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

CITY OF BEVERLY HILLS
455 N. Rexford Drive
2nd Floor Room 280A
Beverly Hills, CA 90210

IN-PERSON / TELEPHONIC / VIDEO CONFERENCE MEETING

Beverly Hills Liaison Meeting

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

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

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Monday, May 2, 2022
2:00 PM

In the interest of maintaining appropriate social distancing, members of the public can view this meeting through live webcast at www.beverlhyills.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@beverlhyills.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. Request to Send a Letter of Support to the Governor for Funding for the Commission on the State of Hate in the State's Fiscal Year 2022-2023 Budget

Comment: This item requests the Legislative/Lobby Liaison consider a request by the Human Relations Commission to send a letter of support to Governor Gavin Newsom
for funding for the Commission on the State of Hate in the state's fiscal year 2022-2023 budget.

2. **Assembly Bill 1651 (Kalra) - Worker rights: Workplace Technology Accountability Act**

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on AB 1651. Existing law requires state agencies to develop and implement a telecommuting plan, as specified, and to evaluate their telecommuting programs. This bill would require agencies to periodically update their plans to respond to changing technology and its impact on worker well-being.

3. **Assembly Bill 1771 (Ward) - The California Housing Speculation Act: Income Taxes: Capital Gains: Sale or Exchange of Qualified Asset: Housing**

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on AB 1771. The Personal Income Tax Law and Corporation Tax Law impose taxes upon income, including income generated from any gain from the sale or exchange of a capital asset. This bill would, for taxable years beginning on or after January 1, 2023, impose an additional 25 percent tax on that portion of a qualified taxpayer’s net capital gain from the sale or exchange of a qualified asset. The bill would reduce those taxes depending on how many years has passed since the qualified taxpayer’s initial purchase of the qualified asset.

4. **Assembly Bill 1845 (Calderon) - Metropolitan Water District of Southern California: Alternative Project Delivery Methods**

Comment: This bill would authorize the Metropolitan Water District of Southern California to use the design-build procurement process for certain regional recycled water projects or other water infrastructure projects. The bill would define “design-build” to mean a project delivery process in which both the design and construction of a project are procured from a single entity.

5. **Assembly Bill 2011 (Wicks) - Affordable Housing and High Road Jobs Act of 2022**

Comment: This bill would make certain housing developments that meet specified affordability and site criteria and objective development standards a use by right within a zone where office, retail, or parking are a principally permitted use. The bill would prohibit a local government from imposing any requirement, including increased fees, on the basis that the project is eligible to receive ministerial or streamlined approval. Because the bill would impose new duties on local governments, the bill would impose a state-mandated local program.

6. **Assembly Bill 2050 (Lee) - Residential Real Property: Withdrawal of Accommodations**

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on AB 2050. This bill would, when a public entity has a price control system in effect, prohibit an owner of accommodations
from filing a notice with a public entity of an intention to withdraw accommodations or prosecuting an action to recover possession of accommodations, or threatening to do so, if not all the owners of the accommodations have been owners of record for at least five continuous years, with specified exceptions, or with respect to property that the owner acquired within ten years after providing notice of an intent to withdraw accommodations at a different property for a period of ten years from the date the new property is acquired.

7. **A. Assembly Bill 2097 (Friedman) - Residential and Commercial Development: Remodeling, Renovations, and Additions: Parking Requirements; AND**

**B. Senate Bill 1067 (Portantino) - Housing Development Projects: Automobile Parking Requirements**

Comment: AB 2097 would prohibit a public agency from imposing a minimum automobile parking requirement, or enforcing a minimum automobile parking requirement, on residential, commercial, or other development if the development is located on a parcel that is within one-half mile of public transit.

SB 1067 would prohibit a local jurisdiction from imposing any minimum automobile parking requirement on a housing development project that is located within 1/2 mile of public transit, as defined, and that either (1) dedicates 2 percent of the total units to very low, low-, and moderate-income households, students, the elderly, or persons with disabilities or (2) the developer demonstrates that the development would not have a negative impact on the local jurisdiction's ability to meet specified housing needs and would not have a negative impact on existing residential or commercial parking within 1/2 mile of the project, unless the local jurisdiction makes specified findings.

8. **Assembly Bill 2428 (Ramos) - Mitigation Fee Act: Fees for improvements: Timeline for Expenditure**

Comment: This bill would require a local agency that requires a qualified applicant to deposit fees for improvements into an escrow account as a condition for receiving a conditional use permit or equivalent development permit to expend the fees within 5 years of the deposit.

9. **Assembly Bill 2710 (Kalra) - Residential Real Property: Sale of Rental Properties: Right of First Offer**

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on AB 2170. This bill would require an owner of residential real property, defined to include a single-family residential property that is occupied by a tenant or a multifamily residential property except as specified, to take various actions before offering the residential real property for sale to any purchaser, soliciting any offer to purchase the residential real property, or otherwise entering into a contract for sale of the residential real property.
10. Senate Bill 986 (Umberg) - Vehicles: Catalytic Converters

Comment: SB 986 would require a core recycler to retain a description of the catalytic converter, including any unique identification number, the vehicle identification number, or any other identifying information etched or engraved on the catalytic converter brought in for recycling. Additionally, this bill would require the core recycler to provide payment by any traceable form of payment other than cash to the person submitting the item for recycling.

11. Senate Bill 1456 (Stern) - Property Taxation: Welfare Exemption: Low-Income Housing

Comment: This item is a request by Councilmember Mirisch for the Legislative/Lobby Liaison Committee to consider taking a position on SB 1456. Existing law partially exempts from property taxation property used exclusively for rental housing including, except in the case of a limited partnership in which the managing general partner is a nonprofit corporation eligible for the exemption, that 90 percent or more of the occupants of the property are lower income households whose rents do not exceed the rent limits. This bill would strike the current $20 million cap in assessed valuation in the welfare exemption for property tax for non-publicly financed affordable housing.

