not address the violation with the urgency that is warranted when public safety is at issue.

**Status of Legislation**
This measure passed off the Senate Floor on May 30, 22-11, 7 abstaining. This bill is pending in the Assembly.

**Support**
API Equity Alliance
ACLU California Action
Asian Americans Advancing Justice – Asian Law Caucus
California Alliance for Youth and Community Justice
California Association of Local Conservation Corps
California Faculty Association
California Federation of Teachers, AFL-CIO
California Immigrant Policy Center
California Native Vote Project
California Public Defenders Association
California-Hawaii Conference of the NAACP
Californians for Safety and Justice
Californians United for a Responsible Budget
Center on Juvenile and Criminal Justice
Charles Houston Bar Association
Children's Defense Fund California
Church State Council
City of Berkeley
Coalition for Humane Immigrant Rights
Communities United for Restorative Youth Justice
Consumers for Auto Reliability and Safety
County of Sonoma
Democrats of Rossmoor
Disability Rights California
Ella Baker Center for Human Rights
Empowering Pacific Islander Communities
Fresh Lifelines for Youth
Fresno Barrios Unidos
Indivisible CA Statestrong
Indivisible Yolo
Initiate Justice
Initiate Justice Action
LA Defensa
Law Enforcement Action Partnership
Lawyers’ Committee for Civil Rights of the San Francisco Bay Area
League of Women Voters of California
Legal Services for Prisoners with Children
Los Angeles County
National Association of Social Workers, California Chapter
Oakland Privacy
Pacific Juvenile Defender Center
Peace and Freedom Party of California
People for the American Way
PolicyLink
Prosecutors Alliance California
San Francisco Bay Area Planning and Urban Research Association
San Francisco Public Defender
Secure Justice
SEIU California
Showing Up for Racial Justice North County San Diego
Sister Warriors Freedom Coalition
Smart Justice California
State of California Racial and Identity Profiling Advisory Board
Streets Are For Everyone
Team Justice
Techequity Collaborative
University of San Francisco School of Law Racial Justice Clinic
Voices for Progress
Walk Bike Berkeley

Opposition
Arcadia Police Officers’ Association
Burbank Police Officers’ Association
California Association of Highway Patrolmen
California Coalition of School Safety Professionals
California Contract Cities Association
California District Attorneys Association
California State Sheriffs’ Association
California Peace Officers Association
California Police Chiefs Association
City of Visalia
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Deputy Sheriffs’ Association of Monterey County
Fullerton Police Officers’ Association
Los Angeles County Professional Peace Officers Association
Los Angeles School Police Officers Association
Los Angeles Police Protective League
Murrieta Police Officers’ Association
Newport Beach Police Association
Orange County Sheriff’s Department
Palos Verdes Police Officers Association
Peace Officers Research Association of California
Placer County Deputy Sheriffs Association
Pomona Police Officers’ Association
Riverside Police Officers Association
Riverside Sheriffs’ Association
San Bernardino County Sheriffs Department
San Diego Deputy District Attorneys Association
San Diegans Against Crime
Santa Ana Police Officers Association
Upland Police Officers Association
Item B-10
Senate Bill 602 (Archuleta) – Trespass (SB 602) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it extends the operative timeframe for trespass letters of authorization from 30 days to the shorter of 12 months or a time period determined by local ordinance for properties where there is a fire hazard or the owner is absent, and from 12 months to 3 years for properties closed to the public and posted as being closed to the public.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for SB 602 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 602 the Liaisons may recommend the following actions:

1) Support SB 602;
2) Support if amended SB 602;
3) Oppose SB 602;
4) Oppose unless amended SB 602;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 602, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
May 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 602 (Archuleta) Trespass

Version
As Amended in the Assembly on March 20, 2023.

Summary
Extends the operative timeframe for trespass letters of authorization from 30 days to the shorter of 12 months or a time period determined by local ordinance for properties where there is a fire hazard or the owner is absent, and from 12 months to 3 years for properties closed to the public and posted as being closed to the public. Additionally, this bill requires trespass letters of authorization to be submitted in a notarized writing on a form provided by law enforcement and allows for letters to be submitted electronically.

Specifically, this bill:

1) Authorizes an owner, owner’s agent, or person in lawful possession to make a single request for law enforcement assistance, in a notarized writing on a form provided by the law enforcement agency, to cover a period not to exceed 3 years when the premises is closed to the public and posted as being closed.

2) Requires the requestor, in the event assistance is no longer required before the period not exceeding 3 years expires, to inform the law enforcement agency in writing.

3) Provides that a request for law enforcement assistance shall expire upon the transfer of ownership of the property or upon a change in the person in lawful possession unless the transferee or new person in lawful possession notifies the relevant law enforcement agency or city of the change.

4) Authorizes requests for law enforcement assistance to be submitted and accepted electronically.

Existing Law
1. Includes numerous provisions defining various forms of trespass and applicable penalties. Crime definitions and penalties typically turn on whether any damage has
been done to property and whether the trespasser refuses a valid request to leave the land. (Pen. Code § 602-607.)

2. Provides that any person is guilty of a misdemeanor, punishable by a county jail term of up to six (6) months, a fine of up to $1000 or both, who enters any other person’s cultivated or fenced land, or who enters uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along exterior boundaries and at all roads and trails entering the lands without written permission, and does any of the following:
   a. Refuses or fails to leave immediately upon being requested to do so by the owner, owner’s agent or by the person in lawful possession;
   b. Tears down, mutilates, or destroys any sign or notice forbidding trespass or hunting;
   c. Discharges a firearm. (Pen. Code § 602, subd. (l).)

3. Provides that any person is guilty of misdemeanor trespass who enters and occupies real property or structures of any kind without the consent of the owner, the owner’s agent, or the person in lawful possession. (Pen. Code § 602, subd. (m).)

4. Provides, generally, that a person commits one form of trespass to cultivated, fenced or posted land, where he or she, without the written permission of the landowner, the owner’s agent or of the person in lawful possession of the land:
   a. Willfully enters any lands under cultivation or enclosed by fence, belonging to, or occupied by another person; or,
   b. Willfully enters upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands. (Pen. Code § 602.8, subd. (a).)

5. Provides a person is guilty of trespass where the person enters private property, whether or not the property is open to the public, and the following circumstances apply:
   a. The person has been previously convicted of a violent felony on the property, as defined, and;
   b. The owner, the owner’s agent, or lawful possessor, has requested a peace officer to inform the person that the property is not open to him or her;
   c. The peace officer has informed the person that he or she may not enter the property and informs the person that the notice has been given at the request of the owner or other authorized person;
   d. A single specified notification shall be valid and enforceable unless and until rescinded by the owner or other specified authorized person; and
   e. This form of trespass is also committed where the person fails to leave the property upon being asked to do so as provided in the subdivision defining the crime. (Pen. Code § 602, subd. (t).)

6. Allows for prosecution against those who refuse or fail to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by a peace officer at the request of the owner, the owner’s agent, or the person in lawful possession, and upon being informed by the peace officer that the officer is acting with such authority. (Pen. Code § 602, subd. (o).)

7. Requires an owner, the owner’s agent or person in lawful possession of real property to make a separate request to a peace officer on each occasion when a peace officer’s
assistance in dealing with trespass is request, although a single request for assistance may be made to cover a maximum of 30 days when there is a fire hazard to the property or the owner is absent. (Pen. Code § 602, subd. (o).)

8. Authorizes an owner, owner’s agent or person in lawful possession of real property to make a single request for law enforcement assistance for a period not to exceed 12 months when the premises or property is closed to the public and posted as being closed, and shall inform law enforcement when assistance is no longer desired. (Pen. Code § 602, subd. (o).)

9. Provides that requests for law enforcement assistance under Penal Code §602(o) expire upon transfer of ownership of the property or upon a change in the person in lawful possession. (Pen. Code § 602, subd. (o).)

**Background**

According to the author, “SB 602 will help local governments deal with public nuisance and graffiti issues by extending the timeframe for Letters of Agency from 30 days up to 12 months based on local ordinances and extends the operative timeframe for trespass authorization letters from 12 months to 3 years if the property is closed to the public and posted as being closed. The bill will also allow for electronic filing of these letters. Currently, for cities to complete such abatement, cities and their respective law enforcement agencies are required to obtain an updated letter every 30 days from property owners. It can be extremely difficult for local governments to obtain Letters of Agency in an expeditious manner from unresponsive absentee owners.”

The trespass laws include twelve separate sections, each with different crimes with separate elements. The major trespass section – 602 – has nearly an entire alphabet of subdivisions. Most of the subdivisions in Section 602 define separate crimes, typically each with slightly different elements than the other subdivisions. Trespassing is punished as a misdemeanor, though California law does include a felony for aggravated trespass. Of the more than 30 discrete acts that constitute criminal trespassing, the most common are:

- Entering someone else's property with the intent to damage that property.
- Entering someone else’s property with the intent to interfere with or obstruct the business activities conducted thereon.
- Entering and "occupying" another’s property without permission.
- Refusing to leave private property after being asked to do so.

Existing law allows owners of private property to request law enforcement assistance in ejecting trespassers from their property but includes limits on when and how assistance may be requested based on whether the property is posted as being closed to the public. Specifically, existing law provides that when property is not posted as being closed to the public and the property owner requests that law enforcement demand that a trespasser leave the property, the owner or agent must make a separate request each time he or she seeks law enforcement assistance. However, there is an exception under which a single request may be valid for 30 days, during which a fire hazard exists, and the owner or owner’s agent is absent from the property. If the property is posted as being closed to the public, a
single request for law enforcement assistance in ejecting trespassers is effective for twelve months. These are the provisions of the law at issue in this bill.

The request for law enforcement assistance in enforcing trespass laws at properties posted and not posted as closed to the public is generally made via a “Trespass Letter of Authority.” These letters – also known as “602 Letters” – authorize local authorities to enter the premises to enforce trespass laws in the owner’s absence. According to the Author, obtaining these letters can be a laborious process, which “results in local governments and their law enforcement agencies having to use valuable staff resources and time for administrative purposes when they could be using their time more productively to serve their communities.”

As stated previously, existing law provides that trespass letters of authorization submitted to law enforcement remain effective for twelve months for properties posted as closed to the public, and for 30 days for unposted properties where there is a fire hazard, or the owner or owner’s agent is not present. This bill extends the operative timeframe 602 letters to 3 years for posted properties, and to the shorter of 12 months or a duration set by local ordinance for unposted properties. This bill requires that all 602 letters be submitted in a notarized writing on a form provided by law enforcement and authorizes letters to be submitted and excepted electronically. Additionally, whereas existing law provides that 602 letters automatically expire upon the transfer of ownership or in the lawful possession of a property, this bill would instead provide that active 602 letters expire upon transfer of the property unless the transferee or new person in lawful possession notifies the relevant law enforcement agency or city of the change.

**Status of Legislation**

This measure was approved on the Senate Floor on April 17, 37-0, with 3 abstaining. This bill will be heard in the Assembly Public Safety Committee on June 13.

**Support**

City of Bellflower (source)  
California Apartment Association  
California Contract Cities Association  
California State Sheriffs’ Association  
City of Banning  
City of Colton  
City of Corona  
City of Downey  
City of Eastvale  
City of Hawaiian Gardens  
City of Lakewood  
City of Menifee  
City of Norwalk  
City of Perris  
City of Paramount  
City of Pico Rivera
City of Riverside
City of Rosemead
City of Whittier
City of Wildomar
League of California Cities
Los Angeles County Division, League of California Cities
Riverside County Sheriff's Office
Riverside County Supervisor Karen Spiegel

**Opposition**
None listed at this time.
Item B-11
Assembly Bill 436 (Alvarez) - Vehicles (AB 436) involves a policy matter that may have a nexus to the City’s adopted Legislative Platform language as it repeals existing law that authorizes a local government to regulate vehicular "cruising". Specifically, the following statement may apply to AB 436:

- 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 436 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 436 the Liaisons may recommend the following actions:

1) Support AB 436;
2) Support if amended AB 436;
3) Oppose AB 436;
4) Oppose unless amended AB 436;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend a position of oppose, then staff will prepare a letter for the Mayor to sign as the legislation appears to be consistent with the City’s Legislative Platform. Any other positions recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 436 (Alvarez) Vehicles; cruising

Version
As introduced February 6, 2023.

Summary
Repeals the authority of local governments to regulate cruising and removes the prohibition on operating certain modified vehicles.

Specifically, this bill:
1. Repeals the authority of local authorities to adopt rules and regulations by ordinance or resolution regulating cruising, including the following provisions:
   a. The adopted ordinance or resolution shall regulate cruising, which is the repetitive driving of a motor vehicle past a traffic control point in traffic that is congested at or near the traffic control point, as determined by the ranking peace officer on duty within the affected area, within a specified time period and after the vehicle operator has been given an adequate written notice that further driving past the control point will be a violation of the ordinance or resolution.
   b. A person is not in violation of an adopted ordinance or resolution unless both of the following comply:
      i. That person has been given the written notice on a previous driving trip past the control point and then again passes the control point in that same travel interval.
      ii. The beginning and end of the portion of the street subject to cruising controls are clearly identified by signs that briefly and clearly state the appropriate provisions and the local ordinance or resolution on cruising.
2. Repeals existing law making it unlawful to operate any passenger vehicle, or commercial vehicle under 6,000 pounds, which has been modified from the original design so that any portion of the vehicle, other than the wheels, has less clearance from the surface of a level roadway than the clearance between the roadway and the lowermost portion of any rim of any wheel in contact with the roadway.
**Existing Law**

1. The California Vehicle Code governs several laws related to vehicles and rules of the road. These laws are generally structured to apply statewide in a uniform manner throughout the state, with local authorities unable to enact or enforce ordinances or resolutions on matters covered by the Vehicle Code unless expressly authorized.

2. Local authorities are currently authorized to pass ordinances regulating cruising. Cruising is defined as the repetitive driving of a motor vehicle past a traffic control point in congested traffic after receiving adequate written notice. Drivers are prohibited from operating a vehicle at a slow speed that impedes or blocks normal traffic movement unless necessary for safety or compliance with the law.

3. Prohibits the operation of modified passenger or commercial vehicles under 6,000 pounds with less clearance from the surface of a level roadway than specified.

**Background**

**Cruising in California.** In 1982, the Legislature adopted AB 2579 (Konnyu), Chapter 710, Statutes of 1982, which authorized the adoption of local ordinances to regulate cruising, among other provisions. In this bill, the Legislature declared, “that the cruising of vehicles in business areas of cities and communities in this state for the purpose of socializing and assembling interferes with the conduct of business, wastes precious energy resources, impedes the progress of general traffic and emergency vehicles, and promotes the generation of local concentrations of air pollution and undesirable noise levels.”

According to an article published by National Public Radio (NPR) on February 16, 2023, “California is the birthplace of lowrider culture. Modifying cars with advanced hydraulics systems and elaborate paint jobs and then taking them on a slow cruise down a main drag is a decades-old tradition. But certain lowrider vehicles are illegal in California, and many cities still have bans on cruising.... “

“Cruising and lowriders both have their roots in postwar Southern California, where Chicanos made an art form out of car customization and turned to driving as a means of socializing and community organizing. But among outsiders, lowriding developed a reputation for clogging traffic and having links to gang activity. In the late 1950s, California enacted a state law regulating lowriders. And in the late 1980s, the state began permitting cities and towns to put in place cruising bans over fears of traffic congestion and crime, lawmakers said. Lowriders have long argued that the ordinances designed to curb cruising unfairly targeted Latinos.”

Recently, a number of California cities have removed their bans on cruising. For example, in 2022, both San Jose and Sacramento repealed their cruising regulations, while National City lifted its ban temporarily on May 6, 2022. However, despite these local efforts many cruising prohibitions still exist.

**Status of Legislation**

This bill is currently set for a hearing on June 13 in the Senate Committee on Transportation.

**Support**
California Lowrider Alliance [SPONSOR]
Sacramento Lowrider Commission [SPONSOR]
United Lowrider Coalition [SPONSOR]
Automotive Service Councils of California

**Opposition**
None listed at this time.
Item B-12
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Municipal Affairs Program Manager
DATE: June 14, 2023
SUBJECT: Assembly Bill 1463 (Lowenthal) - Automated license plate recognition systems: retention and use of information
ATTACHMENT: 1. Bill Summary – AB 1463

Assembly Bill 1463 (Lowenthal) - Automated license plate recognition systems: retention and use of information (AB 1463) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. However, the City may wish to consider taking a position on this bill as the City uses automated license plate recognition (ALPR) systems.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1463 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1463, the Liaisons may recommend the following actions:

1) Support AB 1463;
2) Support if amended AB 1463;
3) Oppose AB 1463;
4) Oppose unless amended AB 1463;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1463, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1463 (Lowenthal) Automated license plate recognition systems: retention and use of information.

Version
As Amended in the Assembly on May 1, 2023.

Summary
This bill requires public agencies using automated license plate readers (ALPRs) to purge information that does not match the information on a hot list within 30 days. It also explicitly prohibits the selling, sharing, or transferring of ALPR data with out-of-state or federal agencies without a valid subpoena, court order, or warrant issued by a California court.

Specifically, this bill does the following:
1. Defines "hot list" as a list of license plates of vehicles of interest against which the ALPR system compares vehicles on the roadways.
2. Requires an ALPR operator to have reasonable security procedures and practices that include, but are not limited to, an annual audit to review and assess ALPR end-user searches during the previous year to determine if all searches were in compliance with the usage and privacy policy. If the ALPR operator is a public agency other than an airport authority, the audit shall assess whether all ALPR information that does not match information on a hot list has been purged no more than 30 days from the date of collection.
3. Explicitly prohibits ALPR information from being sold, shared or transferred to out of state or federal agencies without a valid subpoena, court order, or warrant.
4. Prohibits an ALPR operator or ALPR end-user that is a public agency, excluding an airport authority, from accessing an ALPR system that retains ALPR information that does not match information on a hot list for more than 60 days after the date of collection unless they are accessing an ALPR system operated by an airport authority.

Existing Law
1. Provides, pursuant to the California Constitution, that all people have inalienable rights, including the right to pursue and obtain privacy. (Cal. Const., art. I, § 1.)
2. Defines "automated license plate recognition system" or "ALPR system" to mean a searchable computerized database resulting from the operation of one or more mobile or fixed cameras combined with computer algorithms to read and convert images of registration plates and the characters they contain into computer-readable data. “ALPR information” means information or data collected through the use of an ALPR system. “ALPR operator” means a person that operates an ALPR system, except as specified. “ALPR end-user” means a person that accesses or uses an ALPR system, except as specified. The definitions for both “ALPR
operator” and “ALPR end-user” exclude transportation agencies subject to certain provisions of the Streets and Highways Code that apply to electronic toll collection. (Civ. Code § 1798.90.5.)

3. Requires an ALPR operator to maintain reasonable security procedures and practices, including operational, administrative, technical, and physical safeguards, to protect ALPR information from unauthorized access, destruction, use, modification, or disclosure. ALPR operators must implement usage and privacy policies in order to ensure that the collection, use, maintenance, sharing, and dissemination of ALPR information is consistent with respect for individuals’ privacy and civil liberties. It further requires the policies to include, at a minimum, certain elements. (Civ. Code § 1798.90.51.)

4. Requires ALPR end-users to maintain reasonable security procedures and practices, including operational, administrative, technical, and physical safeguards, to protect ALPR information from unauthorized access, destruction, use, modification, or disclosure. ALPR end-users must implement usage and privacy policies in order to ensure that the access, use, sharing, and dissemination of ALPR information is consistent with respect for individuals’ privacy and civil liberties. It further requires the policies to include, at a minimum, certain elements. (Civ. Code § 1798.90.53.)