12. State and Federal Legislative Updates

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

13. Future Agenda Items Discussion

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

C. Adjournment

Huma Ahmed
City Clerk

Posted: April 28, 2022

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

Pursuant to the Americans with Disabilities Act, the City of Beverly Hills will make reasonable efforts to accommodate persons with disabilities. If you require special assistance, please call (310) 285-1014 (voice) or (310) 285-6881 (TTY). Providing at least twenty-four (24) hours advance notice will help to ensure availability of services.
Item B-1
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Rachel Evans, Human Services Administrator
Cynthia Owens, Policy and Management Analyst

DATE: May 2, 2022

SUBJECT: Request to Send a Letter of Support to the Governor for Funding for the Commission on the State of Hate in the State’s Fiscal Year 2022-2023 Budget

ATTACHMENTS: 1. Letter of Support from August 18, 2021

BACKGROUND

On July 19, 2021, the Beverly Hills City Council Legislative/Lobby Committee (Councilmember Mirisch and Councilmember Gold), voted to support Assembly Bill 1126 (Bloom) - Commission on the State of Hate, which established the Commission on the State of Hate in the state government. The Commission provides resources to various state agencies and the public to inform them on the state of hate, and advise the Legislature, the Governor, and state agencies on policy recommendations to promote interstructural education designed to foster mutual respect and understanding among California’s diverse population.

Assemblymember Bloom introduced this bill in 2021 as, in the last few years, there has been a disturbing rise of hate crimes, especially violent hate crimes, in this state and in this country. According to the Center for the Study of Hate and Extremism’s 2020 Report to the Nation, hate crime totals for 2019 hit their highest level in over a decade, with 7,314 hate crime “incidents” reported. In 2020, anti-Asian hate crimes alone surged by 149 percent. Tragically, these hate crimes are becoming more violent and more deadly, with recorded increases in hate related homicides and violent assaults.

The City Council voted to support the recommendation of the Legislative/Lobby Committee Liaisons on August 3, 2021. The City sent a letter of support on August 18, 2021 (Attachment 1). This bill passed both the State Assembly and State Senate and was presented to Governor Gavin Newsom for signature. This bill was signed by Governor Newsom on October 8, 2021 and became law on January 1, 2022.

Assemblymember Richard Bloom was invited to speak on the Commission on the State of Hate, at the February 17, 2022 Human Relations Commission meeting. After Assemblymember Bloom’s presentation, Commissioner Vered Nisim asked the Assemblymember if the bill had a funding mechanism. Assemblymember Bloom responded that he anticipated that there would be about $5 million dollars in this year’s budget, but it was not guaranteed. Bloom stated, “It would be helpful to have letters written to the governor, to legislators, encouraging them to support the funding of the Commission on the State of Hate.”

A motion was made by Commissioner Nisim, and seconded by Vice Chair Freeman, that the Commission recommend to the City Council that a letter of support be sent to Governor...
Newsom, urging him to include funding for the Commission on the State of Hate in the state budget. The motion was unanimously approved by the full commission.

**RECOMMENDATION**

This item requests the City Council Legislative/Lobby Committee recommend to the City Council that the City send a letter of support to the Governor urging him to include funding for the Commission on the State of Hate in the state FY 23 budget.

Should the Liaisons recommend the City take a position on this item, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
The Honorable Richard Bloom  
California State Assembly, 50th District  
State Capitol, Room 2003  
Sacramento, CA 95814  

Re:  AB 1126 (Bloom) Commission on the State of Hate  
City of Beverly Hills – SUPPORT  

Dear Assemblymember Bloom,

On behalf of the City of Beverly Hills, I am pleased to write to you in SUPPORT of your AB 1126, which establishes the Commission on the State of Hate. The Commission would provide resources to various state agencies and the public to inform them on the state of hate, and advise the Legislature, the Governor, and state agencies on policy recommendations to promote intersocial education designed to foster mutual respect and understanding among California’s diverse population.

In the last few years, there has been a disturbing rise of hate crimes, especially violent hate crimes, in this state and in this country. According to the Center for the Study of Hate and Extremism’s 2020 Report to the Nation, hate crime totals for 2019 hit their highest level in over a decade, with 7,314 hate crime “incidents” reported. In 2020, anti-Asian hate crimes alone surged by 149 percent. Tragically, these hate crimes are becoming more violent and more deadly, with recorded increases in hate related homicides and violent assaults.

Currently, the state’s Attorney General is already required, subject to the availability of adequate funding, to direct local law enforcement agencies to report hate crime data to the Department of Justice, which must be compiled and made public.

AB 1126 would establish the Commission on the State of Hate to work with community and academic partners to improve hate crime and hate incident reporting to help the commission
identify trends in California. For these reasons, the City of Beverly Hills is pleased to SUPPORT your AB 1126.

Sincerely,

Robert Wunderlich
Mayor, City of Beverly Hills

cc: Members and Consultants, Senate Appropriations Committee
    Members and Consultants, Senate Judiciary Committee
    Members and Consultants, Senate Governmental Organization Committee
    The Honorable Ben Allen, 26th Senate District
    Andrew K. Antwih, Shaw Yoder Antwih Schmelzer & Lange
Item B-2
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Assembly Bill 1651 (Kalra) - Worker rights: Workplace Technology Accountability Act (“AB 1651”) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1651 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1651, the Liaisons may recommend the following actions:

1) Support AB 1651;
2) Support if amended AB 1651;
3) Oppose AB 1651;
4) Oppose unless amended AB 1651;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1651, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 27, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1651 (Kalra) Worker rights: Workplace Technology Accountability Act

Version
As amended Assembly in April 18, 2022

Summary
Establishes limitations on the use of data-driven technologies in the workplace by requiring employers to notify workers prior to data collection, initiating electronic monitoring, and deploying algorithms. Requires the technology be used pursuant to a valid business practice and be job related and that employers conduct impact assessments with worker input for algorithms.

Specifically, this bill:

1) Defines "Automated Decision System" (ADS) or "algorithm" to mean a computational process, including one derived from machine learning, statistics, or other data processing or artificial intelligence techniques that makes or assists an employment-related decision.

2) Defines "data" or "worker data" to mean any information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular worker, regardless of how the information is collected, inferred, or obtained. Data includes, but is not limited to, the following:
   a. Personal identity information, as specified.
   b. Biometric information, as specified.
   c. Health, medical, lifestyle, and wellness information, as specified.
   d. Any data related to workplace activities, including the following:
      i. Human resources information, including the contents of an individual’s personnel file or performance evaluations.
      ii. Work process information, such as productivity and efficiency data.
      iii. Data that captures workplace communications and interactions, as specified.
      iv. Device usage and data.
      v. Audio-video data and other information collected from sensors, as specified.
      vi. Inputs of or outputs generated by an ADS that are linked to the individual.
      vii. Data that is collected or generated on workers to mitigate the spread of infectious diseases, as specified.
      viii. Online information, including an individual’s Internet Protocol (IP) address, private social media activity, or other digital sources or unique identifiers associated with a worker.

3) Defines "electronic monitoring" to mean the collection of information concerning worker activities or communications by any means other than direct observation, including the use
of a computer, telephone, wire, radio, camera, electromagnetic, photoelectronic or photooptical system.

4) Defines “employer” to mean any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, benefits, other compensation, hours, working conditions, access to work or job opportunities, or other terms or conditions of employment, of any worker. Employer includes any of the employer’s labor contractors.

5) Defines “employment-related decision” to mean any decision made by the employer that affects wages, benefits, other compensation, hours, work schedule, performance evaluation, hiring, discipline, promotion, termination, job content, assignment of work, access to work opportunities, productivity requirements, workplace health and safety, and other terms or conditions of employment.

6) Defines “productivity system” to mean a management system that monitors, evaluates, or sets the amount and quality of work done in a set time-period by workers.

7) Defines “Worker Information System” (WIS) to mean a process, automated or not, that involves worker data, including the collection, recording, organization, structuring, storage, alteration, retrieval, consultation, use, sharing, disclosure, dissemination, combination, restriction, erasure, or destruction of worker data. A WIS does not include an ADS.

8) Defines a “third party” to mean a person who is not one of the following:
   a. The employer.
   b. A vendor or service provider to the employer.
   c. A labor or employee organization within the meaning of state or federal law.

9) Defines “worker” to mean any natural person or their authorized representative acting as a job applicant to, an employee of, or an independent contractor providing service to, or through, a business or a state or local governmental entity in any workplace.

Provisions relating to worker data rights

1) Requires an employer that controls the collection of worker data to, at or before the point of collection, with limited exceptions, inform the workers as to, among other things:
   a. The specific categories of worker data to be collected, the specific purpose for which the specific categories of worker data are collected or used, and whether and how the data is related to the worker’s essential job functions.
   b. Whether and how the data will be used to make or assist an employment-related decision, including any associated benchmarks.
   c. The length of time the employer intends to retain each category of worker data.
   d. The worker’s right to access and correct their worker data.

2) Requires an employer to provide a copy of the above notice of data collection to the labor agency.

3) Requires an employer, or a vendor acting on behalf of an employer, that uses worker data, as specified, to provide to the worker, in an accessible manner and upon request, specified information such as the categories of worker data retained, the sources of the data, the purpose of collecting it, and whether the data was being used as an input in an ADS. This information shall be provided at no cost to the worker, in a transferable format, and in a timely manner.

4) States that a worker has the right to request an employer to correct any inaccurate worker data about the worker that the employer maintains. If an employer determines that the disputed worker data is inaccurate, the employer shall correct the disputed worker data and inform the worker of the employer’s decision and take other action, as specified.

5) Prohibits an employer from processing, using, or making any employment-related decision based on disputed worker data while the employer is in the process of determining its accuracy.
6) Prohibits an employer or vendor acting on behalf of an employer from collecting, storing, analyzing, or interpreting worker data unless the data is strictly necessary to, among other things, allow a worker to accomplish an essential job function, ensure compliance with labor and employment laws, and administer wages and benefits. The employer shall endeavor to implement, maintain, and keep up-to-date security protections that are appropriate to the nature of the data, and protect the data from unauthorized access, destruction, use, modification, or disclosure.

7) Prohibits an employer or a vendor acting on behalf of an employer from selling or licensing data, as specified, to a vendor or third party, including another employer.

8) Specifies the conditions wherein an employer or a vendor acting on behalf of an employer can disclose or transfer worker data, including biometric or health related data, to a vendor or third party.

9) Provides that an employer or vendor acting on behalf of an employer that uses worker data shall take specified security measures to protect the data from unauthorized access, destruction, use, modification, or disclosure. An employer that becomes aware of a breach of the security of worker data shall promptly provide written notice to each affected worker.

Electronic monitoring provisions

1) Requires an employer or vendor acting on behalf of an employer to provide a worker with clear and conspicuous notice that electronic monitoring will occur prior to conducting each form of electronic monitoring. Notice shall minimally include, among other things:
   a. A description of the specific activities, locations, communications, and job roles that will be electronically monitored.
   b. A description of the technologies used to conduct the specific form of electronic monitoring and the worker data that will be collected.
   c. Whether the data gathered through electronic monitoring will be used to assess workers’ productivity performance or to set productivity standards, and if so, how.
   d. A description of the dates, times, and frequency that electronic monitoring will occur.
   e. A description of where the data will be stored and the length it will be retained.
   f. An explanation for how the specific monitoring practice is the least invasive means available to accomplish the allowable monitoring purpose.
   g. Notice of the workers’ right to access or correct the data.