5. Provides that a public agency shall not sell, share, or transfer ALPR information, except to another public agency, and only as otherwise permitted by law. For purposes of this section, the provision of data hosting or towing services is not considered the sale, sharing, or transferring of ALPR information. (Civ. Code § 1798.90.55.)

6. Authorizes the California Highway Patrol (CHP) to retain license plate data captured by a license plate reader for no more than 60 days, except in circumstances when the data is being used as evidence, or for all felonies being investigated, including, but not limited to, auto theft, homicides, kidnapings, burglaries, elder and juvenile abductions, Amber Alerts, and Blue Alerts. (Veh. Code § 2413(b).)

7. Prohibits the CHP from selling license plate reader data for any purpose and from making the data available to an agency that is not a law enforcement agency or an individual who is not a law enforcement officer. The data may be used by a law enforcement agency only for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense. (Veh. Code § 2413(c).)

8. Requires the CHP to monitor internal use of the license plate reader data to prevent unauthorized use. (Veh. Code § 2413(d).)

9. Requires the CHP to annually report license plate reader practices and usage, including the number of license plate reader data disclosures, a record of the agencies to which data was disclosed and for what purpose, and any changes in policy that affect privacy concerns, to the Legislature. (Veh. Code § 2413(e).)

10. Establishes the Data Breach Notification Law, which requires any agency, person, or business that owns, licenses, or maintains data including personal information to disclose a breach, as provided. (Civ. Code §§ 1798.29; 1798.82.) Includes ALPR data within the definition of “personal information,” if combined with an individual's first name or first initial and last name, when either piece of data is not encrypted. (Civ. Code §§ 1798.29(g), 1798.82(h).)

11. Prohibits a transportation agency from selling or otherwise providing to any other person or entity personally identifiable information of any person who subscribes to an electronic toll or electronic transit fare collection system or who uses a toll bridge, toll lane, or toll highway that employs an electronic toll collection system, except as expressly provided. (Sts. & Hwy. Code § 31490.)

12. Establishes the California Values Act, which prohibits state law enforcement from using state resources to assist in the enforcement of federal immigration law, except as specified. (Gov. Code § 7282 et seq.)
13. Establishes California as a sanctuary state and prohibits any law enforcement agency from cooperating with federal immigration enforcement authorities. (Gov. Code § 7284, et seq.)

14. Prohibits use of California state funds for travel to any state that is subject to a ban on state-funded and state-sponsored travel because that state enacted a law that voids or repeals, or has the effect of voiding or repealing, existing state or local protections against discrimination on the basis of sexual orientation, gender identity, or gender expression, or has enacted a law that authorizes or requires discrimination against same-sex couples or their families on the basis of sexual orientation, gender identity, or gender expression. (Gov. Code § 11139.8.)

15. Establishes the Reproductive Privacy Act, which provides that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care. Accordingly, it is the public policy of the State of California that:
   a. Every individual has the fundamental right to choose or refuse birth control.
   b. Every individual has the fundamental right to choose to bear a child or to choose to obtain an abortion, with specified limited exceptions.
   c. The state shall not deny or interfere with a person’s fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted. (Health & Saf. Code § 123462.)

16. Provides that the state may not deny or interfere with a person’s right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the person. (Health & Saf. Code § 123466 (a).)

17. States that a person shall not be compelled in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or that is related to an individual who has sought or obtained an abortion if the information is being requested based on either another state’s laws that interfere with a person’s rights under subdivision (a) or a foreign penal civil action. (Health & Saf. Code § 123466(b).)

**Background**

Automated License Plate Reader (ALPR) systems are searchable computerized databases resulting from the operation of one or more cameras combined with computer algorithms to read and convert images of registration plates and the characters they contain into computer-readable data. The cameras can be mobile, e.g., mounted on patrol cars, or fixed, e.g., mounted on light poles. ALPR systems allow for the widespread and systematic collection of license plate information. ALPR data can have legitimate uses, including for law enforcement purposes. As of 2019, at least 230 police and sheriff departments in California use an ALPR system, with at least three dozen more planning to use them. While such systems are useful, there are serious privacy concerns associated with the collection, storage, disclosure, sharing, and use of ALPR data. (California State Auditor, Automated License Plate Readers, To Better Protect Individuals’ Privacy, Law Enforcement Must Increase Its Safeguards for the Data It Collects (Feb. 2020), available at [https://www.auditor.ca.gov/pdfs/reports/2019-118.pdf](https://www.auditor.ca.gov/pdfs/reports/2019-118.pdf) [State Auditor Report].)

In 2015, SB 34 (Hill, Chap. 532, Stats. 2015) sought to address some of the concerns about the privacy of the information collected by these systems by placing certain protections around the operation of ALPR and the use of the data. (See Civ. Code §§ 1798.90.51, 1798.90.53.) The resulting statutes provide that both ALPR operators and ALPR end-users are required to maintain reasonable security procedures and practices, including operational, administrative, technical, and physical safeguards, to protect ALPR information from unauthorized access, destruction, use, modification, or disclosure.
These operators and end-users are further required to implement usage and privacy policies in order to ensure that the collection, access, use, maintenance, sharing, and dissemination of ALPR information is consistent with respect for individuals’ privacy and civil liberties.

These policies are required to be made available to the public in writing and posted to the operator or end-user’s internet website, if it exists. These policies are required to include at least the following:

1. The authorized purposes for using the ALPR system, and collecting, accessing, and/or using ALPR information.
2. A description of the job title or other designation of the employees and independent contractors who are authorized to access and use the ALPR system and its information, or to collect the ALPR information. Necessary training requirements must also be identified.
3. A description of how the ALPR system will be monitored to ensure (a) the security of the ALPR information, and (b) compliance with all applicable privacy laws.
4. A process for periodic system audits for end-users.
5. The purposes of, process for, and restrictions on, the sale, sharing, or transfer of ALPR information to other persons.
6. The title of the official custodian, or owner, of the ALPR information responsible for implementing the relevant practices and policies.
7. A description of the reasonable measures that will be used to ensure the accuracy of ALPR information and correct data errors.
8. The length of time ALPR information will be retained, and the process the ALPR operator or end-user will utilize to determine if and when to destroy retained ALPR information.

Unfortunately, security and privacy concerns have only multiplied in the wake of SB 34 and it appears that law enforcement agencies may not have followed the requirements of the law. Many ALPR systems have been found to have weak security protections, leading to the leaking of sensitive ALPR data and easy access to potential hackers. In addition, since the passage of the bill in 2015, alarm over the overturning of Roe v. Wade and continued aggressive and punitive federal immigration policies have become a central concern for the Legislature and this Committee. This statute has not been updated to insure that proper protections are in place for people traveling from out of state seeking sanctuary in California for abortion and gender affirming care, protection from federal immigration authorities, or fleeing the large number of states that have introduced or passed anti-LGBTQ+ laws. This bill is an effort to put some of those protections in place.

In response to the growing concerns with ALPR systems, the Joint Legislative Audit Committee tasked the California State Auditor with conducting an audit of law enforcement agencies’ use of ALPR systems and data.

The resulting report, released in February 2020, focused on four law enforcement agencies that have ALPR systems in place. The report found that “the agencies have risked individuals’ privacy by not making informed decisions about sharing ALPR images with other entities, by not considering how they are using ALPR data when determining how long to keep it, by following poor practices for granting their staff access to the ALPR systems, and by failing to audit system use.” In addition, the audit found that three of the four agencies failed to establish ALPR policies that included all of the elements required by SB 34. All three failed to detail who had access to the systems and how it will monitor the use of the ALPR systems to ensure compliance with privacy laws. Other elements missing were related to restrictions on the sale of the data and the process for data destruction. The fourth entity, the Los Angeles Police Department did not even have an ALPR policy. (State Auditor Report, supra.)
The Auditor’s report calls into question how these systems are being run, how their data is being protected, and what is being done with the data. The report reveals that agencies commingled standard ALPR data with criminal justice information and other sensitive personal information about individuals, illustrating the need for stronger security measures and more circumscribed access and use policies. However, the lack of clear guidelines or auditing made it unclear exactly where information was coming from, who was accessing it, and what purposes the information was being put to. The report does make clear that these agencies have “shared their ALPR images widely, without considering whether the entities receiving them have a right to and need for the images.” Increasing the vulnerability of such vast troves of sensitive data, the agencies’ retention policies were uninformed and not tied to the usefulness of the data or the risks extended retention posed. (Ibid.)

In fact, the Auditor had difficulty determining whether the agencies made informed decisions about sharing the ALPR data at all because of the deficient record keeping. It was discovered that two of the agencies reviewed approved data sharing with hundreds of entities and one shared data with over a thousand. The sharing occurred with most of the other 49 states and included public and private entities. However, the audit makes clear that ultimately it was impossible to verify the identity of each of these entities or their purpose for receiving this data. (Ibid.)

Along with the Auditor’s report, at least two other breaches have been reported in the news in the last year. First, a suit was filed against the Marin County Sheriff in October 2021, alleging that despite laws against sharing ALPR data out of state and with the federal government, since 2014, the Sheriff’s Office had been forwarding scans from ALPR cameras to out-of-state and federal agencies, including U.S. Immigration and Customs Enforcement, which has used the information to track and deport immigrants. In the June 2022, settlement agreement, the Sheriff agreed to start complying with state laws and stop sharing the information. The other example is the Vallejo police department, which captured over 400,000 license plates a month and had been sharing their data with law enforcement in Arizona and Texas, according to an October 2022, article in The Guardian. (Bhuiyan, How expanding web of license plate readers could be ‘weaponized’ against abortion, The Guardian (Oct. 6, 2022) available at https://www.theguardian.com/world/2022/oct/06/how-expanding-web-of-license-plate-readers-could-be-weaponized-against-abortion?ref=vallejosun.com)

**Status of Legislation**
This bill passed out of the Assembly Floor on June 1, 48-15, 17 abstaining. The measure is currently pending referral in the Senate.

**Support**
Electronic Frontier Foundation
Oakland Privacy
Initiate Justice

**Opposition**
California State Sheriffs’ Association
California Association of Highway Patrolmen
Item B-13
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Municipal Affairs Program Manager
DATE: June 14, 2023
SUBJECT: Assembly Bill 793 (Bonta) - Privacy: reverse demands
ATTACHMENT: 1. Bill Summary – AB 793

Assembly Bill 793 (Bonta) - Privacy: reverse demands (AB 793) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. However, the City may wish to consider taking a position on this bill as it would prohibit a government entity from making a reverse-location demand or a reverse-keyword demand and would prohibit a government entity from seeking, reviewing, or using any data obtained through such demands. Reverse demands are often used to help produce the location history of a particular suspect’s device to determine if they may have been present near a crime scene around the time when the crime occurred.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 793 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 793, the Liaisons may recommend the following actions:

1) Support AB 793;
2) Support if amended AB 793;
3) Oppose AB 793;
4) Oppose unless amended AB 793;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 793, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 793 (Bonta) Privacy: reverse demands

Version
As amended April 19, 2023

Summary
Prohibits a government entity from seeking or obtaining information from a reverse-location demand or a reverse-keyword demand, and prohibits any person or government entity from complying with a reverse-location demand or a reverse-keyword demand.

Specifically, the bill does the following:
1. Defines "reverse-keyword demand" as any action by any government entity seeking or obtaining records or information capable of identifying persons who electronically searched or queried for a particular word or words, phrase or phrases, character string or strings, or website or websites, or who visited a particular website through a link returned in response to such a search or query, regardless of whether the request is limited to a specific geographic area or timeframe.
2. Provides that "reverse-keyword demand" includes any compulsory process, as defined, seeking such records or information and any action seeking to obtain such records or information in exchange for valuable consideration.
3. Defines "reverse-location demand" as any action by a government entity seeking records or information pertaining to the location of unspecified electronic devices or their unspecified users or owners, whose scope extends to the electronic devices present in a given geographic area at a given time, whether such device location is measured via global positioning system coordinates, cell tower connectivity, Wi-Fi positioning, or any other form of location detection.
4. Provides that "reverse-location demand" includes any compulsory process seeking such records or information and any action seeking to obtain such records or information in exchange for valuable consideration.
5. Prohibits a government entity from making a reverse-location demand or a reverse-keyword demand.
6. Prohibits a government entity from seeking, from any court, a compulsory process to enforce a reverse-location demand or a reverse-keyword demand.
7. Prohibits a government entity from seeking, from any court, a compulsory process to enforce a reverse-location demand or a reverse-keyword demand.
8. Prohibits a court subject to the laws of this state from enforcing, including through a compulsory process, a reverse-location demand or a reverse-keyword demand.
9. Provides that a person in this state or a California entity shall not be obligated to comply with a reverse-location demand or a reverse-keyword demand issued by the State, or a political subdivision thereof, or any other state or political subdivision thereof.
10. Provides that a person or entity shall not be obligated to comply with a reverse-location demand issued by the State of California or a political subdivision thereof or any other state or a political subdivision thereof, when the reverse-location demand seeks information about a location within the State of California or a reverse-keyword demand where the search or query that the recipient of the demand has reason to know pertains to a location in the State of California.
11. Provides that a court or government entity of the State of California, or a political subdivision thereof, shall not support, assist, or enforce a reverse-location demand or reverse-keyword demand issued by the State of California or a political subdivision thereof, or any other state or a political subdivision thereof, including the domestication of any such demand.
12. Provides that a government entity shall not seek the assistance of a nongovernmental entity, an agency of the federal government, or an agency of the government of another state or subdivision thereof in obtaining information or data from a reverse-location demand or reverse-keyword demand if the government entity would be barred from directly seeking that information.
13. Allows a person in a trial, hearing, or proceeding claiming that information was obtained or retained in violation of the California or United States Constitutions or these provisions to file a motion to suppress.
14. Requires any information obtained or retained in violation of the California and United States Constitutions or these provision to be suppressed.
15. Authorizes the Attorney General to commence a civil action to compel a government entity to comply with these provisions.
16. Authorizes an individual whose information is disclosed in a manner that is inconsistent with these provisions or the California or United States Constitutions, or a service provider or any other recipient of the reverse-location demand or reverse-keyword demand, to file a petition to void or modify the reverse-location demand or reverse-keyword demand, or to order the destruction of any information obtained.
17. Requires that a person whose information was obtained by a government entity in violation of these provision be immediately notified of the violation and of the legal recourse available to that person, as specified.
18. Authorizes a person whose information was unlawfully obtained by a government entity to institute a civil action against the government entity for one or any combination of any of the following:
   a. $1,000 per violation or actual damages, whichever is greater;
   b. Punitive damages;
   c. Injunctive or declaratory relief; and/or, d) Any other relief that the court deems proper.
19. Requires the court to award reasonable attorney’s fees to a prevailing plaintiff in any successful action brought for a violation of the prohibition on reverse location demands or reverse keyword demands.

**Background**

**Search Warrant Requirement.** Under existing law, government officials are required to obtain a search warrant when their actions constitute an intrusion upon, or invasion of, a person’s security in an area where the person has a reasonable expectation of privacy. For example, a law enforcement agency must generally obtain a search warrant before searching someone’s home or place of business, unless the person consents to the search or there is an exigent circumstance that justifies the search. Search warrants must be supported by probable cause, meaning that the law enforcement agency seeking the warrant must show some evidence that there is a fair probability that contraband or evidence of a crime will be found in the place to be searched. The warrant requirement provides a measure of court oversight over police searches – generally, police must demonstrate a legitimate reason to search a particular location before a court will grant a warrant.

**Reverse-Location and Reverse-Keyword Searches.** Reverse-location searches (also known as geofence warrants) function very differently from traditional law enforcement searches. As explained in a recent law review note:

> Geofence warrants “work in reverse” from traditional warrants. Instead of law enforcement requesting that a third-party provider produce the location history of a particular suspect’s device, geofence warrants proceed first by giving investigators access to data for all cellular devices that were present near a crime scene around the time when the crime occurred. Through a series of iterative steps between the provider and law enforcement—without the further involvement of a magistrate judge—the provider produces additional location data with the goal of (1) helping law enforcement figure out which devices could have been those of the perpetrators; and (2) ultimately revealing the identities of the suspects. (Note, Against Geofences (2022) 74 Stan. L.Rev. 385, 388.)

Reverse-location searches can cover broad geographical areas over long periods of time, providing a law enforcement agency with access to the personal data of many users who have nothing to do with the crime the agency is purportedly investigating. For example, a law enforcement agency could obtain information about any cell phone users who were physically near a Planned Parenthood location during an eight-hour period and then use that information to determine whether any of those users were from a state that makes it a crime to seek abortion services out-of-state. Reverse-keyword demand searches work similarly – a law enforcement agency could ask Google for information about all users who searched for certain terms during a set period of time.

This bill would prohibit a government entity from making a reverse-location demand or a reverse-keyword demand and would prohibit a government entity from seeking, reviewing, or using any data obtained through such demands. It applies to both state and local government entities. The bill allows the Attorney General to enforce a violation of these prohibitions in civil court and creates a private right of action so any person could sue a
government agency that obtained the person’s information in violation of these prohibitions. Because the bill’s prohibitions are enforceable through civil litigation, it will likely result in cost pressures to the courts, as described above. The bill also allows plaintiffs to seek punitive damages, which could result in significant financial liabilities if a government entity performs the searches banned by this bill.

**Status of Legislation**
This measure passed the Assembly Floor on June 1, 54-15, with 11 abstaining. The measure has yet to be referred to a policy Committee.

**Support**
- Access Reproductive Justice
- ACLU California Action
- All Above All
- All Family Legal
- American Atheists
- Asian Americans Advancing Justice
- Asian Law Caucus
- Atheists United Los Angeles
- California Church Impact
- California Coalition for Women Prisoners
- California Immigrant Policy Center
- California Latinas for Reproductive Justice
- California LGBTQ Health and Human Services Network
- California Women’s Law Center
- Citizens for Choice
- Consumer Attorneys of California
- Consumer Federation of California
- Electronic Frontier Foundation
- Electronic Privacy Information Center
- Equal Rights Advocates
- Equality California
- Grace - End Child Poverty
- If/when/how: Lawyering for Reproductive Justice

**Opposition**
- Yolo County District Attorney
- Indivisible CA Statestrong
- Indivisible Yolo
- Lawyers Committee for Civil Rights of The San Francisco Bay Area
- Los Angeles County Democratic Party
- Media Alliance
- Mujeres Unidas Y Activas
- Mya Network
- Naral Pro-choice California
- National Abortion Federation
- National Center for Youth Law
- Oakland Privacy
- Planned Parenthood Affiliates of California
- Privacy Rights Clearinghouse
- Reproductive Health Access Project
- Restore the Fourth
- San Francisco Black, Jewish and Unity Group
- Santa Monica Democratic Club
- Secure Justice
- Smart Justice California
- St James Infirmary
- Starting Over INC.
- TGI Justice Project
- The Greenlining Institute
- The Women’s Foundation California
Item B-14
TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: June 14, 2023

SUBJECT: Senate Bill 411 (Portantino) - Open meetings: teleconferences: neighborhood councils

ATTACHMENT: 1. Bill Summary – SB 411

Senate Bill 411 (Portantino) - Open meetings: teleconferences: neighborhood councils (SB 411) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it authorizes a neighborhood council to use alternate teleconferencing provisions related to notice, agenda, and public participation, subject to certain requirements and restrictions, if the city council has adopted an authorizing resolution and two-thirds of an eligible legislative body votes to use the alternate teleconferencing provisions.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 411 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 411 the Liaisons may recommend the following actions:

1) Support SB 411;
2) Support if amended SB 411;
3) Oppose SB 411;
4) Oppose unless amended SB 411;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 411, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 5, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 411 (Portantino) Open meetings: teleconferences: neighborhood councils.