2) Provides that notice to workers is also required when the electronic monitoring is random or periodic or there is a significant update or change to the electronic monitoring or how it is being used.

3) Requires an employer to annually provide notice to workers of all electronic monitoring in use.

4) Conditions electronic monitoring of a worker on all of the following:
   a. The electronic monitoring is primarily intended to accomplish any of the following allowable purposes:
      i. Allowing a worker to accomplish an essential job function.
      ii. Monitoring production processes or quality. iii) Assessment of worker performance.
      iii. Ensuring compliance with employment, labor, or other relevant laws.
      iv. Protecting the health, safety, or security of workers.
      v. Additional purposes to enable business operations as determined by the Labor and Workforce Development Agency (LWDA).
   b. The specific form of electronic monitoring is strictly necessary to accomplish the allowable purpose and is the least invasive means to the worker, covers the smallest
number of workers, and collects the least amount of data necessary to achieve the purpose, as specified.

c. The information collected will be accessed only by authorized agents and used only for the purpose and duration provided in the notice.

5) States that the following electronic monitoring practices, among others, are prohibited:
   a. The use of electronic monitoring that results in a violation of labor and employment laws.
   b. The monitoring of workers who are off-duty and not performing work-related tasks.
   c. The monitoring of workers in order to identify workers exercising their legal rights, as specified.
   d. Audio-visual monitoring of, among other things, bathrooms or other similarly private areas, a worker’s residence serving as a workplace, and a worker’s personal vehicle.
   e. Electronic monitoring systems that incorporate facial recognition, gait, or emotion recognition technology.

6) Requires an employer prior to using an electronic productivity system, to submit a summary of the system to the labor agency for review, as specified, including information on the type, scope, and impact of the monitoring.

7) Provides an employer or a vendor acting on behalf of an employer shall not require workers to either install applications on personal devices that collect or transmit worker data or to wear, embed, or physically implant those devices, unless specified conditions are met.

8) Provides, for the purposes of hiring, promotion, termination, or discipline of a worker, that data collected through electronic monitoring shall, among other things:
   a. Not be the sole basis for these employment-related decisions.
   b. Be corroborated by other means, including a supervisor’s documentation or managerial documentation. Information garnered from the corroboration process shall be documented and communicated to affected workers prior to the employment-related decisions taking effect.

Provisions relating to algorithms

1) Requires an employer or a vendor acting on behalf of any employer to provide sufficient notice to workers prior to adopting an ADS. “Sufficient notice” means:
   a. The notice is provided within a reasonable time prior to the use of the ADS.
   b. The notice is provided to all workers affected by the ADS in the manner in which routine communications are provided to workers.
   c. The notice contains, among other things, information related to the purpose and scope of the ADS, the type of data used, and the individuals or entities involved in creating and managing the ADS.

2) Requires additional notice to workers when any significant updates or changes are made to the ADS or in how it is being employed.

3) States that the following uses of an ADS for an employment-related decision are prohibited:
   a. Use of an ADS that results in a violation of labor or employment law.
   b. Use of an ADS to make predictions about a worker’s behavior that are unrelated to the worker’s essential job functions.
   c. Use of an ADS to identify, profile, or predict the likelihood of workers exercising their legal rights.
   d. Use of an ADS that draws on facial recognition, gait, or emotion recognition technologies, or that makes predictions about a worker's emotions, personality, or other types of sentiments.
   e. Use of customer ratings as input data for an ADS.
f. Any additional use of an ADS that poses harm to workers prohibited by the labor agency in regulations adopted pursuant to this bill.

4) Requires an employer, prior to using a productivity system that uses algorithms, to submit a summary of the system to the LWDA, as specified, and to the Division of Occupational Safety and Health (Cal/OSHA) for review.

5) Provides that an employer or vendor acting on behalf of an employer shall not solely rely on output from an ADS to make a hiring, promotion, termination, or disciplinary decision. An employer shall conduct its own evaluation of the worker before making these decisions independent of the ADS. This includes taking the following steps:
   a. Establishing meaningful human oversight, as specified, by a designated internal reviewer to corroborate the ADS output by other means, including supervisory or managerial documentation, personnel files, or the consultation of coworkers.
   b. Providing notice, as specified, to the affected workers prior to implementing the employment-related decision that the employer has corroborated the ADS output.

Provisions related to impact assessments

1) States that an “Algorithmic Impact Assessment (AIA)” means a study evaluating an ADS that makes or assists an employment-related decision and its development process, including the design and training data of the ADS, for negative impacts on workers. An AIA shall include, at minimum, all of the following:
   a. A detailed description of the ADS and its intended purpose.
   b. A description of the data used by the ADS, as specified.
   c. A description of the outputs produced by the ADS, as specified.
   d. An evaluation of the risk of the ADS, including, among other things:
      i. Errors, including both false positives and false negatives.
      ii. Discrimination against protected classes.
      iii. Direct or indirect harm to the physical health, mental health, or safety of affected workers.
      iv. Chilling effect on workers exercising legal rights, including, but not limited to, rights guaranteed by employment and labor laws.
      v. Infringement on the dignity and autonomy of affected workers.
   e. The specific measures that will be taken to minimize or eliminate the identified risks.
   f. A description of the methodology used to evaluate the identified risks and mitigation measures.
   g. Any additional components necessary to evaluate the negative impacts of an ADS as determined by the LWDA.

2) Requires an employer to complete an AIA prior to using an ADS to make or assist an employment-related decision and for any ADS that is in place at the time this part takes effect, for each separate position for which the ADS will be used to make an employment related decision.

3) Requires an employer to complete a Data Protection Impact Assessment (DPIA), as defined, prior to using a WIS, or retroactively for a WIS in place prior to the effective date of this part.