**Version**
As Amended in Senate April 24, 2023.

**Summary:** Authorizes a neighborhood council, as specified, to use alternate teleconferencing provisions related to notice, agenda, and public participation, subject to certain requirements and restrictions, if the city council has adopted an authorizing resolution and two-thirds of an eligible legislative body votes to use the alternate teleconferencing provisions.

**Specifically, this bill:**

1) Authorizes an eligible legislative body to use teleconferencing without complying with existing requirements of the Brown Act that require notice of the locations members are teleconferencing from or making those locations accessible to the public.

2) Defines “eligible legislative body” to mean a neighborhood council which is an advisory body with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to the Brown Act.

3) Provides that before an eligible legislative body can exercise the authority granted in 1), all the following must be complied with:
   a) The city council must consider whether to adopt a resolution to authorize neighborhood city councils to use teleconferencing.
   b) If the city council adopts such a resolution, a neighborhood city council may elect to use teleconferencing pursuant to these provisions if two-thirds of the neighborhood city council votes to do so, and it notifies the city council that it elects to do so and its justification for doing so.
   c) The bill authorizes a city council to adopt a resolution prohibiting the neighborhood city council from using teleconferencing pursuant to these provisions.

4) Authorizes an eligible legislative body to meet via teleconference if the following requirements are met:
a) Provide notice of how members of the public may access the meeting and offer public comment in every instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted.

b) The agenda must identify and include an opportunity for all people to attend via a call-in option or an internet-based service option.

c) In the event of a disruption which prevents the neighborhood council from broadcasting the meeting to members of the public, or in the event of a disruption within the neighborhood council’s control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the neighborhood council must take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Any actions taken on agenda items during a disruption may be challenged, as provided.

d) The neighborhood council cannot require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

e) The neighborhood council may use an online third-party system for individuals to provide public comments that requires an individual to register with the system prior to providing comments.

f) If a neighborhood council provides a timed public comment period for each agenda item, it is prohibited from closing the public comment period for the agenda item or the opportunity to register with the third-party system, to provide public comment until that timed public comment period has elapsed. A neighborhood council which does not provide a timed public comment period, but takes public comment separately on each agenda item, must allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment. If a neighborhood council provides a timed public comment period that does not correspond to a specific agenda item, it cannot close the public comment period or the opportunity to register with the third-party system, to comment until the timed public comment period has elapsed.

g) At least a quorum of the members of the neighborhood council must participate from locations within the boundaries of the city in which the neighborhood council is established.

5) Repeal these provisions on January 1, 2028.

6) Makes findings and declarations of the Legislature regarding the need for a special statute, the interest being protected by the limitation on the access to meetings of public bodies, and the need for the bill to go into immediate effect.

**EXISTING LAW**
Guarantees, pursuant to Article I, Section 3 of the California Constitution, that “the people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.” This includes a right to access information concerning the meetings and writings of public officials.
1) Requires, pursuant to the Constitution, local agencies to comply with certain state laws which outline the basic requirements for public access to meetings and public records. If a subsequent bill modifies these laws, it must include findings demonstrating how it furthers the public's access to local agencies and their officials.

2) Provides, under the Ralph M. Brown Act, guidelines for how local agencies must hold public meetings:
   a) Defines a “meeting” as “any congregation of a majority of the members of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.”
   b) Requires local agencies to notice meetings in advance, including the posting of an agenda, and requires these meetings to be open and accessible to the public.
   c) Requires members of the public to have an opportunity to comment on agenda items and prohibits deliberation or action on items not listed on the agenda.
   d) If a member of the public, including the respective district attorney, believes a local agency violated the Brown Act, it must first send an order to the local agency to correct the violation. If the local agency disagrees with the complaint and does not correct it, the submitter can pursue the complaint through the courts. If the court agrees with the complaint, outcomes range from invalidating certain actions of the local agency to a misdemeanor.

3) Authorizes the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law, provided that the teleconferenced meeting complies with all the following conditions:
   a) Teleconferencing, as authorized, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting must be by rollcall.
   b) If the legislative body elects to use teleconferencing, it must post agendas at all teleconference locations and conduct teleconference meetings in a manner which protects the statutory and constitutional rights of the parties or in the public appearing before the legislative body of the local agency.
   c) Each teleconferencing location must be identified in the notice and agenda of the meeting or proceeding, and each teleconference location must be accessible to the public.
   d) During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercised jurisdiction, except as otherwise specified.
   e) The agenda must provide an opportunity for members of the public to address the legislative body directly, as the Brown Act requires in-person meetings, at each teleconference location.
f) For purposes of these requirements, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

4) Authorizes a local agency to use teleconferencing for a public meeting without complying with the Brown Act’s teleconferencing quorum, meeting notice, and agenda requirements, in any of the following circumstances:

a) 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;

b) The legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees; and

c) 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.

5) Provides that a legislative body holding a teleconferenced meeting pursuant to the Brown Act exception provided in 4) is subject to the following requirements:

a) The legislative body must give notice of the meeting and post agendas as otherwise required by the Brown Act.

b) The legislative body must allow members of the public to access the meeting, and the agenda must provide an opportunity for members of the public to address the legislative body directly pursuant to Brown Act requirements as specified. The agenda must identify and include an opportunity for all people to attend via a call-in option or an internet-based service option. The legislative body need not provide a physical location from which the public may attend or comment.

c) The legislative body must conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.

d) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in or internet-based service options, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in or internet-based service options, the legislative body must take no further action on items appearing on the meeting agenda until public access to the meeting is restored. Actions taken on agenda items during a disruption preventing the broadcast of the meeting may be challenged as provided in the Brown Act.

e) The legislative body may not require public comments to be submitted in advance of the meeting, and it must provide an opportunity for the public to address the legislative body and offer comments in real time.

f) The legislative body may use an online third-party system for individuals to provide public comment that requires an individual to register with the system prior to providing comment.
g) If a legislative body provides a timed public comment period, it may not close the comment period or the time to register to provide comment until the timed period has elapsed. If the legislative body does not provide a time-limited comment period, it must allow a reasonable time for the public to comment on each agenda item and to register, as necessary.

6) Provides that if the state of emergency remains active, or state or local officials have imposed measures to promote social distancing, the legislative body must, in order to continue meeting subject to this exemption to the Brown Act, no later than 30 days after it commences using the exemption, and every 30 days thereafter, make specified findings by majority vote.

7) Provides that the provisions relating to the Brown Act in 4) through 6) above will remain in effect only until January 1, 2024.

8) Allows members of legislative bodies to participate remotely for “just cause” and “emergency circumstances” without noticing their teleconference location or making that location public, provided the local agency meets the requirements described in 5), as well as the following:

a) One of the following circumstances applies:

   i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. These provisions cannot be used by any member of the legislative body for more than two meetings per calendar year.

   ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request.

b) When a member uses this flexibility, they must participate through both audio and visual technology, and publicly disclose whether any other individuals 18 years of age or older are present at the teleconference location and the member's relationship with any such individuals.

c) Additionally, a member of a legislative body cannot participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

9) Provides that “just cause” includes childcare or caregiving needs, contagious illnesses, needs related to physical or mental disabilities not otherwise accommodated, and travel while on official business of a public body. “Emergency circumstances” are a physical or family medical emergency.

10) Provides that the provisions relating to the Brown Act in 8) through 9) above will remain in effect only until January 1, 2026.

**Background**
To control the spread of COVID-19, California, and other states, issued mandatory “stay-at-home” orders. Public agencies also had to adjust to new ways of conducting business because of the public safety risk associated with meeting in person. In March 2020, the Governor issued Executive Order N-29-20, which provided local agencies with more flexibility to use teleconferencing without making those teleconference locations accessible to the public.

On June 11, the Governor issued Executive Order N-08-21 notifying local agencies and the public that previous executive orders concerning the conduct of public meetings would apply through September 30, 2021. Despite the executive order, both local and state governing bodies remained concerned about their ongoing ability to teleconference without having to disclose the location of teleconferencing members or make that location accessible to the public.

The Legislature later enacted AB 361 (Robert Rivas, Chapter 165, Statutes of 2021) which allowed, until January 1, 2024, local agencies to use teleconferencing without complying with specified Brown Act restrictions in certain state-declared emergencies.

According to the author:

“Due to the COVID-19 public health emergency, audio and video teleconferencing were widely and successfully used to conduct public meetings in lieu of in-person meetings for local governments and their boards. This allowed the government to remain productive and responsive to constituent needs, increased public participation, increased the pool of people who were able to serve on these bodies, and protected the health and safety of civil servants and the public.

Unfortunately, because the Governor’s Emergency Orders related to the COVID-19 pandemic have ended, local governments are only able to use virtual meetings temporarily during emergencies. This will have the effect of reducing public participation and reducing the pool of applicants who have the desire and ability to serve. The effect of this transition back to in-person meetings will be especially hard on the City of Los Angeles due to its size and their 99 diverse Neighborhood Councils.

Los Angeles’s Neighborhood Councils are uniquely grassroots groups established by an amendment to the City Charter in 1999 to connect Los Angeles’s diverse communities to their city government. Neighborhood Council board members are volunteers who are elected to office by the roughly 40,000 members of their local community. They are advisory bodies receiving no pay for their participation who are charged with advocating for their communities.

SB 411 ensures that the City of Los Angeles’s Neighborhood Councils will continue serving their constituents uninterrupted by extending appropriate COVID-19 pandemic teleconferencing provisions. Just this month, as Neighborhood Councils have been forced to transition back to in-person meetings, numerous councils have been canceled their regularly scheduled meetings due to their inability to establish quorums, with many members worried about their safety due to illness, and some have even been unable to secure a location for their meetings altogether. As things stand now, this is simply not tenable and has already had the effect of reducing constituent participation in their local government.”

Accommodation or convenience? Teleconferencing has been part of the Brown Act since 1988. Legislative bodies could use teleconferencing so long as they did so in a way that provides the public notice of the locations they were teleconferencing from and made them publicly accessible. Due to
the social distancing requirements of the COVID-19 pandemic, the Legislature enacted AB 361 (Robert Rivas, Chapter 165, Statutes of 2021) to allow local agencies to use teleconferencing without noticing each teleconference location or making these locations publicly accessible during declared states of emergency until January 1, 2024, provided they meet specified requirements.

AB 2449 provided another layer of flexibility for members of legislative bodies to participate remotely for “just cause” and “emergency circumstances” (AB 2449, Blanca Rubio, Chapter 285, Statutes of 2022). While legislative bodies have only had a few months to use AB 2449’s flexibility, SB 411 seeks to add even more. Does providing more flexibility for a subset of legislative bodies make public access concessions for the convenience of board members? Or does it make necessary accommodations for neighborhood councils?

**Status of Legislation**
This bill has been referred to the Assembly Local Government Committee.

**Support**
Agency on Aging Area 4
Association of California Cities - Orange County
Bel Air-Beverly Crest Neighborhood Council
Boyle Heights Neighborhood Council
California Association of Councils of Governments
California Bicycle Coalition
California Partnership to End Domestic Violence
City of Lafayette
City of Los Angeles
City of San Jose
CivicWell
Climate Resolve
Democracy Winters
Happy City Coalition
Jenesse Center, Inc.
Jewish Family Service of Los Angeles
Lake Balboa Neighborhood Council
League of California Cities
Let’s Make It Happen
Los Angeles Center for Law and Justice
Mosquito and Vector Control Association of California
Move Santa Barbara County
Neighborhood Council Valley Village
North Westwood Neighborhood Council
Northridge South Neighborhood Council
Olivenhain Municipal Water District
Orange County Council of Governments
Project: Peacemakers, Incorporated
San Diego Community Power
San Fernando Valley Audubon Society
Sonoma Clean Power
Stop4aidan
Streets are For Everyone
Streets for All
Telegraph for People
The River Project
Valley Alliance of Neighborhood Councils
Westwood South of Santa Monica Blvd.
Homeowners Association
Yolo County In-Home Supportive Services
Advisory Committee
Numerous individuals

**Opposition**
ACLU California Action
Cal Aware
California Broadcasters Association
California News Publishers Association
First Amendment Coalition
Howard Jarvis Taxpayers Association
Leadership Council for Justice and Accountability
Seven individuals
Item B-15
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: June 14, 2023

SUBJECT: Senate Bill 537 (Becker) - Open meetings: multijurisdictional, cross-county agencies: teleconferences

ATTACHMENT: 1. Bill Summary – SB 537

Senate Bill 537 (Becker) - Open meetings: multijurisdictional, cross-county agencies: teleconferences (SB 537) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it authorizes an eligible legislative body, which is a board, commission, or advisory body of a multijurisdictional, cross county, local agency with appointed members that is subject to the Brown Act, to teleconference their meetings without having to make publicly accessible each teleconference location under certain conditions and limitations. Under the measure, an agency is multijurisdictional if the legislative body includes more than one county, city, city and county, special district, or joint powers entity.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for SB 537 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 537 the Liaisons may recommend the following actions:

1) Support SB 537;
2) Support if amended SB 537;
3) Oppose SB 537;
4) Oppose unless amended SB 537;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 537, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 5, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 537 (Becker) Open meetings: multijurisdictional, cross-county agencies: teleconferences.

Version
As amended April 24, 2023.

Summary: Authorizes a board, commission, or advisory body of a multijurisdictional, cross county, local agency which is subject to the Brown Act, to teleconference their meetings without having to make each teleconference location publicly accessible. The bill sets limitations on when and how this authority may be utilized and specifies that this authority will be repealed on January 1, 2028.

Specifically, this bill:
1. Authorizes an eligible legislative body to teleconference their meetings without having to notice and make publicly accessible each teleconference location.
2. Prohibits an eligible legislative body from using teleconferencing pursuant to this measure unless the eligible legislative body has adopted a resolution that authorizes it to use teleconferencing at a regular meeting in open session.
3. Defines “eligible legislative body” as a board, commission, or advisory body of a multijurisdictional, cross-county agency, the membership of which board, commission, or advisory body is appointed and which board, commission, or advisory body is otherwise subject to this chapter.
4. Defines “multijurisdictional” to mean a legislative body that includes representatives from more than one county, city, city and county, special district, or a joint powers entity.
5. Requires the following provisions to be met for a meeting via teleconference can be held pursuant to this measure:
   a. At least a quorum of the members of the eligible legislative body must participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.
   b. Identify each member of the eligible legislative body who plans to participate remotely in the agenda and include the address of the publicly accessible building from where they will participate via teleconference. The specific room or location within the publicly accessible building from which a member participates via teleconference is not required to be publicly accessible.
   c. Provide a physical location from which the public may attend or comment.
   d. The eligible legislative body must include the means by which members of the public may access the meeting and offer public comment in each notice and posting of the time or agenda of the teleconferenced meeting. The agenda must identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.
e. In the event of a disruption that prevents the eligible legislative body from broadcasting the meeting to the public, or in the event of a disruption within the eligible legislative body's control that prevents the public from offering public comments remotely, the eligible legislative body cannot take further action until it can restore public access. The public can challenge actions taken on agenda items during such disruptions.
f. The eligible legislative body cannot require public comments to be submitted in advance of the meeting.
g. The eligible legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time, as specified; and
h. The legislative body must provide on its website a record of attendance of both community members and members of the eligible legislative body and the number of public comments in the meeting within seven days after a teleconference meeting.

6. Prohibits a member of the eligible legislative body from participating in a meeting remotely pursuant to these provisions unless they meet both of the following requirements:
a. The location from which the member participates is more than 40 miles from the location of the in person meeting.
b. The member participates from their office or another location in a publicly accessible building.

7. Provides that an individual desiring to provide public comment through the use of a third-party internet website or other online platform during a meeting held pursuant to these provisions may be required to register to log in to the teleconference if both of the following conditions are met:
a. The internet website or online platform requires that registration.
b. The decision to require registration is not under the control of the legislative body.

8. Sunsets the above provisions on January 1, 2028.

Existing Law
1. Guarantees, pursuant to Article I, Section 3 of the California Constitution, that “the people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.” This includes a right to access information concerning the meetings and writings of public officials.

2. Requires, pursuant to the Constitution, local agencies to comply with certain state laws that outline the basic requirements for public access to meetings and public records. If a subsequent bill modifies these laws, it must include findings demonstrating how it furthers the public's access to local agencies and their officials.

3. Provides, under the Ralph M. Brown Act, guidelines for how local agencies must hold public meetings:
a. Defines a “meeting” as “any congregation of a majority of the members of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.”
b. Requires local agencies to notice meetings in advance, including the posting of an agenda, and requires these meetings to be open and accessible to the public.
c. Requires members of the public to have an opportunity to comment on agenda items, and generally prohibits deliberation or action on items not listed on the agenda.
d. If a member of the public, including the respective district attorney, believes a local agency violated the Brown Act, it must first send an order to the local agency to correct the violation. If the local agency disagrees with the complaint and does not correct it, the submitter can
pursue the complaint through the courts. If the court agrees with the complaint, outcomes range from invalidating certain actions of the local agency to a misdemeanor.

4. Authorizes the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law, provided that the teleconferenced meeting complies with all of the following conditions:
   a. Teleconferencing, as authorized, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting must be by rollcall.
   b. If the legislative body elects to use teleconferencing, it must post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or in the public appearing before the legislative body of the local agency.
   c. Each teleconferencing location must be identified in the notice and agenda of the meeting or proceeding, and each teleconference location must be accessible to the public.
   d. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercised jurisdiction, except as otherwise specified.
   e. The agenda must provide an opportunity for members of the public to address the legislative body directly, as the Brown Act requires for in-person meetings, at each teleconference location.
   f. For purposes of these requirements, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

5. Authorizes a local agency to use teleconferencing for a public meeting without complying with the Brown Act’s teleconferencing quorum, meeting notice, and agenda requirements, in any of the following circumstances:
   a. 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;
   b. The legislative body holds a meeting during a proclaimed state of emergency for purposes of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees; and
   c. 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.

6. Provides that a legislative body holding a teleconferenced meeting pursuant to the Brown Act exception provided in 5) is subject to the following requirements:
   a. The legislative body must give notice of the meeting and post agendas as otherwise required by the Brown Act.
   b. The legislative body must allow members of the public to access the meeting, and the agenda must provide an opportunity for members of the public to address the legislative body directly pursuant to Brown Act requirements as specified. The agenda must identify and include an opportunity for all persons to attend via call-in option or an internet-based service option. The legislative body need not provide a physical location from which the public may attend or comment.
c. The legislative body must conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.

d. In the event of a disruption that prevents the public agency from broadcasting the meeting to members of the public using the call-in or internet-based service options, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in or internet-based service options, the legislative body must take no further action on items appearing on the meeting agenda until public access to the meeting is restored. Actions taken on agenda items during a disruption preventing the broadcast of the meeting may be challenged as provided in the Brown Act.

e. The legislative body may not require public comments to be submitted in advance of the meeting, and it must provide an opportunity for the public to address the legislative body and offer comment in real time.

f. The legislative body may use an online third-party system for individuals to provide public comment that requires an individual to register with the system prior to providing comment.

g. If a legislative body provides a timed public comment period, it may not close the comment period or the time to register to provide comment until the timed period has elapsed. If the legislative body does not provide a time-limited comment period, it must allow a reasonable time for the public to comment on each agenda item and to register as necessary.

7. Provides that if the state of emergency remains active, or state or local officials have imposed measures to promote social distancing, the legislative body must, in order to continue meeting subject to this exemption to the Brown Act, no later than 30 days after it commences using the exemption, and every 30 days thereafter, make specified findings by majority vote.

8. Provides that the provisions relating to the Brown Act in 5) through 7) above will remain in effect only until January 1, 2024.

9. Allows members of legislative bodies to participate remotely for “just cause” and “emergency circumstances” without noticing their teleconference location or making that location public, provided the local agency meets the requirements described in 6), as well as the following:
   a. One of the following circumstances applies:
      i. The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. These provisions cannot be used by any member of the legislative body for more than two meetings per calendar year.
      ii. The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request.
   b. When a member uses this flexibility, they must participate through both audio and visual technology, and publicly disclose whether any other individuals 18 years of age or older are present at the teleconference location and the member’s relationship with any such individuals.
   c. Additionally, a member of a legislative body cannot participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.
10. Provides that “just cause” includes childcare or caregiving needs, contagious illnesses, need related to physical or mental disabilities not otherwise accommodated, and travel while on official business of a public body. “Emergency circumstances” are a physical or family medical emergency.

11. Provides that the provisions relating to the Brown Act in 9) through 10) above will remain in effect only until January 1, 2026.

**Background**

To control the spread of COVID-19, California, and other states, issued mandatory “stay-at-home” orders. Public agencies also had to adjust to new ways of conducting business because of the public safety risk associated with meeting in person. In March 2020, the Governor issued Executive Order N-29-20, which provided local agencies with more flexibility to use teleconferencing without making those teleconference locations accessible to the public.

On June 11, the Governor issued Executive Order N-08-21 notifying local agencies and the public that previous executive orders concerning the conduct of public meetings would apply through September 30, 2021. Despite the executive order, both local and state governing bodies remained concerned about their ongoing ability to teleconference without having to disclose the location of teleconferencing members or make that location accessible to the public. The Legislature later enacted AB 361 (Robert Rivas, Chapter 165, Statutes of 2021) which allowed, until January 1, 2024, local agencies to use teleconferencing without complying with specified Brown Act restrictions in certain state-declared emergencies.

According to the author:

“With AB 361 (Rivas, 2021) expiring in February 2023, local multijurisdictional boards have begun to feel the impact of transitioning back to in person meetings. They are already having issues with membership retention, and are concerned about a drop in public attendance. Many multijurisdictional legislative bodies lack the flexibility to accommodate their members and the public with hybrid teleconferencing meetings. For multijurisdictional bodies covering large areas, it can often be difficult for board members and the public to travel great lengths to actively participate in a meeting. This distance disincentivizes participation from community members, as well as prospective legislative body members.

**SB 537 encourages participation by allowing some multijurisdictional boards to choose to convene remotely without limits on remote meetings and disclosure of location, therefore making it easier for all to participate.**

**SB 537 also updates health exemptions to include immunocompromised health conditions to allow persons with those conditions to participate in public meetings without risking their health or the health of a loved one. Lastly, SB 537 also collects data on attendance of remote meetings and requires the data to be posted on agencies’ websites, increasing available data and evidence on the benefit of remote meetings. The gateways provided in this bill offer an important update to facilitate attendance and active participation in multijurisdictional agency meetings.”

Teleconferencing has been part of the Brown Act since 1988. Legislative bodies could use teleconferencing so long as they did so in a way that provides the public notice of the locations they were teleconferencing from and made them publicly accessible. Due to the social distancing requirements of the COVID-19 pandemic, the Legislature enacted AB 361 (Robert Rivas, Chapter 165,
Statutes of 2021) to allow local agencies to use teleconferencing without noticing each teleconference location or making these locations publicly accessible during declared states of emergency until January 1, 2024, provided they meet specified requirements.

AB 2449 provided another layer of flexibility for members of legislative bodies to participate remotely for “just cause” and “emergency circumstances” (AB 2449, Blanca Rubio, Chapter 285, Statutes of 2022). While legislative bodies have only had a few months to use AB 2449's flexibility, SB 537 seeks to add even more. Does providing more flexibility for a subset of legislative bodies make public access concessions for the convenience of board members? Or, does it make necessary accommodations for appointed multijurisdictional bodies?

**Related/Prior Legislation**

**SB 411 (Portantino, 2023)** allows a neighborhood council that is an advisory body with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people to use alternate teleconferencing provisions related to notice, agenda, and public participation, as provided. SB 411 is currently pending on the Senate Floor.

**AB 557 (Hart, 2023)** removes the sunset under AB 361 (Robert Rivas, Chapter 165, Statutes of 2021), and extends the 30-day reauthorization requirement to 45 days. The bill is currently pending on the Assembly Floor.

**AB 817 (Pacheco, 2023)** allows appointed bodies of subsidiary bodies to teleconference meetings without having to notice and make publicly accessible each teleconference location, or have at least a quorum participate from locations within the boundaries of the agency. The bill is currently pending in the Assembly Local Government Committee.

**AB 1275 (Arambula, 2023)** allows the recognized statewide community college student organization and other student-run community college organizations to use teleconferencing without having to notice and make publicly accessible each teleconference location, or have at least a quorum participate from locations within the boundaries of the agency. The bill is currently pending on the Assembly Floor.

**AB 1379 (Papan, 2023)** makes numerous changes to the Brown Act's teleconferencing provisions. The bill is currently pending in the Assembly Local Government Committee.

**Status of Legislation**

This measure passed the Senate Floor on May 30, 32-8. The measure has yet to be referred to a policy Committee.

**Support**

Peninsula Clean Energy (source)
California Association of Councils of Governments
City of Brisbane
City of San Bruno
City of San Carlos
City of South San Francisco
League of California Cities
Los Angeles County Sanitation Districts
Menlo Park City Councilmember Betsy Nash
Sonoma Clean Power
Streets for All
Town of Atherton
Town of Colma
1 individual

**Opposition**
ACLU California Action
Cal Aware
California Broadcasters Association
California News Publishers Association
First Amendment Coalition
Howard Jarvis Taxpayers Association
Leadership Council for Justice and Accountability
1 individual
Item B-16
Assembly Bill 557 (Hart) - Open meetings: local agencies: teleconferences (AB 557) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it eliminates the January 1, 2024, sunset date on provisions of law authorizing a local agency’s legislative body to use teleconferencing for a public meeting without having to post agendas at each teleconference location, identify each teleconference location in the notice and agenda, make each teleconference location accessible to the public, and require at least a quorum of the legislative body to participate from within the local agency's jurisdiction during a proclaimed state of emergency.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 557 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 557 the Liaisons may recommend the following actions:

1) Support AB 557;
2) Support if amended AB 557;
3) Oppose AB 557;
4) Oppose unless amended AB 557;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 557, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 557 (Hart) Open meetings: local agencies: teleconferences

Version
As introduced on February 8, 2023.

Summary
Eliminates the sunset date on provisions of law allowing local agencies to use teleconferencing without complying with specified Ralph. M Brown Act (Brown Act) requirements during a proclaimed state of emergency.

Specifically, this bill:
1. Eliminates the January 1, 2024, sunset date on provisions of law authorizing a local agency’s legislative body to use teleconferencing for a public meeting without having to post agendas at each teleconference location, identify each teleconference location in the notice and agenda, make each teleconference location accessible to the public, and require at least a quorum of the legislative body to participate from within the local agency’s jurisdiction during a proclaimed state of emergency, as specified.
2. Changes the frequency with which a legislative body must make specified findings in order to continue to teleconference as specified above, from every 30 days to every 45 days.
3. Finds and declares that this bill furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature finds that this bill is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings.

Existing Law
1. Provides, pursuant to Article I, Section 3 of the California Constitution, the following:
   a. The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.
b. The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

c. In order to ensure public access to the meetings of public bodies and the writings of public officials and agencies, as specified in b), above, each local agency is required to comply with the California Public Records Act, the Brown Act, and with any subsequent statutory enactment amending either act, enacting a successor act, or amending any successor act that contains findings demonstrating that the statutory enactment furthers the purposes of these constitutional provisions.

2. Provides, pursuant to the Brown Act, requirements for how local agencies must conduct their meetings, including the following provisions:
   a. Defines a “meeting” as “any congregation of a majority of the members of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.”
   b. Requires local agencies to notice meetings in advance, including the posting of an agenda, and requires these meetings to be open and accessible to the public.
   c. Requires members of the public to have an opportunity to comment on agenda items, and generally prohibits deliberation or action on items not listed on the agenda.
   d. Defines “legislative body” to mean:
      i. The governing body of a local agency or any other local body created by state or federal statute. ii) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. Advisory committees composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies. Standing committees of a legislative body, irrespective of their composition, that have a continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies.
      ii. A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:
         1. Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.
         2. Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency. [Government Code (GOV) § 54952]
   3. Authorizes the legislative body of a local agency to use teleconferencing subject to the following requirements:
      a. Teleconferencing may be used for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise
applicable requirements of the Brown Act and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding. [GOV 54953(b)(1)]

b. Teleconferencing may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body, subject to the following requirements:
   i. All votes taken during a teleconferenced meeting must be by rollcall.
   ii. The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.
   iii. The legislative body shall give notice of the meeting and post agendas as otherwise required by this bill.
   iv. The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly, as specified. [GOV 54953(b)(2)]

c. Requires, if the legislative body of a local agency elects to use teleconferencing, all of the following:
   i. The legislative body shall post agendas at all teleconference locations.
   ii. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding.
   iii. Each teleconference location shall be accessible to the public.
   iv. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, with specified exceptions. [GOV § 54953(b)(3)]

d. Defines “teleconference” to mean a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. [GOV § 54953(j)(6)]

4. Authorizes, until January 1, 2024, pursuant to provisions of law enacted via AB 361 (Rivas), Chapter 165, Statutes of 2021, a local agency to use teleconferencing without complying with the requirements of GOV § 54953(b)(3) during a proclaimed state of emergency, as specified. [GOV § 54953(e)]

**Background**

The Brown Act generally requires meetings to be noticed in advance, including the posting of an agenda, and generally requires meetings to be open and accessible to the public. The Brown Act also generally requires members of the public to have an opportunity to comment on agenda items, and generally prohibits deliberation or action on items not listed on the agenda.

The Brown Act defines “local agency” to mean a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

The Brown Act defines “legislative body” to mean:
   a. The governing body of a local agency or any other local body created by state or federal statute.
b. A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. Advisory committees composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies. Standing committees of a legislative body, irrespective of their composition, that have a continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies.

c. A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:
   i. Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.
   ii. Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

The Brown Act defines a “meeting” as “any congregation of a majority of the member of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.”

The Brown Act specifies that a member of the public shall not be required, as a condition of attending a meeting, to register a name, provide other information, complete a questionnaire or otherwise fulfill any condition precedent to attendance. If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated during the meeting, it must state clearly that signing, registering, or completing the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

The Brown Act allows a district attorney or any interested person to seek a judicial determination that an action taken by a local agency’s legislative body violates specified provisions of the Brown Act – including the provisions governing open meeting requirements, teleconferencing, and agendas – and is therefore null and void.

**Status of Legislation**
This measure passed the Assembly Floor on May 15, 78-0, with 2 abstaining. The measure will be heard on June 7 in Senate Governance and Finance Committee.

**Support**
California Special Districts Association [CO-SPONSOR]  
League of California Cities [CO-SPONSOR]  
Alameda County Mosquito Abatement District  
Alameda County Resource Conservation District  
Anderson Valley Community Services District / Fire Department
Antelope Valley Mosquito and Vector Control District
Arbuckle Parks and Recreation District
Arcade Creek Recreation and Park District
Artesia Cemetery District
Association of California Healthcare Districts
Association of California School Administrators
Bodega Bay Public Utility District
Burbaank Sanitary District
California Association of Public Authorities for Ihs
California Association of Recreation & Park Districts
California Downtown Association
California In-home Supportive Services Consumer Alliance
California Municipal Utilities Association
California School Boards Association
California State Association of Counties
California Travel Association (CALTRAVEL)
Calwa Recreation and Park District
Cameron Estates Community Services District
Carpinteria Valley Water District
Central Contra Costa Sanitary District
Chico Area Recreation and Park District
Chino Valley Fire District
City and County Association of Governments of San Mateo County
City Clerks Association of California
City of Belmont
City of Carlsbad
City of Mountain View
City of Woodland
Civicwell (formally the Local Government Commission)
Coachella Valley Public Cemetery District
Coachella Valley Water District
Coastside County Water District
Contra Costa Mosquito and Vector Control District
Copper Cove Rocky Road Community Service District
Cortina Community Services District
Cosumnes Community Services District
County of Monterey
County of Santa Cruz Board of Supervisors
Davis Cemetery District
Delta Diablo
Donner Summit Public Utility District
East Kern Health Care District
Eden Health District
Fall River Resource Conservation District
Feather River Resource Conservation District
Fresno Mosquito and Vector Control District
Fulton-el Camino Recreation and Park District
Gold Mountain Community Services District
Golden Valley Municipal Water District
Goleta West Sanitary District
Goleta; City of
Grossmont Healthcare District
Groveland Community Services District
Health Officers Association of California
Helix Water District
Hidden Valley Lake Community Services District
Hilmar County Water District
Indian Wells Valley Water District
Inverness Public Utility District
Ironhouse Sanitary District
Irvine Ranch Water District
Karr Advocacy Strategies
Kern County Cemetery District No. 1
Keyes Community Services District
Ladera Recreation District
Lake Oroville Area Public Utility District
Los Angeles County Sanitation Districts
Los Angeles Unified School District
Mckinleyville Community Services District
Mckinney Water District
Mendocino County Russian River Flood Control & Water Conservation
Mi Wuk Sugar Pine Fire Protection District
Midpeninsula Regional Open Space District
Mojave Desert Resource Conservation District
Monte Rio Recreation and Park District
Monte Vista Water District
Montecito Fire Protection District
Mosquito & Vector Management District of Santa Barbara County
Mt. View Sanitary District
Muir Beach Community Services District
Murphys Sanitary District
Nevada Sierra Connecting Point Public Authority
North County Fire Protection District
North Sonoma Coast Fire Protection District
Novato Sanitary District
Olympic Valley Public Service District
Orange County Cemetery District
Orange County Water District
Palm Springs Cemetery District
Palos Verdes Library District
Pauma Valley Community Services District
Peninsula Traffic Congestion Relief Alliance (COMMUTE.ORG)
Pit Resource Conservation District
Placer County Air Pollution Control District
Pleasant Valley Recreation and Park District
Ponderosa Community Services District
Rancho Simi Recreation and Park District
Reclamation District 1000
Richardson Bay Sanitary District
Riechel Reports Blog
Rolling Hills Community Services District
Rowland Water District
Running Springs Water District
Rural County Representatives of California
Sacramento Area Council of Governments
Sacramento Metropolitan Fire District
Sacramento Municipal Utility District
San Diego County Water Authority
San Diego; County of
San Gorgonio PASS Water Agency
San Mateo County Habor District
San Mateo; County of
Santa Barbara; County of
Santa Clara Valley Open Space Authority
Santa Clara Valley Water District
Santa Cruz County Board of Supervisors
Santa Margarita Water District
Santa Ynez Community Services District
Santa Ynez River Water Conservation District
Small School Districts Association
Sonoma County Water Agency
South Coast Water District
Southern Marin Fire Protection District
Stallion Springs Community Services District
Stege Sanitary District
Stockton East Water District
Stockton Port District
Strawberry Fire Protection District
Tahoe City Public Utility District
Templeton Community Services District
Three Valleys Municipal Water District
Trinity County Resource Conservation District
Truckee Sanitary District
Tulare Mosquito Abatement District
Tuolumne Fire District
Twain Harte Community Services District
Urban Counties of California (UCC)
Valley Center Fire Protection District
Vandenberg Village Community Services District
Vista Irrigation District
Walnut Valley Water District
Water Replenishment District of Southern California
West Kern Water District
West Valley Mosquito and Vector Control District
**Opposition**
None listed at this time.
Item B-17
Senate Bill 244 (Eggman) - Right to Repair Act (SB 244) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. Councilmember Mirisch has requested the City consider taking a position on this bill as it would require manufacturers of an electronic or appliance product, as defined, with a wholesale price to the retailer of not less than $50 to make available, on fair and reasonable terms, sufficient service documentation and prescribed functional parts and tools to owners of the product, service and repair facilities, and service dealers for specified timeframes.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 244 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 244 the Liaisons may recommend the following actions:

1) Support SB 244;
2) Support if amended SB 244;
3) Oppose SB 244;
4) Oppose unless amended SB 244;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 244, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 244 (Eggman) Right to Repair Act.

Version
As amended May 18, 2023.

Summary
This bill requires manufacturers of an electronic or appliance product, as defined, with a wholesale price to the retailer of not less than $50 to make available, on fair and reasonable terms, sufficient service documentation and prescribed functional parts and tools to owners of the product, service and repair facilities, and service dealers for specified timeframes. This bill provides that a city, a county, a city and county, or the state may bring an action in superior court to impose civil liability on a person or entity that knowingly, or reasonably should have known that it violated, these provisions as provided.

Specifically, the bill does the following:
1. Requires every manufacturer of an electronic or appliance product, as defined, with a wholesale price to the retailer, or to others outside of direct retail sale, of not less than $50 and not more than $99.99 to make available to owners of the product, service repair facilities, and service dealers sufficient documentation and functional parts and tools, inclusive of any updates, on fair and reasonable terms in order to effect the diagnosis, maintenance, or repair of a product for at least three years after the last date a product model or type was manufactured, regardless of whether the three-year period exceeds the warranty period for the product.
2. Requires the same for every manufacturer of an electronic or appliance product with a wholesale price of $100 or more, except that they are required to make the service literature and functional parts and tools available for at least seven years after the product model or type was manufactured, regardless of whether the seven-year period exceeds the warranty period for the product.
3. Provides that it does not require a manufacturer to divulge a trade secret or license any intellectual property, including copyrights or patents, except as may be necessary to comply with the bill’s provisions. Provides that the bill does not require the distribution of a product’s source code.
4. Requires a service and repair facility or service dealer that is not an authorized facility or dealer of a manufacturer to provide a written notice to any customer seeking repair of an electronic or appliance product before the repair facility or service dealer repairs the product that informs the customer that it is not a manufacturer-authorized or -affiliated service dealer.
for the product, and if it uses any used replacement parts or replacement parts provided by
a supplier other than the manufacturer of the product.

5. Provides that a city, a county, a city and county, or the state may bring an action in superior
court to impose civil liability on a person or entity that knowingly violates these provisions,
or reasonably should have known that it violated these provisions, in the amount of $1,000
per day for the first violation, $2,000 per day for the second violation, and $5,000 per day for
the third and any subsequent violations.
   a. Any civil penalties collected is to be paid to the office of the city attorney, county counsel,
district attorney, or Attorney General, whichever office brought the action.
   b. The penalties collected by the Attorney General may be expended by the Attorney
      General, upon appropriation by the Legislature, to enforce these provisions.

Existing Law

1. Establishes the Electronic and Appliance Repair Dealer Registration Law (EAR Law) to
regulate service dealers and service contracts that address the maintenance, replacement, or
repair of consumer goods, and defines certain terms for purposes of EAR Law. (Bus. & Prof.
Code §§ 9800 et seq., 9801, & 9810.)

2. Requires every manufacturer making an express warranty with respect to an electronic or
appliance product described under the EAR Law as an antenna, appliance or major home
appliances, electric set, or rotator with a wholesale price to the retailer of not less than $100
and to make available to service and repair facilities sufficient service literature and
functional parts to effect the repair of a product for at least seven years after the date a
product model or type was manufactured, regardless of whether the seven-year period
exceeds the warranty period for the product. (Civ. Code § 1793.03.)
   a. Requires the same for every manufacturer of those described products with a wholesale
price of $100 or more, except that they are required to make the service literature and
functional parts available for at least seven years after the product model or type was
manufactured, regardless of whether the seven-year period exceeds the warranty period
for the product. (Id.)