4) Requires an AIA or DPIA to be conducted by an independent assessor with relevant experience. Throughout the assessment, the assessor shall consult with workers who are potentially affected by the ADS or WIS. Worker consultation includes, for example:
   a. Identifying specific risks that need to be evaluated and developing mitigation measures to address them.
   b. Making the preliminary assessment available to potentially affected workers for anonymous review and comment during a defined open comment period. No worker shall suffer retaliation for participating in the comment period.
c. Incorporating a record of the feedback received and a description of why the suggestions were either incorporated or rejected.

5) Provides that an employer shall submit and update, as needed, the completed AIA or DPIA to the LWDA and potentially affected workers prior to the use of the system. If health and safety risks are found or implicated, an employer shall also submit its assessment to the Cal/OSHA. If a risk of discrimination or bias is detected or believed to exist, an employer shall also submit its assessment to the relevant state agency.

6) Permits an employer to use the ADS or WIS once it submits the relevant impact assessments to the LWDA, unless the LWDA directs otherwise, as specified.

7) Requires the employer to develop and publish on its internet website an impact assessment summary that describes the assessment's methodology, findings, results, and conclusions for each element required by this part, as well as modifications made to it based on the assessment results.

8) Permits a worker, after an employer has submitted the assessment to the LWDA, to anonymously dispute the AIA or DPIA and request that the LWDA conduct an investigation of the employer on specified bases. A worker may also anonymously request an investigation of the employer if the employer fails to conduct an impact assessment of an ADS or WIS used in making an employment-related decision.

**Enforcement provisions**

1) Provides that a worker may bring a civil action for injunctive relief and recover civil penalties against the employer in an amount equal to the penalties provided by this chapter. A plaintiff who brings a successful civil action for violation of these provisions is entitled to recover reasonable attorney’s fees and costs.

2) Prohibits an employer from retaliating against a worker because the worker exercised, or notified another worker of their right to exercise, any of the rights under this part.

3) Authorizes the LWDA to enforce and assess penalties, as specified, and to adopt regulations to administer and enforce these provisions. Penalties against an employer or vendor that violates this part shall be assessed and recovered by the Labor Commissioner (LC) in a civil action.

4) Authorizes the Department of Fair Employment and Housing (DFEH) to investigate and prosecute worker complaints of violations of these provisions in coordination with the LC.

5) Requires the LC, in order to assist in the development of regulations, to convene an advisory committee to mitigate harms to workers from data-driven technology in the workplace. The advisory committee shall include stakeholders, subject matter experts, and representatives from the Department of Industrial Relations (DIR), as specified, and the DFEH.

**Background and Existing Law**

1) Establishes the LWDA, which is composed of various departments responsible for protecting and promoting the rights and interests of workers in California.

2) Establishes the LC within the DIR, to enforce, among other things, wage and hour law, anti-retaliation provisions, and employer notice requirements.

3) Requires the LC to establish and maintain a field enforcement unit in order to ensure that minimum labor standards are adequately enforced.

4) Authorizes the DFEH to investigate and prosecute unlawful employment practices.

5) Provides, under the California Consumer Privacy Act of 2018 (CCPA), various rights to consumers in respect to personal information that is collected or sold by a business, as defined.

6) Exempts under the CCPA, until January 1, 2023, personal information that is collected and used by a business solely within the context of having an emergency contact on file,
administering specified benefits, or a person's role or former role as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or an independent contractor of that business.

**Status of Legislation**

AB 1651 (Kalra) was heard in Assembly Labor and Employment Committee on April 20, 2022, and passed with a vote of 5-2. The bill is now headed to the Assembly Privacy and Consumer Protection Committee. A hearing date has not been set yet. The bill must pass out of policy committee by April 29, 2022.

**Support**

California Labor Federation (Co-Sponsor)
SEIU California State Council (Co-Sponsor)
UFCW - Western States Council (Co-Sponsor)
ACLU California Action
AFSCME CA
Athena Coalition
California Conference Board of The Amalgamated Transit Union
California Conference of Machinists
California Employment Lawyers Association
California Federation of Teachers
California Nurses Association
California School Employees Association
California State Legislative Board, Smart - Transportation Division
California State University Employees Union (CSUEU)
California Teachers Association
California Teamsters Public Affairs Council
Color of Change

Electronic Frontier Foundation
Engineers and Scientists of California, IFPTE Local 20
Equal Rights Advocates
IBEW Local 1245
Los Angeles County Federation of Labor
Northern California District Council of The International Longshore and Warehouse Union (ILWU)
Professor Catherine Fisk
Professor Matthew Bodie
Professor Pauline T. Kim
Silicon Valley Rising Action
UDW/afscme Local 3930
Unite Here
United for Respect
Warehouse Worker Resource Center
Working Partnerships USA
Worksafef

**Opposition**

California Chamber of Commerce
Attachment 2
An act to amend Sections 12930 and 14203 of the Government Code, and to amend Section 156 of, and to add Part 5.6 (commencing with Section 1520) to Division 2 of, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL’S DIGEST


(1) Existing law requires state agencies to develop and implement a telecommuting plan, as specified, and to evaluate their telecommuting programs. This bill would require agencies to periodically update their plans to respond to changing technology and its impact on worker well-being.

(2) Existing law, the California Consumer Privacy Act of 2018 (CCPA), grants consumers various rights with respect to personal information that is collected or sold by a business, as defined. The CCPA exempts, until January 1, 2023, personal information that is collected and used by a business solely within the context of having an emergency contact on file, administering specified benefits, or a person’s role or former role as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or an independent contractor of that business. The CCPA declares the intent of the act to further the constitutional right to privacy and provides that in the event of conflict between the act and other laws, the provisions of law
providing for the greatest protection for the right of privacy for consumers will prevail. The California Privacy Rights Act of 2020, approved by the voters as Proposition 24 at the November 3, 2020, statewide general election, amended, added to, and reenacted the CCPA.