Background

Over the past decade a movement has arisen that advocates for consumer rights to repair products
they own or take those products to any repair professional of their choice. Right-to-repair legislation
has been introduced in more than 25 states and most recently in Congress under The Fair Repair Act.
In 2021, President Biden issued an executive order that allows farmers and motorists the right to
repair their own vehicles without voiding warranty protections. Massachusetts passed the Motor
Vehicle Owners Right to Repair Act in 2012, which requires auto manufacturers to allow independent
mechanics to access diagnostic tools in cars so consumers can have their cars serviced by mechanics
of their choice. In 2014, major national auto industry groups signed a memorandum of understanding
that made the requirements of Massachusetts Automotive Right to Repair bill a national policy. In
2022, New York passed and the Governor signed the Digital Fair Repair Act providing consumers
with the right to repair certain electronic products. Colorado passed a bill in 2022 granting powered
wheelchair owners the right to repair their own wheelchairs. Additionally, the U.S. House of
Representatives held a hearing regarding the right to repair before the Subcommittee on
Underserved, Agricultural, and Rural Business Development of the Committee on Small Business on
September 14, 2022. There are right to repair bills pending in other states as well, such as Oregon’s
SB 542 and Minnesota’s SF 1598 and companion bill HF 1337.

The Federal Trade Commission (FTC) has also been investigating issues around right-to-repair and
the effect manufacturer restrictions on repair has on consumers and the market. In 2021 it released
a report, Nixing the Fix: An FTC Report to Congress on Repair Restrictions, and found that “[m]any consumer products have become harder to fix and maintain” because repairs tend to require “specialized tools, difficult-to-obtain parts, and access to proprietary diagnostic software.” In addition, many manufacturers restrict repairs only to authorized repair networks during the warranty period or will only make parts available to authorized repair networks. Manufacturers also, increasingly, build proprietary software keys into their products: the key is essential to fix the product, but only the manufacturer and its authorized repair networks have access to the key, effectively preventing any other party (including the owner) from conducting repairs themselves. The FTC stated, that these restrictions on repair “fall more heavily on communities of color and lower-income communities” noting that “Black and Hispanic Americans are about twice as likely as white Americans to have smartphones, but no broadband access at home” and that many “Black-owned businesses are in the repair and maintenance industries.”

**Status of Legislation**
This measure passed the Senate Floor on May 30, 38-0, with 2 abstaining. The measure has yet to be referred to a policy Committee.

**Support**
- California Public Interest Research Group (CALPIRG) (sponsor)
- Californians Against Waste (sponsor)
- iFixit (sponsor)
- 350 Conejo/San Fernando Valley
- Active San Gabriel Valley
- AscdiNatd
- Associated Students, California State University, Northridge
- Aspiration
- Ban Sup (Single-Use Plastic)
- Breast Cancer Prevention Partners
- California Environmental Voters
- California Product Stewardship Council
- Carbon Cycle Institute
- Citizens' Climate Santa Cruz
- City of Berkeley Zero Waste Commission
- Clean Water Action
- Climate Action California
- Climate Reality Project: Los Angeles Chapter
- Climate Reality Project: San Fernando Valley Chapter
- Consumer Action
- Consumer Federation of California
- Consumer Reports
- Consumer Watchdog
- Educate. Advocate.
- Electronic Frontier Foundation
- Environment California
- Fillgood
- Fixit Clinic
- Fort Ord Environmental Justice Network
- Friends Committee on Legislation of California
- goTRG
- Heal the Bay
- Homeboy Electronics Recycling
- Hyde Consulting
- Media Alliance
- Mojave Desert and Mountain Recycling Authority
- Moore Institute for Plastic Pollution Research
- National Stewardship Action Council
- Northern California Recycling Association
- Natural Resources Defense Council (NRDC)
- Oakland Privacy
- Plastic Free Future
- Plastic Oceans International
- Plastic Pollution Coalition
- Privacy Rights Clearinghouse
- Recycle2riches
- ReGen Monterey
- Repair Cafe Palo Alto/Mountain View
- Reuse Alliance
- Salinas Valley Recycles
- Santa Cruz Climate Action Network
- Santa Monica Community College
- Save Our Shores
- SecuRepair
- Service Industry Association
- Seventh Generation Advisors
- Sierra Club California
- South Bayside Waste Management Authority (RethinkWaste)
| Surfrider Foundation                          | The Story of Stuff Project                  |
| Sustainable Rossmoor                        | Tradeloop                                   |
| The 5 Gyres Institute                       | Trident Computer Resources, Inc.           |
| The Center for Oceanic Awareness, Research, and Education (COARE) | Waveform                                   |
| The Culture of Repair Project               | Wishtoyo Chumash Foundation                |
| The Last Plastic Straw                      | Zero Waste USA                              |
| The Repair Association                      |                                            |

**Opposition**
- Air Conditioning Heating and Refrigeration Institute
- Association of Home Appliance Manufacturers
- Bradford White Corporation
- California Chamber of Commerce
- California Manufacturers and Technology Association
- Civil Justice Association of California
- Consumer Technology Association
- CTIA – The Wireless Association
- Information Technology Industry Council
- Internet Coalition
- Medical Imaging & Technology Alliance
- National Electronic Manufacturers Association
- NetChoice
- PRBA - the Rechargeable Battery Association
- Repair Done Right
- State Privacy and Security Coalition, Inc.
- TechNet
- Telecommunications Industry Association
- The Toy Association
Item B-18
Assembly Bill 886 (Wicks) - California Journalism Preservation Act (AB 886) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. Councilmember Mirisch has requested the City consider taking a position on this bill. This bill would require a covered platform, as defined, to remit a journalism usage fee to an eligible digital journalism provider, as defined, in an amount determined by a prescribed arbitration process; requires the provider to spend at least 70 percent of the fee received on news journalists and support staff; and prohibits retaliation against a provider who exercises their right to demand the fee.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 886 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 886 the Liaisons may recommend the following actions:

1) Support AB 886;
2) Support if amended AB 886;
3) Oppose AB 886;
4) Oppose unless amended AB 886;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 886, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 886 (Wicks) California Journalism Preservation Act

Version
As Amended in the Assembly May 30, 2023.

Summary
This measure creates the California Journalism Preservation Act (CJPA), which will require a covered platform, as defined, to remit a journalism usage fee to an eligible digital journalism provider, as defined, in an amount determined by a prescribed arbitration process; requires the provider to spend at least 70 percent of the fee received on news journalists and support staff; and prohibits retaliation against a provider who exercises their right to demand the fee.

Specifically, this bill does the following:
1. Provides that an eligible digital journalism provider which submits a notice to the covered platform, as prescribed, must receive journalism usage fee payments from the covered platform, beginning within 30 days after the arbitration proceeding in 4), below. Requires the covered platform to send a reply notice within 30 days to acknowledge receipt of the provider’s notice. Permits the covered platform to challenge the sufficiency of the notice and the noticing party’s qualifications as an eligible digital journalism provider.
2. Requires a covered platform, on a monthly basis, to track and record, for each eligible digital journalism provider which has provided notice, the total number of its internet webpages which link to, display, or present that provider’s news articles, works of journalism, or other content that the covered platform has displayed or presented to California residents. Additionally, requires the covered platform to calculate the allocation share for each eligible notifying provider.
3. Requires the covered platform to remit, on a monthly basis, a journalism usage fee payment to each notifying eligible digital journalism provider within 10 days of the close of each month. The payment must be based on a percentage of advertising revenue, as determined through a prescribed arbitration process, and the eligible provider’s allocation share relative to other providers.
4. Sets forth an arbitration process to determine the percentage of the covered platform's advertising revenue which must be remitted to the eligible provider. Permits the eligible providers to initiate a final offer arbitration and specifies that the arbitration must be decided by a three-judge panel operating under the rules of American Arbitration Association's Commercial Arbitration and Mediation Procedures.

5. Provides that, as part of the arbitration process, the eligible journalism providers and a covered platform must each submit a final offer proposal for the remuneration which each provider must receive from the covered platform based on the value that provider’s content contributes to the platform. Specifies various factors which the arbitration panel can and cannot consider in making its binding, reasoned determination of the percentage of the covered platform's advertising revenue that must be remitted to eligible digital journalism providers.

6. Prohibits a covered platform from retaliating against an eligible journalism provider for asserting its rights under the provisions above by refusing to index content or changing the ranking, identification, modification, branding, or placement of the provider’s content on the platform. Permits a provider that is retaliated against to bring a civil action against the covered platform.

7. Requires an eligible digital journalism provider to spend at least 70 percent of the funds received pursuant to the provisions above on news journalists and support staff employed by the provider.

**Existing Law**
Existing law regulates online platforms, including requirements for social media companies to submit terms of service reports to the Attorney General.

**Background**
According to Northwestern University’s Medill School of Journalism, since 2005, the United States has lost more than 2,500 newspapers and tens of thousands of newsroom jobs, turning the communities of tens of millions of Americans into siloed "news deserts" devoid of local reporting. By 2025, it is estimated that one-third of the newspapers that were in operation 20 years ago will be gone.

While newspapers have struggled for decades and their decline cannot be laid entirely at the feet of social media, social media platforms' general refusal to reimburse news organizations for using their content to entice and retain visitors has clearly played a significant role.

Platforms which display news content are, increasingly, designed to keep viewers in their walled garden, meaning users are able to view full content without ever having to leave the platform, which means the platforms capture all of the digital advertising revenue, with none of it passed along to the content creators, the journalists.

In an effort to shore up the newspaper and local news broadcasting industry, this bill proposes requiring large platforms, primarily Facebook, Google, and Microsoft, to enter into binding arbitration with digital journalism providers to establish an appropriate percentage of advertising revenue to be paid to digital journalism providers for accessing their
journalistic output. Under this bill, accessing content includes acquiring, crawling, and indexing content. To ensure the increased revenue is reinvested in newsrooms, the bill requires that 70 percent of the funds derived from the bill must be spent on news journalists employed by the eligible digital journalism provider.

**Status of Legislation**
This bill passed out of Assembly Floor on June 1, 55-6, with 19 abstaining. This measure is pending referral in the Senate.

**Support**
- California Broadcasters Association
- Pacific Media Workers Guild
- Media Alliance
- Glendale News-Press
- Radio Television Digital News Association
- National Press Photographers Association
- California News Publishers Association
- National Newspaper Association
- American Economic Liberties Project
- Los Angeles Blade
- News Media Alliance
- Picket Fence Media

San Fernando Valley Sun
San Francisco Chronicle
The Authors Guild
Burbank Leader
Media Guild of The West, News Guild-CWA Local 39213
Ojai Magazine
Ojai Valley News
Outlook Pasadena
Outlook Valley Sun
San Marino Tribune
South Pasadena Review

**Opposition**
- California Chamber of Commerce
- California Taxpayers Association
- TechNet
- One individual
- Electronic Frontier Foundation
- NetChoice
- Software & Information Industry Association
- TechFreedom
- R Street Institute
- Free Press Action
- Chamber of Progress
- Computer and Communications Industry Association
- Authors Alliance
- CalMatters
- Internet.Works
- James Madison Institute
- Library Futures
- Lion Publishers
- Local Independent Online News Publishers INC.
- Lookout Santa Cruz
- National Newspaper Publishers Association
- Re:Create
Item B-19
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Municipal Affairs Program Manager
DATE: June 14, 2023
SUBJECT: Assembly Bill 1484 (Zbur) - Temporary public employees
ATTACHMENT: 1. Bill Summary – AB 1484

Assembly Bill 1484 (Zbur) - Temporary public employees (AB 1484) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. This item is a request by the League of California Cities for the City to consider taking a position of oppose on AB 1484. This bill would amend the Meyers-Milias-Brown Act (MMBA) to require inclusion of temporary employees in the same bargaining unit as permanent employees upon request of the recognized employee organization to the public employer.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1484 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1484 the Liaisons may recommend the following actions:

1) Support AB 1484;
2) Support if amended AB 1484;
3) Oppose AB 1484;
4) Oppose unless amended AB 1484;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1484, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1484 (Zbur) Temporary public employees.

Version
As amended May 18, 2023.

Summary
Amends the Meyers-Milias-Brown Act (MMBA) to require inclusion of temporary employees, as defined, in the same bargaining unit as permanent employees upon request of the recognized employee organization to the public employer, among other provisions.

Specifically, the bill does the following:

1. Define "temporary employee" to mean a temporary, casual, seasonal, periodic, extra-help, relief, limited-term, or per diem employee, or any other public employee who has not been hired for a permanent position.

2. With respect to temporary employees of a local public employer who have been hired to perform the same or similar type of work that is performed by permanent local public employees represented by a recognized employee organization, establish the following requirements upon a local public employer if requested by the recognized employee organization:
   a. Automatic inclusion of temporary employees in the same bargaining unit as permanent employees if temporary employees are not presently within the unit definition; however, permanent and temporary employees are not required to have the same terms and conditions of employment.
   b. The terms and conditions of employment of permanent and temporary employees in the same bargaining unit must be addressed in a single memorandum of understanding (MOU); however, this requirement only applies after the present MOU has expired that covers the permanent and temporary employees, unless the recognized employee organization and public employer agree to an earlier date, and permanent and temporary employees are not required to have the same terms and conditions of employment.
   c. To provide each employee, upon hire, with their job description, wage rates and eligibility for benefits, anticipated length of employment, and procedures to apply for open, permanent positions; and, provide the same information to a recognized
employee organization along with information pursuant to the Public Employee Communication Chapter, within five business days of hiring the temporary employee.

d. When the public employer is providing the information pursuant to the Public Employee Communication Chapter, to include the anticipated end date of employment for each temporary employee or actual end date if the temporary employee has been released from service since the last list was provided.

e. Whether: i) a temporary employee who subsequently obtains permanent employment and receives seniority or other credit or benefit for time in temporary employment must be a matter within the scope of representation in bargaining units that include permanent employees, and, ii) a temporary employee receives a hiring preference over external candidates for permanent positions must be a matter within the scope of representation in bargaining units that include temporary employees. However, these apply only to the extent that a MOU may lawfully address these subjects. Further, these provisions are effective with respect to any MOU covering permanent employees entered into after the effective date of these provisions.

Moreover, if the MOU that covers both temporary and permanent employees expressly refers to these requirements, temporary employees in that bargaining unit who have been employed for more than 30 calendar days must be entitled to use any grievance procedure in the MOU to challenge any discipline without cause. Similar to above, this also must be effective only with respect to a MOU entered into after the effect date of these provisions, as provided; however, local public employers are not required to retain temporary employees whose services are no longer needed; to require pretermination hearings before the dismissal of temporary employees; or, to prevent a local public employer from replacing temporary employees with employees hired for permanent positions.

3. Establish that complaints alleging violations of these provisions must be processed as an unfair practice charge pursuant to the MMBA.

4. Establish that the provisions of this bill do not supersede or provide any exemption to the restrictions or requirements relating to individuals working after retirement from a public retirement system.

Existing Law

1. Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA), but leaves it to the states to regulate collective bargaining in their respective public sectors.

While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees have no collective bargaining rights absent specific statutory authority establishing those rights.
2. Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. Among these, the MMBA governs public employer-employee relations for local public employees.

3. Defines, under the MMBA, “public employee” to mean any person employed by any public agency, including employees of fire departments and fire services of counties, cities and counties, districts, and other political subdivisions of the state, except a superior court, and persons elected by popular vote or appointed to office by the Governor.

4. Prohibits a public employee from being subject to punitive action or denied promotion, or threatened with any such treatment, for the lawful exercise of action as an elected, appointing, or recognized representative of any employee bargaining unit.

5. Establishes under the MMBA, that the scope of representation must include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

6. Authorizes under the MMBA, a public agency to adopt reasonable rules and regulations after consulting in good faith with representatives of a recognized employee organization or organizations for the administration of employer-employee relations.

7. Establishes the Public Employment Relations Board (PERB), a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers and employee organizations, but provides the City and County of Los Angeles a local alternative to PERB oversight.

8. Establishes the Public Employee Communication Chapter (PECC) that, among other provisions, requires public employers subject to specified collective bargaining statutes to provide employee exclusive representatives with the names and home addresses of newly hired employees, as well as their job titles, departments, work locations, telephone numbers, and personal email addresses, within 30 days of hire or by the first pay period of the month following hire. In addition, public employers must provide this information for all employees in a bargaining unit at least every 120 days, except as specified.

**Background**

**Brief History of MMBA and the PERB** The MMBA is one of several successor public collective bargaining laws in California to the former George M. Brown Act ("Brown Act"), which was California's first public sector collective bargaining law enacted in 1961. The Brown Act originally covered all public sector employees in California and primarily recognized the right of employees to participate in, and be represented by, employee organizations, and gave such organizations the right to meet and confer with the employer.
before taking action on matters affecting employment conditions. In recognizing the unique needs of both public sector employers and their employees from the others throughout California public employment, the breadth of the Brown Act was gradually reduced over time in favor of several public sector collective bargaining statutes that separately cover the range of California's public employees (i.e., state, local government, higher education, education, etc., respectively). Enacted in 1968, enforcement of the MMBA initially was vested in the courts where it remained until 2001. After the Legislature's enactment of the Educational Employment Relations Act (EERA) in 1976, which at that time, created the Educational Employment Relations Board (EERB), the EERB was later renamed as the Public Employment Relations Board (PERB) and in 2001, the PERB became the entity responsible for administering the MMBA. Today, the MMBA stands as one among the several California public sector employer-employee relations frameworks, and is the framework for local public employer-employee relations.

**Status of Legislation**
This measure passed the Assembly Floor on May 31, 62-16 with 2 abstaining. The measure has yet to be referred to a policy Committee.

**Support**
American Federation of State, County and Municipal Employees, AFL-CIO (Co-sponsor)
California Labor Federation, AFL-CIO (Co-sponsor)
Service Employees International Union, California (Co-sponsor)
California Teachers Association
TechEquity Collaborative
United Food and Commercial Workers - Western States Council

**Opposition**
Association of California Healthcare Districts (Oppose Unless Amended)
California Association of Code Enforcement Officers
California Association of Joint Powers Authorities
California Association of Recreation & Park Districts
California Special Districts Association
California State Association of Counties
League of California Cities
Rural County Representatives of California
Urban Counties of California
Item B-20
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Municipal Affairs Program Manager
DATE: June 14, 2023
SUBJECT: Assembly Bill 1657 (Wicks) – The Affordable Housing Bond Act
ATTACHMENT: 1. Bill Summary – AB 1657

Assembly Bill 1657 (Wicks) – The Affordable Housing Bond Act (AB 1657) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. This item is a request by the League of California Cities for the City to consider taking a position of oppose on AB 1657. This bill authorizes the Affordable Housing Bond Act of 2024 to place a $10 billion housing bond on the March 5, 2024, primary ballot to fund production of affordable housing and supportive housing.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1657 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1657 the Liaisons may recommend the following actions:

1) Support AB 1657;
2) Support if amended AB 1657;
3) Oppose AB 1657;
4) Oppose unless amended AB 1657;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1657, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1657 (Wicks) The Affordable Housing Bond Act of 2024

Version
As Amended April 17, 2023

Summary
Authorizes the Affordable Housing Bond Act of 2024 to place a $10 billion housing bond on the March 5, 2024, primary ballot to fund production of affordable housing and supportive housing.

Major Provisions
1. Authorizes $10 billion in general obligation bonds to fund the following programs:
   a. $5.25 billion to the Multifamily Housing Program (MHP). At least 10 percent of the units in a MHP development must be available for extremely low-income households;
   b. $1.75 billion to supportive housing administered through the MHP program. Requires the Department of Housing and Community Development (HCD) to offer capitalized operating subsidy reserves for supportive housing developments receiving funding;
   c. $1.5 billion for programs to preserve or rehabilitate existing subsidized or unsubsidized rental housing, split among the following programs: the Portfolio Reinvestment Program, the Energy Efficiency Low-Income Weatherization Program, and a program to be created by the Legislature that funds acquisition and rehabilitation of unrestricted housing units and the attachment of long-term affordability restrictions to the units;
   d. $1 billion to the CalHOME Program and the My Home down payment assistance program administered by the California Housing Finance Agency (CalHFA); and
   e. $500 million to the Joe Serna, Jr. Farmworker Housing Program and a dedicated program for tribes to finance housing and housing related activities that will enable tribes to rebuild and reconstitute their communities.
2. Authorizes the Legislature to amend any law related to programs which have been allocated funds by the bond to further improve the efficacy and effectiveness of those programs.
3. Authorizes the Legislature to reallocate funds authorized by the bond to effectively promote affordable housing in the state.
4. Authorizes HCD to disperse funds made available through the bond to housing developments during the construction period.
5. Includes the following definitions:
   a. "Board" means HCD for programs administered by the department and CalHFA for programs administered by the agency;
   b. "Committee" means the Housing Finance Committee;
   c. "Fund" means the Affordable Housing Bond Act of 2024;
6. Authorizes the committee, upon a request by the board, to determine whether or not it is necessary and desirable to issue bonds, upon a request by the board, and if so the bonds will be issued and sold.
7. Authorizes the board to request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account to support the bond.

**Existing Law**

1. Authorized the Veterans and Affordable Housing Bond Act of 2018, which provided $4 billion in funding, including $1 billion for the CalVet program and $3 billion for various affordable housing programs. (Health and Safety Code (HSC) Section 54000-54034 and Military and Veterans Code 998.600-998.614)
2. Establishes MHP at HCD to assist the new construction, rehabilitation, and preservation of permanent and transitional rental housing for lower income households through loans to local governments and non- and for-profit developers. (HSC Section 50675)
3. Establishes the Portfolio Reinvestment Program to provide loans or grants to rehabilitate, capitalize operating subsidy or replacement reserves for, and extend the long-term affordability of HCD-funded housing projects that have an affordability restriction that has expired, that have an affordability restriction with a remaining term of less than 10 years, or are otherwise at risk for conversion to market-rate housing. (HSC Section 50606)
4. Establishes the Energy Efficiency Low-Income Weatherization Program, which provides technical assistance and incentives for the installation of energy efficiency measures and solar photovoltaic systems in low-income multifamily dwellings serving priority populations. (Government Code Section 12087.5)
5. Establishes the Joe Serna, Jr. Farmworker Housing Grant Program (Serna Program) at HCD to finance the new construction, rehabilitation, and acquisition of owner-occupied and rental units for agricultural workers, with a priority for lower income households. (HSC Section 50515.2)
6. Establishes CalHome at HCD to provide grants to local public agencies and non-profit developers to assist individuals and households through deferred-payment loans. The funds provide direct, forgivable loans to assist development projects involving multiple ownership units, including single-family subdivisions. (HSC Section 50650)
7. Authorizes CalHFA to provide first time homebuyer assistance, including but not limited to a deferred-payment, low-interest, subordinate mortgage loan, including down payment assistance, closing cost assistance, or both, to make financing affordable to low- and moderate-income households. (HSC Section 51341)
8. Provides, through SB 2 (Atkins, Chapter 364, Statutes of 2017), the Building Homes and Jobs Act, with funding for, among other programs, affordable homeownership and rental housing opportunities for agricultural workers and their families. This funding is administered by HCD in conjunction with the Serna Program. (Government Code Section 27388.1)

Background

Affordable Housing Need: According to the 2022 Statewide Housing Plan, to meet California’s unmet housing needs, the state needs an additional 2.5 million housing units, including 1.2 million for lower-income households. Decades of underbuilding have led to a lack of housing overall, particularly housing that is affordable to lower-income households. The state needs an additional 180,000 new units of housing a year to keep up with demand – including about 80,000 units of housing affordable to lower-income households. By contrast, production in the past decade has been under 100,000 units per year – including less than 20,000 units of affordable housing per year.

Furthermore, the state’s homelessness crisis is driven in large part by the lack of affordable rental housing for lower income people. According to the California Housing Partnership Corporation’s (CHPC)’s Housing Need Dashboard, in the current market, nearly 2 million extremely low income and very low-income renter households are competing for roughly 683,000 available and affordable rental units in the state. Over three-quarters of the state’s extremely low-income households and over half of the state’s very low-income households are severely rent burdened, paying more than 50 percent of their income toward rent each month.

Despite recent investments over the last few years, state and local governments have not significantly invested in affordable housing production in decades, leading to a lack of supply. In addition, local governments have failed to adequately zone or plan for affordable housing for decades. In the last seven years, the state has taken major steps to increase the supply of housing by requiring local governments to plan and zone for 2.5 million new housing units, holding local governments accountable for approving housing, and streamlining both affordable housing and mixed-income housing.

Affordable Housing Funding: Developing housing that is affordable to very low- and low income families requires some amount of public investment. Due to the high cost of land and construction materials and significant regulatory barriers, the private market does not build housing that is affordable for lower income households. The state provides public subsidy to non-profit and for-profit developers to build affordable housing that is deed restricted for 55 years. Historically the state has funded affordable housing production through voter-approved bonds and low-income housing tax credits (LIHTC). Only in the last few years have the Legislature and Governor allocated General Fund dollars to affordable housing programs. Beginning in 2019, an unprecedented $8 billion in General Fund has gone to a variety of affordable housing programs. According to the Legislative Analyst’s Office, this year the state is facing a budget shortfall of $24 billion, which makes the likelihood of securing significant General Fund dollars for affordable housing programs unlikely.
The last voter-approved bond, the Veterans and Affordable Housing Bond Act of 2018, authorized $3 billion to fund state affordable housing programs and $1 billion for the CalVet program, which provides mortgages to veterans. All of the funding from the bond, including $1.5 billion for the state’s flagship affordable multi-family rental housing program – MHP – will be fully allocated by the end of 2023.

In addition to bond proceeds and the General Fund, the federal and state government both subsidize affordable housing through LIHTC. The federal government offers two forms of tax credits, a 9 percent and a 4 percent credit. The 9 percent credit equates to approximately $109 million in subsidy. The 4 percent credits are unlimited but must be paired with private activity bonds (PABs), which are capped. Since 1986, the state has offered a state LIHTC that generally equates to about $100 million each year.

In 2019, AB 101 (Budget Committee), Chapter 159, Statutes of 2019 was signed into law, providing an additional $500 million in "enhanced" state LIHTCs in 2020 and future years, subject to appropriation. Twenty-five million of the $500 million in enhanced LIHTC is available for farmworker housing developments. The enhanced LIHTC must be paired with 4 percent federal credits in an effort to capitalize on the unlimited nature of those credits and to leverage PABs. When the additional $500 million was first made available, the federal tax exempt bond ceiling for PABs of approximately $4 billion had not yet been reached.

In 2014, for example, developers only used $80.5 million in annual federal 4 percent tax credits, significantly less than prior years. This is because there was little supplemental funding from housing bonds or local funding sources available to fill the remaining financing gap. The loss of redevelopment funding and state housing bond funds, which were used in combination with 4 percent federal credits to achieve higher affordability, had made the 4 percent federal credits less effective. Thus, the additional $500 million was targeted to the 4 percent credit and coupled with PABs, in part, to encourage developers to fully utilize any remaining PABs that were being left on the table. When the $500 million was made available, there was also a significant uptick in state and local housing construction funding, so 4 percent credit applications increased rapidly and PABs became oversubscribed and are currently highly competitive.

Without some form of additional subsidy either through General Obligation bonds, a General Fund appropriation, or more state LIHTC, no more than a trickle of affordable housing projects will have enough subsidy to move forward beyond 2023 given the existing limited resources of state and federal LIHTC.

**Status of Legislation**
This bill passed out of the Assembly Floor on May 31, 61-13, 6 abstaining. The measure is currently pending referral in the Senate.

**Support**
City of San Jose
Housing California
California Housing Consortium
EAH Housing
California Housing Partnership Corporation
American Planning Association, California Chapter
Southern California Association of Non-Profit Housing
Abode Communities
Livable California

**Opposition**
None listed at this time.
Item B-21
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: June 14, 2023

SUBJECT: Assembly Bill 1637 (Irwin) - Local government: internet websites and email addresses

ATTACHMENT: 1. Bill Summary – AB 1637

Assembly Bill 1637 (Irwin) - Local government: internet websites and email addresses (AB 1637) involves a policy matter that may have a nexus to the City’s adopted Legislative Platform language. Specifically, the following statement may apply to AB 1637 as this bill imposes a state-mandated local program requiring local agencies to change websites and emails addresses from “.org” to “.gov”:

- In general, oppose any county, state or federal mandates without the direct or indirect reimbursement for the costs associated with complying with new and/or modified laws, regulations, policies, procedures, permits and/or programs.

The League of California Cities is requesting the City consider a position of oppose as this bill does not provide state funding for local jurisdictions to migrate to a new domain and corresponding email addresses which will have an impact on core principal programs and activities.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1637 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1637 the Liaisons may recommend the following actions:

1) Support AB 1637;
2) Support if amended AB 1637;
3) Oppose AB 1637;
4) Oppose unless amended AB 1637;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1637, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1637 (Irwin) Local government: internet websites and email addresses.

Version
As amended May 18, 2023.

Summary
This bill requires cities and counties that maintain websites to utilize a "gov" or "ca.gov" domain.

Specifically, the bill does the following:
1. Requires, no later than January 1, 2027, a local agency that maintains an internet website for use by the public to ensure that the internet website utilizes a "gov" top-level domain or a "ca.gov" second-level domain.
2. Specifies that, if local agency that is subject to 1) above maintains an internet website for use by the public that is noncompliant with 1) above by January 1, 2027, that local agency shall redirect that internet website to a domain name that does comply with 1) above.
3. Requires no later than January 1, 2027, a local agency that maintains public email addresses for its employees to ensure that each email address provided to its employees utilizes a "gov" domain name or a "ca.gov" domain name.
4. Defines "local agency" to mean a city, county, or city and county.

Background
The top-level domain "gov" was originally meant to be used by federal, state, and local government entities. The other original top-level domains each had their own particular functions: "com" was meant for commercial use; "org" was for nonprofits; "edu" was for institutions of higher education; "net" was for internet service providers and other entities providing network infrastructure; and "mil" was for the U.S. Department of Defense (DOD). Some of the original domain requirements remain strictly enforced; no one but the DOD can get a "mil" domain, and it is difficult for non-educational institutions to obtain an "edu" domain. Other requirements have not been strictly enforced; anyone can quickly obtain a "com," "net," or "org" domain if it is available.
It is relatively easy for a fraudulent actor to obtain a domain name similar to that of an existing local governmental agency, also using a non-.gov top level domain, and set up a fake website at that domain. If its content is sufficiently similar to a real website, search engines may pick up the fake website and display it when people search for the entity. There is no quick, convenient way for users to verify the authenticity of the website they are visiting. A fake website that lures in real users who believe they are visiting a legitimate government website could then convince those users to share personal information, make payments, and conduct other compromising activities.

The Cybersecurity and Infrastructure Security Agency (CISA), part of the U.S. Department of Homeland Security (DHS), leads the federal government’s effort to understand, manage, and reduce risk to cyber and physical infrastructure. In 2020, administration of the .gov domain program was transferred from the federal General Services Administration to CISA. “.gov” has been reserved for U.S.-based government organizations and publicly controlled entities. This includes state, tribal, interstate, independent intrastate, city, and county governments.

The California Department of Technology (CDT) administers the .ca.gov second-level domain. “.ca.gov” may be used by any state entity, county, city, state-recognized tribal government, joint powers authority, or independent local district within the State of California. There is no annual fee associated with a .gov or .ca.gov domain name.

**Local Agencies.** Of California’s 14 urban counties, five have .gov websites, including the counties of Contra Costa, Los Angeles, San Bernardino, San Diego and San Francisco. Of the state’s 13 largest cities, 10 have a .gov website. These cities include Fresno, Los Angeles, Long Beach, Oakland, Riverside, Sacramento, San Diego, San Francisco, San Jose and Stockton.

Sacramento County recently completed the migration to a .gov domain. It took the county 14 months to complete the project and dedicated staff of at least 15 full-time employees. The project included changing all the websites, web applications, emails, and active directory accounts of over 12,000 employees and contractors. It also included updated applications and systems access rights to accommodate the change.

Cost estimates to migrate to a .gov domain vary widely among local agencies. For small to medium single-focused special districts, an informal sample revealed estimates ranging from $6,000, for a very small sanitary district, to $100,000 for a mosquito and vector control district and several medium-sized water districts. For larger special districts, primarily water and sanitation districts, estimates ranged from $500,000 to $1 million. Estimates for larger counties were generally in the low millions of dollars. One district indicated difficulties obtaining a .gov or .ca.gov designation.

Local agency costs to migrate their systems include IT costs, often for vendors, as well as labor costs and indirect costs, such as changes to outreach and promotional materials, business cards, letter head, and elections materials. Some agencies may also have costs for media campaigns to alert the public to the changes.

**Status of Legislation**
This measure passed the Assembly Floor on May 31, 56-4 with 20 abstaining. The measure has yet to be referred to a policy Committee.

**Support**
City of Agoura Hills

**Opposition**
City Clerks Association of California
City of Redwood City
City of San Marcos
League of California Cities

**Oppose Unless Amended**
The coalition listed below are requesting amendments to address the following:
(1) Consider funding and implementing a statewide study;
(2) Develop more reasonable timeframes for implementation;
(3) Include financial resources and state technical assistance for local agencies;
(4) Remove mandate disclaimer suggesting that local agencies cover costs of this mandate by charging fees.

Association of California School Administrators
California Special Districts Association
California State Association of Counties (CSAC)
Rural County Representatives of California (RCRC)
Urban Counties of California (UCC)

**League of California Cities was previously listed as Oppose Unless Amended as part of this coalition. We have been unable to verify if the other parties to the coalition have changed their position since the bill was amended to only apply to cities and counties**
Item B-22
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: June 14, 2023

SUBJECT: Assembly Bill 37 (Bonta) - Political Reform Act of 1974: campaign funds: security expenses

ATTACHMENT: 1. Bill Summary – AB 37

**Assembly Bill 37 (Bonta) - Political Reform Act of 1974: campaign funds: security expenses** (AB 37) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. This item is a request by the California Contract Cities Association for the City to consider taking a position AB 37. This bill would change the Political Reform Act of 1974 to authorize a candidate or elected officer to use campaign funds to pay or reimburse the state for the reasonable costs of installing and monitoring a home or office electronic security system, and for the reasonable costs of providing personal security to a candidate, elected official, or the immediate family and staff of a candidate or elected official, if those costs are reasonably related to the candidate or elected officer’s status as a candidate or elected officer. This is currently prohibited by the Political Reform Act of 1974.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 37 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 37 the Liaisons may recommend the following actions:

1) Support AB 37;
2) Support if amended AB 37;
3) Oppose AB 37;
4) Oppose unless amended AB 37;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 37, then staff will place the item on a future City Council Agenda for concurrence.
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 37 (Bonta) Political Reform Act of 1974: campaign funds: security expenses

Summary
This measure authorizes the use of campaign funds to cover security expenses for candidates, elected officers, and their immediate family or staff. The bill allows campaign funds to be used for the reasonable costs of a home or office electronic security system and personal security, provided that such expenses are reasonably related to the candidate’s or elected officer’s status.

Specifically, this measure does the following:
1. Authorizes a candidate or an elected officer to use campaign funds to pay for the reasonable costs of a home or office electronic security system and personal security for the candidate or elected officer, or their immediate family and staff, if such expenses are reasonably related to the candidate’s or elected officer’s status.
2. Deletes provisions of law that allow up to $5,000 in campaign funds to be used to pay, or reimburse the state, for the costs of installing and monitoring a home or office electronic security system only if all of the following circumstances are met: (1) the candidate or elected officer has received threats to their physical safety, (2) the threats arise from their activities, duties or status as a candidate or elected officer, and (3) the threats have been reported to and verified by law enforcement.
3. Repeals provisions of existing law that require any expenditures for the costs of the electronic security system to be reported to the Fair Political Practices Commission (FPPC), and that require the candidate or officer to reimburse the campaign fund for the costs of the equipment upon the sale of the property on which the equipment is installed.

Existing Law
1. Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA). (Government Code §§81000 et seq.)
2. Requires expenditures of campaign funds to be reasonably related to a political, legislative, or governmental purpose. Requires an expenditure of campaign funds that confers a substantial personal benefit on any individual with authority to approve the expenditure of campaign funds to be directly related to a political, legislative, or governmental purpose. (Government Code §§89510 et seq.)
3. Authorizes campaign funds to be used to pay, or reimburse the state, for the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to the candidate’s or elected officer’s physical safety, provided that the threats arise from the candidate’s or elected officer’s activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency, as specified. (Government Code §89517.5)
4. Requires a candidate or elected officer to report any expenditure of campaign funds made for the costs or reimbursement of installing or monitoring an electronic security system to the FPPC. Requires the report to include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. Provides that no more than $5,000 in campaign funds may be used, cumulatively, by a candidate or elected officer, and requires the candidate or elected officer to reimburse the campaign fund account for the costs of the security system upon sale of the property where the security equipment is installed, based on the fair market value of the security equipment at the time the property is sold. (Government Code §89517.5)

5. Requires campaign funds under the control of a former candidate or elected officer, upon the 90th day after leaving an elective office, or the 90th day following the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, to be considered surplus campaign funds and to be disclosed, as specified. Requires surplus campaign funds to be used only for certain purposes, including the payment of outstanding campaign debts or elected officer's expenses. (Government Code §89519(a)(1)).

6. Provides that the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to the candidate's or elected officer's physical safety shall be deemed an outstanding campaign debt or elected officer's expense, provided that the threats arise from the candidate’s or elected officer’s activities, duties, or status as a candidate or elected officer and the threats have been reported to and verified by an appropriate law enforcement agency, as specified. (Government Code §89519(c)).

**Background**

**Authorized Use of Campaign Funds:** The PRA strictly regulates the use of campaign funds by candidates, elected officials, and others who control the expenditure of those funds. Existing law generally requires expenditures of campaign funds to be either reasonably related to a political, legislative, or governmental purpose, or directly related to a political, legislative, or governmental purpose in situations where the expenditure confers a substantial personal benefit on any individual with authority to approve the expenditure of campaign funds. A substantial personal benefit means an expenditure of campaign funds which results in a direct personal benefit with a value of more than $200.

In recognition of the fact that public officials may face threats to their security due to their political, legislative, or governmental activities, current law includes a specific exception to the otherwise generally-applicable rules governing the expenditure of campaign funds. A candidate or elected official may use up to $5,000 in campaign funds to pay, or reimburse the state, for the costs of installing and monitoring a home or office electronic security system if the following circumstances are met: (1) the candidate or elected officer has received threats to their physical safety, (2) the threats arise from their activities, duties, or status as a candidate or elected officer, and (3) the threats have been reported to and verified by law enforcement.

**Recent Research:** According to a 2022 news article, researchers at Princeton University and the Anti-Defamation League are building the first-ever national database that tracks incidents of threats and harassment against government officials. The researchers spent two years searching public sources of information to build a central repository of threat reports. According to the article, the baseline research findings show that women officials are targeted 3.4 times more often than men; threats of death and gun violence are more than twice as common as any other form of threat, while
intimidation is the top form of harassment, and the states accounting for the highest share of incidents against poll workers and election officials are all likely to be 2024 battleground states.