This bill would impose various duties on employers and their vendors regarding the ability to collect and use worker data, as defined. Specifically, the bill would confer the right to workers to know, review, correct, and secure data collected from them by their employer and would limit the ability of an employer to use that data beyond specified purposes. The bill would impose various limitations on the collection and use of data via electronic monitoring, would impose limitations on the purpose and effect of using Automatic Decision Systems, as defined, and would require employers to prepare and publish impact assessments for the use of various technology.

(3) Existing law establishes the Labor and Workforce Development Agency, which is composed of various departments responsible for protecting and promoting the rights and interests of workers in California, including the Division of Labor Standards Enforcement, led by the Labor Commissioner, the Division of Occupational Safety and Health, and the Division of Workers’ Compensation, within the Department of Industrial Relations. Existing law requires the Labor Commissioner to establish and maintain a field enforcement unit in order to ensure that minimum labor standards are adequately enforced. Existing law also establishes the Department of Fair Employment and Housing to investigate and prosecute unlawful employment practices.

This bill would require the Labor and Workforce Development Agency in coordination with its various departments and the Department of Fair Employment and Housing to enforce the worker data protections created by this bill. Specifically, the bill would impose the primary duty of administration and enforcement on the field enforcement unit under the Labor Commissioner and would require the Department of Fair Employment and Housing to investigate and prosecute worker complaints of violations of these provisions in coordination with the Division of Labor Standards Enforcement. The bill would require the Labor and Workforce Development Agency to adopt regulations to administer and enforce these provisions, including regulations providing for the coordination of enforcement by the divisions within the Department of Industrial Relations, including the Division of Occupational Health and Safety and the Division of Workers’ Compensation. To advise on the adoption of regulations, the bill would
require the Labor Commissioner to convene a committee of stakeholders, including representatives from the Department of Industrial Relations, as specified, and the Department of Fair Employment and Housing. The bill would establish penalties and create a civil cause of action for violation of these provisions.

Existing law requires the Department of Industrial Relations to complete and publish an annual report containing statistics on state work injuries and occupational diseases and fatalities by industry classifications by December 31 of the following calendar year.

This bill would require the report to include within industry classifications subcategories separated by the ethnicity, race, and gender of affected individuals.


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

SECTION 1. Section 12930 of the Government Code is amended to read:

12930. The department shall have the following functions, duties, and powers:

(a) To establish and maintain a principal office and any other offices within the state as are necessary to carry out the purposes of this part.

(b) To meet and function at any place within the state.

(c) To appoint attorneys, investigators, conciliators, mediators, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies and, in addition, with respect to housing discrimination, of conciliation councils.

(e) To adopt, promulgate, amend, and rescind suitable procedural rules and regulations to carry out the investigation, prosecution, and dispute resolution functions and duties of the department pursuant to this part.

(f) (1) To receive, investigate, conciliate, mediate, and prosecute complaints alleging practices made unlawful pursuant to Chapter 6 (commencing with Section 12940).
(2) To receive, investigate, conciliate, mediate, and prosecute complaints alleging a violation of Section 51, 51.5, 51.7, 51.9, 54, 54.1, or 54.2 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(3) To receive, investigate, conciliate, mediate, and prosecute complaints alleging, and to bring civil actions pursuant to Section 52.5 of the Civil Code for, a violation of Section 236.1 of the Penal Code. Damages awarded in any action brought by the department pursuant to Section 52.5 of the Civil Code shall be awarded to the person harmed by the violation of Section 236.1 of the Penal Code. Costs and attorney’s fees awarded in any action brought by the department pursuant to Section 52.5 of the Civil Code shall be awarded to the department. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(4) To receive, investigate, conciliate, mediate, and prosecute complaints alleging practices made unlawful pursuant to Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1, except for complaints relating to educational equity brought under Chapter 2 (commencing with Section 200) of Part 1 of Division 1 of Title 1 of the Education Code and investigated pursuant to the procedures set forth in Subchapter 5.1 of Title 5 of the California Code of Regulations, and not otherwise within the jurisdiction of the department.

(5) To receive, investigate, conciliate, mediate, and prosecute complaints alleging practices made unlawful pursuant to Section 1197.5 of the Labor Code. The department shall, in coordination with the Division of Labor Standards Enforcement within the Department of Industrial Relations, adopt procedures to ensure that the departments coordinate activities to enforce Section 1197.5 of the Labor Code.

(A) Nothing in this part prevents the director or the director’s authorized representative, in that person’s discretion, from making, signing, and filing a complaint pursuant to Section 12960 or 12961 alleging practices made unlawful under Section 11135.

(B) Remedies available to the department in conciliating, mediating, and prosecuting complaints alleging these practices are the same as those available to the department in conciliating,
mediating, and prosecuting complaints alleging violations of Article 1 (commencing with Section 12940) of Chapter 6.

(6) To receive, investigate, conciliate, mediate, and prosecute complaints alleging violations of Part 5.6 (commencing with Section 1520) of Division 2 of the Labor Code. The department shall, in coordination with the Division of Labor Standards Enforcement within the Department of Industrial Relations, adopt procedures to ensure that the departments coordinate activities to enforce those provisions.

(g) In connection with any matter under investigation or in question before the department pursuant to a complaint filed under Section 12960, 12961, or 12980:

(1) To issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials.

(2) To administer oaths, examine witnesses under oath and take evidence, and take depositions and affidavits.

(3) To issue written interrogatories.

(4) To request the production for inspection and copying of books, records, documents, and physical materials.

(5) To petition the superior courts to compel the appearance and testimony of witnesses, the production of books, records, documents, and physical materials, and the answering of interrogatories.