**Status of Legislation**
Currently in the Senate Committee on Elections and Constitutional Amendments. A hearing date has yet to be set.

**Support**
League of California Cities
Todd Spitzer, Orange County District Attorney

**Opposition**
One individual
Item B-23
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Municipal Affairs Program Manager
DATE: June 14, 2023
SUBJECT: Senate Bill 24 (Umberg) - Political Reform Act of 1974: public campaign financing
ATTACHMENT: 1. Bill Summary – SB 24

Senate Bill 24 (Umberg) - Political Reform Act of 1974: public campaign financing (SB 24) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. This bill submits a proposal to voters that would permit a public officer or candidate to expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity established a dedicated fund for this purpose.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 24 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 24 the Liaisons may recommend the following actions:

1) Support SB 24;
2) Support if amended SB 24;
3) Oppose SB 24;
4) Oppose unless amended SB 24;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 24, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 2, 2023

To: Cindy Owens, City of Beverly Hills

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


Version
As amended in the Senate March 30, 2023.

Summary
This bill submits a proposal to voters that would permit a public officer or candidate to expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity established a dedicated fund for this purpose.

Specifically, this bill:

1. Permits a public officer or candidate to expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity establishes a dedicated fund for this purpose by statute, ordinance, resolution, or charter, and both of the following are true:
   a. Public moneys held in the fund are available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference.
   b. The state or local governmental entity has established criteria for determining a candidate’s qualification by statute, ordinance, resolution, or charter

2. Provides that no public moneys for the dedicated fund described may be taken from public moneys that are earmarked for education, transportation, or public safety and does not apply to charter cities, as specified.

3. Requires the Secretary of State to submit the bill’s proposed changes to the PRA to the voters for approval at the November 5, 2024, statewide general election.

Existing Law

1. Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).

2. Provides, pursuant to the PRA as amended by Proposition 73 of 1988, that no public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office.
3. Provides that the PRA may be amended to further its purposes by statute, passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring and signed by the Governor, if at least 12 days prior to passage in each house the bill in its final form has been delivered to the FPPC for distribution to the news media and to every person who has requested the FPPC to send copies of such bills to that person.

4. Provides that the PRA may be amended or repealed by a statute that becomes effective only when approved by the electors. The Legislature may place a PRA amendment on the ballot by majority vote in each house and signed by the Governor.

**Background**

*Proposition 68 and Proposition 73.* Prior to 1988, there were no limits on the amount of money candidates for California state office could accept or spend. In June of 1988 however, voters approved two separate campaign finance reform initiatives: Proposition 68 and Proposition 73. The California State Supreme Court eventually ruled that because the two measures contained conflicting comprehensive regulatory schemes they could not be merged and only one could be implemented. Since Proposition 73 received more affirmative votes than Proposition 68, the Court ordered the implementation of Proposition 73 and proclaimed all the provisions of Proposition 68 invalid. In 1990, all state and local elections were conducted under the Proposition 73 limits.

Proposition 73 prohibited the use of public moneys for campaign purposes and limited the amount of contributions candidates, committees, and political parties could accept from all entities on a fiscal year basis ($1,000, $2,500, or $5,000, depending on the source), and also prohibited the transfer of campaign funds between candidates. These same provisions also applied to special elections, but were based on election cycles rather than fiscal years. The competing Proposition 68 was a more comprehensive measure consisting not only of contribution limits, but partial public financing of campaigns for candidates who agreed to an overall limit on campaign expenditures.

However, many of the provisions of Proposition 73 were ultimately found unconstitutional by the federal courts. The fiscal-year based contribution limits were deemed to discriminate against non-incumbents. The only provisions of Proposition 73 that survived legal challenge were the contribution limits for special elections, some restrictions on the type of mass mailings officeholders may send out at public expense, and the prohibition on the use of public money for campaign purposes.

*The Current Ban.* California and most of the state’s local governments do not have the option to offer any public funding to electoral campaigns under the existing statewide ban. While charter cities are exempt under autonomy granted by the state Constitution, general law cities, counties, districts, and the state governments are covered by the current state ban. Other local governments are prohibited from offering public campaign funding, due to a provision of Proposition 73 of 1988.
**Status of Legislation**
The measure passed out of the Senate Floor May 30, 31-8, 1 abstaining. The bill is currently pending in the Assembly.

**Support**
350 Silicon Valley
Affordable Housing Network
All Rise Alameda
Building the Base Face to Face
California Church IMPACT
California Clean Money Campaign
California Nurses Association/National Nurses United
Support
350 Silicon Valley
Affordable Housing Network
All Rise Alameda
Building the Base Face to Face
California Church IMPACT
California Clean Money Campaign
California Nurses Association/National Nurses United
Indivisible Colusa County
Indivisible East Bay
Indivisible El Dorado Hills
Indivisible Elmwood
Indivisible Euclid
Indivisible Lorin
Indivisible Los Angeles
Indivisible Manteca
Indivisible Marin
Indivisible Media City Burbank
Indivisible Mendocino
Indivisible Normal Heights
Indivisible North Oakland Resistance
Indivisible North San Diego County
Indivisible OC 46
Indivisible OC 48
Indivisible Petaluma
Indivisible Sacramento
Indivisible San Bernardino
Indivisible San Jose
Indivisible San Pedro
Indivisible Santa Barbara
Indivisible Santa Cruz County
Indivisible Sausalito
Indivisible Sebastopol
Indivisible SF
Indivisible SF Peninsula and CA
Indivisible Sonoma County
Indivisible South Bay LA
Indivisible Stanislaus
Indivisible Suffragists
Indivisible Ventura
Indivisible Windsor
Indivisible Yolo
Indivisible: San Diego Central
Indivisibles of Sherman Oaks
Laborers Local 270
League of Women Voters of California
Livermore Indivisible
Los Angeles County Democratic Party
Low Income Self Help Center
MapLight
Mill Valley Community Action Network
Money Out Voters In
Mountain Progressives
Nothing Rhymes With Orange
Orchard City Indivisible
Orinda Progressive Action Alliance
Our Revolution Long Beach
Public Citizen, Inc.
Represent.Us Silicon Valley
RiseUp
Rooted in Resistance
San Diego Indivisible Downtown
San Jose / Silicon Valley NAACP
San Jose Peace and Justice Center
Santa Clara County Move to Amend
Santa Clara County Single Payer Health Care Coalition
SFV Indivisible
Silicon Valley Democratic Socialists of America
South Bay Progressive Alliance
Sunrise Silicon Valley
Tehama Indivisible
The Resistance Northridge
Together We Will Contra Costa
Together We Will/Indivisible - Los Gatos
Vallejo-Benicia Indivisible
Venice Resistance
Voices for Progress
Women’s Alliance Los Angeles
Yalla Indivisible

**Opposition**
Election Integrity Project California, Inc.
Item B-24
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Municipal Affairs Program Manager
DATE: June 14, 2023
SUBJECT: Assembly Bill 1307 (Wicks) - California Environmental Quality Act: noise impact: residential projects
ATTACHMENT: 1. Bill Summary – AB 1307

Assembly Bill 1307 (Wicks) - California Environmental Quality Act: noise impact: residential projects (AB 1307) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. Councilmember Mirisch has requested the City of Beverly Hills consider taking a position on AB 1307.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1307 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1307 the Liaisons may recommend the following actions:

1) Support AB 1307;
2) Support if amended AB 1307;
3) Oppose AB 1307;
4) Oppose unless amended AB 1307;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1307, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 5, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1307 (Wicks) Noise impacts under CEQA: residential projects

Version: As amended in the Assembly on May 18, 2023

Summary
For purposes of the California Environmental Quality Act (CEQA), provides that noise generated by occupants is not a significant effect on the environment for residential development projects. Declares an urgency to take effect immediately.

Existing Law
1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000, et seq.)
2) Defines “environment” as the physical conditions that exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, or objects of historic or aesthetic significance. (PRC 21060.5)
3) Defines “significant effect on the environment” as a substantial, or potentially substantial, adverse change in the environment. (PRC 21068)

Background
CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that the project would not have a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect, the lead agency must prepare an environmental impact report (EIR).

Generally, an EIR must accurately describe the proposed project, identify, and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

Regulation of noise pollution dates back to ancient Greece and Rome. Noise is perhaps the original environmental impact. Noise analysis has always been a part of CEQA review. Noise is included in the
original CEQA definition of "environment," dating to 1972. Noise is among the 18 environmental factors that must be evaluated by lead agencies in an initial study to determine the appropriate level of CEQA review. For many projects, such as roads, manufacturing, or a large event venue, the noise analysis may include noise from both construction and operation of the project. For residential projects, the noise analysis may consider whether the project generates noise in excess of standards established in the local general plan or noise ordinance, and noise generated by residents occupying the project usually would not be considered a significant effect.

On February 24, 2023, the First District Court of Appeal issued an opinion in Make UC a Good Neighbor v. Regents of University of California. The Court rejected challenges to the CEQA review of UC Berkeley's long range development plan, but directed UC to consider alternative locations, and to assess potential noise impacts from student parties, for a student housing project proposed at the site of People's Park. Even though substantial evidence of social noise impacts was presented during the project's CEQA review, UC decided to not analyze potential noise from future residents and determine if the impacts were significant or not. According to the opinion:

(UC) failed to assess potential noise impacts from loud student parties in residential neighborhoods near the campus, a longstanding problem that the EIR improperly dismissed as speculative...The Regents must analyze the potential noise impacts relating to loud student parties. Their decision to skip the issue, based on the unfounded notion that the impacts are speculative, was a prejudicial abuse of discretion and requires them now to do the analysis that they should have done at the outset...We express no opinion on the outcome of a noise analysis. The Regents must determine whether the potential noise impacts are in fact significant, and, if so, whether mitigation is appropriate; ultimately, CEQA provides discretion to proceed with a project even if some impacts cannot be mitigated.

According to the Author

AB 1307 would remove the potential for litigants to challenge residential development based on the speculation that the new residents will create unwanted noises. It would also reestablish the existing precedent that minor and intermittent noise nuisances, such as from unamplified human voices, be addressed through local nuisance ordinances and not via CEQA. As such, no longer could CEQA consider "people as pollution."

According to the American Planning Association, California Chapter:

To suggest that any minor increase in noise from human voices should be analyzed in CEQA could substantially impact nearly all urban development moving forward. CEQA noise analyses are intended to examine major noise-generating activities from a proposed project, such as noise from industrial or transportation sources. General urban noise from, for example, students or other people speaking loudly or dogs barking that occupy a new housing project, are generally considered minor nuisances that are incidental to living in an urban environment and historically have not been and should not be required to be analyzed under CEQA. APA California is grateful to see a straightforward solution to this issue, which comes at a time when the state is already facing a severe housing crisis, including an increasing shortage for student housing.

Legislative Status
Pending in the Senate Environmental Quality Committee.
**Support**
AMG & Associates
California Apartment Association
California Association of Realtors
California Building Industry Association
California Housing Consortium
California Housing Partnership Corporation
CRP Affordable Housing and Community Development
East Bay YIMBY
Grow the Richmond
Housing Action Coalition
Housing California
How to ADU
Linc Housing
MidPen Housing Corporation
Mountain View YIMBY
Napa-Solano for Everyone
Non-Profit Housing Association of Northern California

**Opposition**
None on file.
Item B-25
Assembly Bill 1449 (Alvarez) - Affordable housing: California Environmental Quality Act: exemption (AB 1449) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. Councilmember Mirisch has requested the City of Beverly Hills consider taking a position on AB 1449. This bill would, until January 1, 2033, exempt from the California Environmental Quality Act (CEQA) certain actions taken by a public agency related to affordable housing projects if certain requirements are met.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 1449 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1449 the Liaisons may recommend the following actions:

1) Support AB 1449;
2) Support if amended AB 1449;
3) Oppose AB 1449;
4) Oppose unless amended AB 1449;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1449, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 5, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1449 (Alvarez) Affordable housing: California Environmental Quality Act: exemption.

Version
As amended in the Assembly May 1, 2023

Summary: Exempts from the California Environmental Quality Act (CEQA), until 2033, the planning, funding, and development of affordable housing projects that meet specified location and labor requirements.

Specifically, this bill:

1) Exempts from CEQA an affordable housing project that satisfies all of the following requirements:

   a) At least two-thirds of the square footage of the project is designated for residential use;

   b) All residential units are dedicated to lower income households, as defined;

   c) The project meets specified labor standards, including that all construction workers are paid the prevailing wage, and the labor standards can be enforced by the Labor Commissioner, an underpaid worker, or a joint labor-management committee;

   d) At least 75 percent of the perimeter of the project site adjoins parcels that are developed with urban uses; and

   e) The project is located on parcels that meet any of the following:

      i) In a city where the city boundaries include some portion of either an urbanized area or urban cluster;

      ii) In an unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urbanized area or urban cluster;

      iii) Within one-half mile walking distance to either a high-quality transit corridor or a major transit stops;

      iv) In a very low vehicle travel area, as defined; or
v) Within two miles for rural areas, and one mile for all other areas, of six or more specified amenities.

2) Requires the affordable housing project to meet all of the following requirements:

a) The affordable housing project is subject to a recorded California Tax Credit Allocation Committee (TCAC) regulatory agreement for at least 55 years upon completion of construction;

b) The affordable housing project site can be adequately served by existing utilities or extensions; and

c) A public agency confirms all of the following:

i) The project is not built on environmentally sensitive or hazardous land, as specified;

ii) For a vacant site, the project site does not contain tribal cultural resources that could be affected by the development which cannot be mitigated, as specified;

iii) The site has tested for hazardous substances, and any hazardous substances must be remediated, as specified; and

iv) For a project site where multifamily housing is not a permitted use, all of the following are met:

1) None of the housing is located within 500 feet of a freeway;

2) None of the housing is located within 3,200 feet of a facility that actively extracts or refines oil or natural gas; and

3) The project site is not within a very high fire hazard severity zone.

3) Requires the lead agency to file a notice of exemption with the Office of Planning and Research and the relevant county clerk;

4) Sunsets January 1, 2033

**Existing Law**

1) Establishes CEQA, which requires lead agencies with the principal responsibility for carrying out or approving an action to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000, et seq.)

2) Provides statutory exemptions from CEQA, including:

a. Residential development projects that are consistent with a specific plan for which an EIR has been certified, as specified. (Government Code (GC) 65457)

b. Affordable agricultural housing projects, urban affordable housing projects, and urban infill projects near transit, as specified. (PRC 21159.20-21159.24)
c. Residential, mixed-use, and employment center projects, as defined, located within transit priority areas, as defined, if the project is consistent with an adopted specific plan and specified elements of a region's Sustainable Communities Strategy. (PRC 21155.4)

d. Multi-family residential and mixed-use housing projects on infill sites within cities and unincorporated areas that are within the boundaries of an urbanized area or urban cluster. (PRC 21159.25)

e. Emergency shelters and supportive housing projects approved or carried out within the City of Los Angeles by the City of Los Angeles and specified public agencies.

3) Provides regulatory exemptions from CEQA for infill development projects, as follows:

a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;

b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;

c. The project site has no value as habitat for endangered, rare, or threatened species;

d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and

e. The site can be adequately served by all required utilities and public services. (CEQA Guidelines 15332)

4) Establishes a ministerial approval process, not subject to CEQA, for zoning-compliant multifamily housing projects that are proposed in local jurisdictions that have not met regional housing needs, as long as those projects meet specified objective environmental, affordability and labor standards. (GC 65913.4)

5) Establishes a ministerial approval process, not subject to CEQA, for multifamily affordable housing projects in commercial zones, as long as those projects meet specified objective environmental, affordability and labor standards. (GC 65912.100 et seq.)

Background
CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines, for a wide range of residential projects. Since 1978, CEQA has included statutory exemptions for housing. There are now at least 14 distinct CEQA exemptions for housing projects. The majority of residential projects are approved via exemption or negative declaration under CEQA, or through ministerial permits where CEQA does not apply.

A few existing CEQA exemptions are specific to projects with an affordable housing fraction, the rest are available to affordable and market-rate projects alike. Each exemption includes a range of conditions, including requirements for prior planning-level review, as well as limitations on the location and characteristics of the site. These conditions are intended to guard against the approval of projects with significant environmental impacts that go undisclosed and unmitigated – endangering workers, residents, and the greater environment. More recently, bills such as SB 35 (Wiener), Chapter 366, Statutes of 2017, and AB 2011 (Wicks), Chapter 647, Statutes of 2022, have
established ministerial approval for housing projects, where local discretionary review, including CEQA, is replaced with construction labor requirements and exclusion of specified sensitive sites.

According to the Author
Although the CEQA process was established with good intentions and serves an important function in mitigating the environmental impact of government-led projects, it often hinders development and growth in the state, especially as it relates to housing. Although the silver bullet does not exist to resolve CEQA-related issues, AB 1449 is an important step to curb some of the excesses of CEQA while increasing affordable housing development. It also strikes a balance that streamlines affordable housing projects without sacrificing labor and environmental qualities. If we grant CEQA exemptions for billionaires building stadiums, we should be able to give the same exemption for affordable housing projects in underserved communities.

Arguments in Support
According to Housing California and the bills other co-sponsors:

Despite the well-established need, affordable and supportive housing projects face vocal opposition across the state, making these projects more difficult to site, more time-consuming to approve, and more costly to build. Supporters also note that this bill will expedite the production of much-needed affordable housing without sacrificing environmental protection or the needs of construction workers. AB 1449 would exempt from CEQA 100% affordable housing projects that meet rigorous labor standards and comply with specified environmental requirements. This bill balances the need of California's two most pressing issues in housing and homelessness with the environmental and labor concerns to ensure more affordable homes are built quickly for those most in need.

Arguments in Opposition
According to the State Building and Construction Trades Council:

With any streamlining bill, we believe that worker protection and training standards must include both prevailing wage coverage and skilled and trained workforce requirements to adequately protect the workforce and the public...AB 1449 relies on labor and safety protections for workers in the residential sector that are unproven and likely run afoul of federal law, the Employee Retirement Income Security Act of 1974 (ERISA). This "labor" language was first used in AB 2011, and, while that bill was signed into law, it does not go into effect until July 2023. Of particular concern is the healthcare coverage requirements of those code sections. These are the sections of law that will likely be ruled as preempted by ERISA and, in fact, the author of AB 2011 explicitly added a severability clause to the healthcare requirements of AB 2011 if that occurs...It gives the illusion of a health care requirement, but the requirement will not be enforceable. What that will mean is that affordable housing developers will get the streamlining they want in AB 1449 with no requirements to provide healthcare to the construction workers they employ. The lack of healthcare coverage is already prevalent in the underground economy-driven residential construction sector.

According to the California Association of Realtors:

The (Realtors) will oppose AB 1449 unless it is amended to expand the proposed CEQA exemption to entry level market rate housing development intended for owner occupancy by our state low- and moderate-income families, and to place guardrails around the deed restriction provisions established within the bill.
Legislative Status
Referred to the Senate Committee on Environmental Quality

Support
California Housing Consortium (Sponsor)  Resources for Community Development
California Housing Partnership (Sponsor)  San Francisco Bay Area Planning and Urban Research Association
Housing California (Sponsor)  San Francisco YIMBY
AMCAL  San Luis Obispo YIMBY
American Planning Association, California Chapter  Santa Cruz YIMBY
AMG & Associates  Santa Rosa YIMBY
California Association of Local Housing Finance  South Bay YIMBY
Agencies  Southside Forward
Corporation for Supportive Housing  The John Stewart Company
CRP Affordable Housing and Community  The Pacific Companies
Development  Urban Environmentalists
East Bay YIMBY  Ventura County YIMBY
Grow the Richmond  YIMBY Action
How to ADU  
Linc Housing  
MidPen Housing Corporation  
Mountain View YIMBY  
Napa-Solano for Everyone  
Northern Neighbors SF  
Peninsula for Everyone  
People for Housing - Orange County  
Progress Noe Valley  

Opposition
Livable California

Oppose Unless Amended

California Association of Realtors
State Building and Construction Trades Council of CA
Item B-26
TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Municipal Affairs Program Manager

DATE: June 14, 2023

SUBJECT: Senate Bill 439 (Skinner) - Special motions to strike: priority housing development projects

ATTACHMENT: 1. Bill Summary – SB 439

Senate Bill 439 (Skinner) - Special motions to strike: priority housing development projects (SB 439) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. Councilmember Mirisch has requested the City of Beverly Hills consider taking a position on SB 439. This bill adopts an established special motion to strike mechanism to dismiss frivolous lawsuits seeking to halt affordable housing developments.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 439 to the City (Attachment 1). The state lobbyist will also provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 439 the Liaisons may recommend the following actions:

1) Support SB 439;
2) Support if amended SB 439;
3) Oppose SB 439;
4) Oppose unless amended SB 439;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 439, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 5, 2023

To: Cindy Owens, City of Beverly Hills

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

Re: SB 439 (Skinner) Special motions to strike: priority housing development projects

Version
As amended in the Assembly on May 26, 2023.

Summary: Adopts an established special motion to strike mechanism to dismiss frivolous lawsuits seeking to halt affordable housing developments.

Specifically, this bill:

1) Provides that in all civil actions brought by any plaintiff to challenge the approval or permitting of a “priority housing development” project, a defendant may bring a special motion to strike the whole or any part of a pleading.

2) Defines “priority housing development” as a development in which 100 percent of the units, exclusive of any manager’s unit or units, will be reserved for lower income households, as defined.

3) Requires a court to deny the motion to strike if it determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim. In making this determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

4) Specifies that in the event a court determines that a plaintiff has a probability of success, that determination shall not be admissible at any later stage of the case or in any subsequent action. In such actions, a prevailing defendant is entitled to recover attorney’s fees and costs. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney’s fees to a plaintiff prevailing on the motion, pursuant to Code of Civil Procedure Section 128.5.

5) Exempts enforcement actions brought by the Attorney General, district attorney, or city attorney, acting as a public prosecutor.

6) Requires the special motion to be filed within 60 days of the service of the complaint or, in the court’s discretion, at any later time upon terms it deems proper. The special motion must be heard no more than 30 days after the service of the motion, unless the docket conditions of the court require a later hearing.
7) Establishes that the filing of a special motion stays all discovery proceedings in the underlying action, which stays in effect pending resolution of the special motion.

8) Finds and declares that the lack of affordable housing is a critical problem that threatens the economic, environmental, and social quality of life in California. This bill also declares that there is a public interest in encouraging affordable housing and ensuring that such developments are not delayed or caused to fail through an abuse of the judicial process.

**Existing Law**

1) Establishes the California Environmental Quality Act (CEQA) that generally requires a public agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have significant effects.

2) Defines a “project” for the purpose of CEQA as “an activity that may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment,” and includes any of the following:
   a) An activity directly undertaken by any public agency;
   b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; or
   c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

3) Provides that an action or proceeding to attack, review, set aside, void, or annul the acts or decisions of a public agency on the grounds of noncompliance with CEQA may be commenced when it is alleged that:
   a) A public agency is carrying out or has approved a project that may have a significant effect on the environment without having determined whether the project may have a significant effect on the environment;
   b) A public agency has improperly determined whether a project may have a significant effect on the environment;
   c) An environmental impact report prepared by, or caused to be prepared by, a public agency does not comply with CEQA;
   d) A public agency has improperly determined that a project is not subject to CEQA; or
   e) Any other act or omission of a public agency does not comply with CEQA.

4) Provides that a cause of action against a defendant arising from any act of that defendant “in furtherance of the person’s right of petition or free speech under the United States or California Constitution in connection with a public issue” is subject to a special motion to strike (known as an anti-SLAPP motion).
5) Provides that a court may grant an anti-SLAPP motion unless the court determines, based on the pleadings, and supporting and opposing affidavits that the plaintiff has established that there is a probability that they will prevail on the claim.

6) Entitles a defendant who successfully brings an anti-SLAPP motion to recover their attorney’s fees and costs.

7) Provides that in the event a court determines that the anti-SLAPP motion was frivolous or brought solely for the purpose of causing unnecessary delay, the prevailing plaintiff defending against such meritless anti-SLAPP motion is entitled to recover attorney’s fees and costs.

8) Defines an “act in furtherance of the person’s right of petition or free speech under the United States or California Constitution in connection with a public issue” to include:

   a) Any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law;

   b) Any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law;

   c) Any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest;

   d) Any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

9) Stays discovery proceedings upon filing of notice of an anti-SLAPP motion.

10) Generally exempts certain actions from the anti-SLAPP statute:

    a) Actions brought solely in the public interest or on behalf of the general public, provided that:

       i) The plaintiff does not seek any relief greater than or different from the relief sought for the class;

       ii) The action enforces an important right affecting the public, and confers a significant benefit on the public or a large class of persons; and

       iii) Private enforcement is necessary and places a disproportionate financial burden on the plaintiff in relation to their stake in the matter.

    b) Actions against a person for statements or conduct, provided the person is primarily engaged in the business of selling or leasing goods or services, the statement or conduct consists of representations of fact related to the business, and the intended audience is a potential buyer or customer, as specified.

11) Allows a defendant in a proceeding for an injunction to low-income housing development project to seek a bond of up to $500,000 if the action has the effect of preventing or delaying the project from being carried out.
12) Provides that a plaintiff seeking a security in accordance with 11) must make a motion for that security on the grounds that:

a) The action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the low- or moderate-income nature of the housing development project, and

b) The plaintiff will not suffer undue economic hardship by filing the undertaking.

**Background**

This bill seeks to combat abusive litigation practices by repurposing an established legal mechanism—the anti-SLAPP special motion to strike—to halt meritless litigation challenging the approval or permitting of “priority housing developments” at the onset of a case. The bill also mirrors the anti-SLAPP mechanism by imposing fees and costs on those who abuse environmental statutes, including CEQA, in bringing such frivolous suits. It is supported by a wide range of affordable housing advocates as well as the California Apartment Association and has no known opposition. According to the author:

The California Environmental Quality Act (CEQA) is intended to ensure that environmental impacts are considered and mitigated before local decision makers approve a proposed construction project. Sadly, opponents of affordable housing development have misused CEQA to stop projects they don’t like even when the requirements of CEQA have been met, filing lawsuits that can almost indefinitely slow or stop the approved development. Such illegitimate lawsuits against affordable housing projects that have been approved and have undergone the full CEQA required review can result in the developer losing the financing needed to complete the affordable housing project.

Our state is in an increasingly severe housing crisis. Misusing the system to obstruct affordable housing projects that have already fulfilled the requirements of CEQA and received approval from their respective local government only exacerbates our housing crisis. SB 439 will empower courts to intervene in nuisance lawsuits by allowing judges to throw out a CEQA lawsuit filed against an affordable housing project when that lawsuit lacks merit and does not have a chance of success in court. If a court does throw out an illegitimate case, SB 439 allows the affordable housing developer to recover costs and attorney’s fees. This will ensure that affordable housing dollars are going towards new homes not fighting spurious lawsuits.”

**Process for bringing anti-SLAPP lawsuits.** In 1992, the California Legislature enacted what is now Code of Civil Procedure Section 425.16 in response to a “disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition.” The section, which applies to “strategic lawsuits against public participation,” is commonly referred to as the anti-SLAPP law. An anti-SLAPP motion is a special motion to strike to expedite the early dismissal of unmeritorious causes of action that are aimed at preventing citizens from exercising their constitutional rights of petition or free speech in connection with a public issue.

The motion involves a two-step process. In step one, the moving defendant has the burden of making a prima facie showing that the plaintiff’s cause of action arises from an act “in furtherance of the [defendant’s] right of petition or free speech . . .in connection with a public issue.” (Section 425.16 (b)(1).) If the defendant satisfies step one, the court proceeds to step two to decide if the plaintiff can meet its burden of establishing “a probability that [the] plaintiff will prevail on the claim.” If the defendant fails to meet its threshold burden under step one, the inquiry ends. (Gallimore v. State Farm Fire & Cas. Ins. Co. (2002) 102 Cal. App. 4th 1388, 1396.) A defendant who
meets the burden in step one must establish that the statement or conduct on which the cause of action is based falls within one of the four categories delineated in Section 425.16 (e). (Robles v. Chalilpoyil (2010) 181 Cal. App. 4th 566, 574.)

With limited exceptions, the filing of an anti-SLAPP motion stays all discovery proceedings in the action and, if the motion is successful, an award of attorney’s fees to the moving defendant is mandatory. The downside to the moving defendant is that if the court denies the motion and determines that the motion was “frivolous or...solely intended to cause unnecessary delay,” the court may award discretionary attorney’s fees to the plaintiff pursuant to Code of Civil Procedure Section 128.5. (Ibid.) An order granting or denying an anti-SLAPP motion is automatically appealable under the California Code of Civil Procedure.

Benefits of anti-SLAPP motions. An anti-SLAPP motion presents extraordinary advantages for the defendant. It, in effect, provides an immediate motion for summary judgment or adjudication without a 60-day waiting time, 75-day notice period or the filing of separate statements of undisputed facts. To the extent the lack of a prima facie case for the plaintiff is a legal defect then it provides the equivalent of a demurrer without any required meet and confer session, and cutting off any “right” to file an amended pleading to evade the defect. Moreover, because discovery is stayed while the motion (and any appeal) is pending, the defendant can save significant expense. To conduct discovery, the plaintiff must bring a motion and demonstrate to the court “good cause.” In addition, if the defendant prevails on the anti-SLAPP motion, they are entitled to attorney’s fees and costs as a matter of right. A prevailing plaintiff may only collect attorney’s fees and costs if the special motion to strike was “frivolous or solely intended to cause unnecessary delay.” Thus, an anti-SLAPP motion is a powerful tool available in limited instances.

The CEQA process and potential court challenges. At its core, CEQA seeks to ensure that public agencies do not approve projects without considering the negative impacts a project may inflict on the environment. Although CEQA is too often, and incorrectly, viewed as a tool to skew outcomes in a manner that favors environmentalists and deters development, in reality, “CEQA operates, not by dictating pro-environmental outcomes, but rather by mandating that ‘decision makers and the public’ study the likely environmental effects of contemplated government actions and thus make fully informed decisions regarding those actions.” (Citizens Coalition Los Angeles v. City of Los Angeles (2018) 26 Cal.App.5th 561, 577.) Thus, the primary objective of the environmental review required by CEQA is to steer agency decision makers into approving projects in a manner that utilizes feasible alternatives and mitigation measures to lessen the project’s impact on the environment. The consideration of the impacts of a project is to be analyzed in the agency’s environmental impact report. The failure to properly consider a project’s impacts is what typically results in litigation.

The process of finalizing an environmental impact report requires several steps. First the local lead agency must determine if a project qualifies for one of the many exemptions to CEQA provided in statute and the Office of Planning and Research’s regulations, more commonly known as the CEQA Guidelines. If no exemption exists, the lead agency must then begin to initially study the project in order to determine the scope of the project and associated environmental review. At this point if the agency believes no environmental impacts exist they may opt to file a negative declaration stating as much and proceed to approve the project. Once the scope of the project and review is properly determined, the environmental review is conducted and a draft environmental impact report is submitted for public comment. A lead agency must respond to all written comments on the environmental impact report received during the public comment period, and revise the environmental impact report as necessary. The responses to comments should explain why the
comments are rejected or if the comment resulted in the adoption of a mitigation measure. Once the public review is completed the agency can certify the final environmental impact report.

Once a final environmental impact report is certified, and a project is subsequently approved, any litigation over the environmental review of the project can begin. Courts require an environmental impact report to make a good faith effort at fully disclosing the impacts of the project, provide a detailed set of information about project impacts and serve as the foundation for agency review. The court must review the environmental impact report in two ways. First a court must determine if the environmental impact report was prepared in a procedurally sufficient manner, as described above, and contains the proper content as required by law. Secondly, the court must determine the substantive aspect of its review and determine whether the conclusions and decisions made by the lead agency are based on substantial evidence in the record. (Vineyard Area Citizens v. City of Rancho Cordova (2007) 40 Cal.4th 412.)

The problem the author is attempting to remedy is not with this mandate itself, but rather with the perceived ease with which a litigious NIMBYs (Not-in-My-Back-Yard-ers) can use a CEQA suit to derail much-needed development. CEQA is enforced by aggrieved parties requesting that a court mandate either a full environmental review—in cases where none was initially deemed necessary—or heavy revisions to an existing EIR. This bill would provide project proponents and lead agencies a tool to combat truly illegitimate CEQA litigation.

CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines, for housing projects. In 2002, SB 1925 (Sher, Polanco) Chap. 1039, Stats. 2002, established CEQA exemptions for certain residential projects providing affordable urban or agricultural housing, or located on an infill site within an urbanized area, and meeting specified unit and acreage criteria. Since SB 1925 was enacted, additional legislation has provided CEQA exemptions and streamlining for residential (including, but not limited to, affordable housing) and certain other projects in infill areas. In 2017, the Legislature passed three bills to streamline the CEQA process for affordable housing projects:

- SB 35 (Wiener) Chap. 366, Stats. 2017 establishes a ministerial approval process (i.e., not subject to CEQA) for certain multifamily affordable housing projects that are proposed in local jurisdictions that have not met regional housing needs.
- SB 540 (Roth) Chap. 369, Stats. 2017 authorizes a city or county to establish a Workforce Housing Opportunity Zone (WHOZ) by preparing an EIR and by adopting a specific plan. Once a WHOZ is established, and for five years thereafter, eligible housing developments within a WHOZ must be approved within 60 days without requiring the preparation of an EIR or negative declaration under CEQA.
- AB 73 (Chiu) Chap. 371, Stats. 2017 authorizes a city or county to create a Housing Sustainability District (HSD) to complete upfront zoning and environmental review in order to receive incentive payments for residential and mixed-use development projects with an affordable housing component. Once the city or county has prepared an EIR for the HSD, then housing projects within, and consistent with, a designated HSD are exempt from CEQA.

In 2018, AB 1804 (Berman) Chap. 670, Stats. 2018 codified an existing categorical exemption for infill projects, expanding the exemption to apply to multi-family residential and mixed-use housing projects on infill sites in unincorporated urbanized areas or urban clusters. Also, in 2018, AB 2162 (Chiu, Daly) Chap. 753, Stats. 2018 provided for non-discretionary “by right” approval of supportive housing projects.
This trend towards streamlining and CEQA exemptions has only gained steam within the last several years. SB 450 (Umberg) Chap. 344, Stats. 2019 exempts projects converting motels to transitional housing from CEQA review through 2025 and another bill pending in the Assembly, SB 91 (Umberg), seeks to exempt such programs indefinitely.

In addition to these categorical exemptions and Legislature-approved streamlined projects, there are other tools within existing law to combat impediments to needed affordable housing developments. The Code of Civil Procedure Section 529.2 permits a judge to impose a security requirement on a plaintiff at the request of a defendant, if the defendant can show that an action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart a low- or moderate-income housing development project. The existing law also prohibits the imposition of a financial security if doing so would be financial harmful to the plaintiff. By limiting the existing law to low- and moderate-income projects, the existing law also targets those projects most desperately in need of construction, and most likely to be attacked by affluent neighbors.

Nevertheless, the real (and perceived) risk that CEQA lawsuits pose to housing development remains pervasive. The author’s office points to numerous examples in which affordable housing was stifled by meritless lawsuits, in spite of the protections discussed above. It points to the Eden Housing project in Livermore, approved by that city's planning commission in 2021 to provide 130 affordable housing units and a public park in downtown Livermore, and was then tied up for years with litigation. The project overcame community opposition during the local approval process and won unanimous support from the city council. Then, a group calling itself Save Livermore Downtown (SLD) filed a suit claiming the city’s approval violated CEQA and the state’s Planning and Zoning Law. Eden asked the court to impose a $500,000 bond pursuant to Section 529.2, which was granted by the court.

Over the next 18 months, the court consistently rejected SLD’s claims, with the First District Court of Appeal asserting that the claims are “almost utterly without merit” and that the court’s decision to reject them was “not a close call.” The California Supreme Court recently declined to review the Eden Housing case, culminating protracted and contentious litigation. The author’s office, supported by a broad coalition of housing advocates, use this example to demonstrate the need for this bill.

Anti-SLAPP motions in the context of low-income housing. This bill adopts the special motion to strike mechanism created by the Legislature more than 30 years ago with the adoption of SB 1264 (Lockyer). Anti-SLAPP motions were crafted in reaction to the “disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances.” (Section 425.16.) This bill adopts that special motion to strike mechanism to curtail efforts by NIMBYers to obstruct lawful affordable housing projects with frivolous litigation.

Specifically, this bill permits the filing of a motion to strike in a case that challenges the approval or permitting of a “priority housing development” project, which includes actions brought under CEQA. The procedures and guidelines are identical to those in Section 425.16, and require a court to deny the motion to strike if it determines that the plaintiff has shown a likelihood of success on the claim. Its scope is narrowly targeted: the bill applies only to developments in which all units, excluding manager’s units, are reserved for lower income households, defined at those whose income does not exceed the qualifying limits for lower income families under Section 8 of the
United State Housing Act of 1937. This includes very low-income households and extremely low-income households. (Health & Safety Code Section 50079.5.)

By mirroring the existing anti-SLAPP statute, this bill relies on an established mechanism, which has been repeatedly amended, and about which there is extensive case law. This bill ingeniously borrows what works (anti-SLAPP mechanism) to fix something that does not (speedy development of low-income housing).

**Status of Legislation**

SB 439 (Skinner) is currently scheduled for hearing in the Assembly Judiciary Committee on Tuesday, June 6, 2023. The measure is currently proposed for consent during that hearing.

**Support**
Affirmed Housing  
AMCAL Multi-Housing, Inc.  
AMG & Associates, LLC  
California Apartment Association  
California Housing Consortium  
California Housing Partnership Corporation  
City of San Jose  
CRP Affordable Housing and Community Development  
East Bay Yimby  
Eden Housing  
Grow the Richmond  
How to ADU  
John Burton Advocates for Youth  
Linc Housing  
Merritt Community Capital Corporation  
Midpen Housing Corporation  
Mountain View Yimby  
Napa-Solano for Everyone  
Northern Neighbors  
Peninsula for Everyone  
People for Housing Orange County  
Progress Noe Valley  
Public Interest Law Project  
Resources for Community Development  
San Francisco Bay Area Planning and Urban Research Association (SPUR)  
San Francisco Yimby  
San Luis Obispo Yimby  
Santa Cruz Yimby  
Santa Rosa Yimby  
Satellite Affordable Housing Associates  
South Bay Yimby  
Southside Forward  
The John Stewart Company  
The Pacific Companies  
Urban Environmentalists  
Ventura County Yimby  
Yimby Action  
Yimby Law

**Opposition**
None listed at this time.
Item B-27
Verbal updates on legislative issues will be presented by the City’s lobbyists.
Item B-28
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Municipal Affairs Program Manager
DATE: June 14, 2023
SUBJECT: Future Agenda Items Discussion
ATTACHMENTS: None

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