(h) To bring civil actions pursuant to Section 12965 or 12981 of this code, or Title VII of the Civil Rights Act of 1964 (Public Law 88-352; 42 U.S.C. Sec. 2000 et seq.), as amended, the federal Americans with Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. 12101, et seq.), as amended, or the federal Fair Housing Act (42 U.S.C. Sec. 3601 et seq.), and to prosecute those civil actions before state and federal trial courts.

(i) To issue those publications and those results of investigations and research as in its judgment will tend to promote goodwill and minimize or eliminate discrimination in employment on the bases enumerated in this part and discrimination in housing because of race, religious creed, color, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, familial status, disability, veteran or military status, genetic information, or sexual orientation.
(j) To investigate, approve, certify, decertify, monitor, and
enforce nondiscrimination programs proposed by a contractor to
be engaged in pursuant to Section 12990.

(k) To render annually to the Governor and to the Legislature
a written report of its activities and of its recommendations.

(l) To conduct mediations at any time after a complaint is filed
pursuant to Section 12960, 12961, or 12980. The department may
end mediation at any time.

(m) The following shall apply with respect to any accusation
pending before the former Fair Employment and Housing
Commission on or after January 1, 2013:

(1) If an accusation issued under former Section 12965 includes
a prayer either for damages for emotional injuries as a component
of actual damages, or for administrative fines, or both, or if an
accusation is amended for the purpose of adding a prayer either
for damages for emotional injuries as a component of actual
damages, or for administrative fines, or both, with the consent of
the party accused of engaging in unlawful practices, the department
may withdraw an accusation and bring a civil action in superior
court.

(2) If an accusation was issued under former Section 12981,
with the consent of the aggrieved party filing the complaint, an
aggrieved person on whose behalf a complaint is filed, or the party
accused of engaging in unlawful practices, the department may
withdraw the accusation and bring a civil action in superior court.

(3) Where removal to court is not feasible, the department shall
retain the services of the Office of Administrative Hearings to
adjudicate the administrative action pursuant to Sections 11370.3
and 11502.

(n) On a challenge, pursuant to Section 1094.5 of the Code of
Civil Procedure, to a decision of the former Fair Employment and
Housing Commission pending on or after January 1, 2013, the
director or the director’s designee shall consult with the Attorney
General regarding the defense of that writ petition.

SEC. 2. Section 14203 of the Government Code is amended to
read:

14203. Each state agency shall evaluate its telecommuting
program and shall periodically update their
telecommuting plans in response to changing circumstances and
technology and its impact on worker well-being. The adoption and
implementation of policies affecting represented unit employees pursuant to Part 5.6 (commencing with Section 1520) of Division 2 of the Labor Code are mandatory subjects of bargaining. The Department of General Services shall establish criteria for evaluating the state’s telecommuting program and recommend modifications, if necessary.

SEC. 3. Section 90.5 of the Labor Code is amended to read:

90.5. (a) It is the policy of this state to vigorously enforce minimum labor standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions or for employers that have not secured the payment of compensation, and to protect employers who comply with the law from those who attempt to gain a competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

(b) In order to ensure that minimum labor standards are adequately enforced, the Labor Commissioner shall establish and maintain a field enforcement unit, which shall be administratively and physically separate from offices of the division that accept and determine individual employee complaints. The unit shall have offices in the Cities of Los Angeles, San Francisco, San Jose, San Diego, Sacramento, and any other locations that the Labor Commissioner deems appropriate. The unit shall have primary responsibility for administering and enforcing those statutes and regulations most effectively enforced through field investigations, including Sections 226, 1021, 1021.5, 1193.5, 1193.6, 1194.5, 1197, 1198, 1771, 1776, 1777.5, 2651, 2673, 2675, and 3700, and Part 5.6 (commencing with Section 1520) in accordance with the plan adopted by the Labor Commissioner pursuant to subdivision (c). Nothing in this section shall be construed to limit the authority of this unit in enforcing any statute or regulation in the course of its investigations.

(c) The Labor Commissioner shall adopt an enforcement plan for the field enforcement unit. The plan shall identify priorities for investigations to be undertaken by the unit that ensure the available resources will be concentrated in industries, occupations, and areas in which employees are relatively low paid and unskilled, and those in which there has been a history of violations of the statutes cited in subdivision (b), and those with high rates of noncompliance with Section 3700.
The Labor Commissioner shall annually report to the Legislature, not later than March 1, concerning the effectiveness of the field enforcement unit. The report shall include, but not be limited to, all of the following:

1. The enforcement plan adopted by the Labor Commissioner pursuant to subdivision (c), and the rationale for the priorities identified in the plan.
2. The number of establishments investigated by the unit, and the number of types of violations found.
3. The amount of wages found to be unlawfully withheld from workers, and the amount of unpaid wages recovered for workers.
4. The amount of penalties and unpaid wages transferred to the General Fund as a result of the efforts of the unit.

SEC. 4. Part 5.6 (commencing with Section 1520) is added to Division 2 of the Labor Code, to read:

PART 5.6. WORKPLACE TECHNOLOGY ACCOUNTABILITY ACT

Chapter 1. General Provisions

1520. This part shall be known and may be cited as the Workplace Technology Accountability Act.

1521. The Legislature finds and declares the following:

(a) The rapid adoption of worker data collection, electronic monitoring, and algorithmic management by employers in the workplace can cause harm to worker health, safety, dignity, and autonomy.

(b) All workers stand to be impacted, including employees, independent contractors, job applicants, and remote workers, and especially the low-wage workers, workers of color, women, and immigrants who are on the front lines of technology introduction.

(c) These data-driven workplace systems are often opaque, untested, and without any regulatory oversight.

(d) Workers and employers both stand to benefit from the establishment of clear rules of the road in the implementation and use of these new technologies in the workplace.

(e) Workers subject to employer data collection, electronic monitoring, and algorithmic management should have the right to know what personal data is being collected, when they are being
monitored, what algorithms are being used, and how the employer
will use their data.
(f) Workers should also have the right to access their data and
to correct erroneous data.
(g) Employers should only use electronic monitoring and
algorithms for narrow purposes that do not harm workers’ physical
health, mental health, personal safety, or well-being.
(h) In particular, electronic monitoring and algorithms should
not be used by employers to substitute for human decisionmaking
about workers.
(i) Data collection systems and algorithms should be assessed
for their potential harms to workers-- and identified harms should
be mitigated -- before those systems are implemented in the
workplace.
1522. For purposes of this part, the following shall apply:
(a) “Authorized representative” means any person or
organization appointed by the worker to serve as an agent of the
worker. Authorized representative shall not include a worker’s
employer.
(b) “Automated Decision System (ADS)” or “algorithm” means
a computational process, including one derived from machine
learning, statistics, or other data processing or artificial
intelligence techniques, that makes or assists an
employment-related decision.
(c) “Automated Decision System (ADS) output” means any
information, data, assumptions, predictions, scoring,
recommendations, decisions, or conclusions generated by an ADS.
(d) “Data” or “worker data” means any information that
identifies, relates to, describes, is reasonably capable of being
associated with, or could reasonably be linked, directly or
indirectly, with a particular worker, regardless of how the
information is collected, inferred, or obtained. Data includes, but
is not limited to, the following:
(1) Personal identity information, including the individual’s
name, contact information, government-issued identification
number, financial information, criminal background, or
employment history.
(2) Biometric information, including the individual’s
physiological, biological, or behavioral characteristics, including
the individual’s deoxyribonucleic acid (DNA), that can be used,
singly or in combination with other data, to establish individual identity.

(3) Health, medical, lifestyle, and wellness information, including the individual’s medical history, physical or mental condition, diet or physical activity patterns, heart rate, medical treatment or diagnosis by a healthcare professional, health insurance policy number, subscriber identification number, or other unique identifier used to identify the individual.

(4) Any data related to workplace activities, including the following:
   (A) Human resources information, including the contents of an individual’s personnel file or performance evaluations.
   (B) Work process information, such as productivity and efficiency data.
   (C) Data that captures workplace communications and interactions, including emails, texts, internal message boards, and customer interaction and ratings.
   (D) Device usage and data, including calls placed or geolocation information.
   (E) Audio-video data and other information collected from sensors, including movement tracking, thermal sensors, voiceprints, or faction, emotion, and gait recognition.
   (F) Inputs of or outputs generated by an ADS that are linked to the individual.
   (G) Data that is collected or generated on workers to mitigate the spread of infectious diseases, including COVID-19, or to comply with public health measures.

(5) Online information, including an individual’s Internet Protocol (IP) address, private social media activity, or other digital sources or unique identifiers associated with a worker.

(e) “Department” means the Department of Fair Employment and Housing.

(f) “Electronic monitoring” means the collection of information concerning worker activities or communications by any means other than direct observation, including the use of a computer, telephone, wire, radio, camera, electromagnetic, photoelectronic, or photo-optical system.

(g) “Employer” means any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, benefits, other compensation, hours,
working conditions, access to work or job opportunities, or other
terms or conditions of employment, of any worker. “Employer”
includes any of the employer’s labor contractors.
(h) “Employment-related decision” means any decision made
by the employer that affects wages, benefits, other compensation,
hours, work schedule, performance evaluation, hiring, discipline,
promotion, termination, job content, assignment of work, access
to work opportunities, productivity requirements, workplace health
and safety, and other terms or conditions of employment. For
independent contractors or job applicants, this means the
equivalent of these decisions based on their contract with or
relationship to the employer.
(i) “Essential job functions” means the fundamental duties of
a position, as revealed by objective evidence, including the amount
of time workers spend performing each function, the consequences
of not requiring individuals to perform the function, the terms of
any applicable collective bargaining agreement, workers’ past
and present work experiences and performance in the position in
question, and the employer’s reasonable, nondiscriminatory
judgment as to which functions are essential. Past and current
written job descriptions and the employer’s reasonable,
nondiscriminatory judgment as to which functions are essential
may be evidence as to which functions are essential for achieving
the purposes of the job, but may not be the sole basis for this
determination absent the objective evidence described in this
subdivision.
(j) “Impact assessment” means the ongoing study and evaluation
of a data collection system or an automated decision system and
its impact on workers.
(k) “Labor agency” means the Labor and Workforce
Development Agency or any of its designees.
(l) “Productivity system” is a management system that monitors,
evaluates, or sets the amount and quality of work done in a set
time period by workers.
(m) “Third party” means a person who is not one of the
following:
(1) The employer.
(2) A vendor or service provider to the employer.
(3) A labor or employee organization within the meaning of
state or federal law.
(n) “Worker” means any natural person or their authorized representative acting as a job applicant to, an employee of, or an independent contractor providing service to, or through, a business or a state or local governmental entity in any workplace.

(o) “Worker Information System (WIS)” means a process, automated or not, that involves worker data, including the collection, recording, organization, structuring, storage, alteration, retrieval, consultation, use, sharing, disclosure, dissemination, combination, restriction, erasure, or destruction of worker data. A WIS does not include an ADS.

(p) “Workplace” means a location within California at which or from which a worker performs work for an employer.

(q) “Vendor” means an entity engaged by an employer or an employer’s labor contractors, to provide software, technology, or a related service that is used to collect, store, analyze, or interpret worker data or worker information.

Chapter 2. Worker Data Rights

1530. (a) An employer that controls the collection of worker data shall, at or before the point of collection, inform the workers as to all of the following:

(1) The specific categories of worker data to be collected, the specific purpose for which the specific categories of worker data are collected or used, and whether and how the data is related to the worker’s essential job functions.

(2) Whether and how the data will be used to make or assist an employment-related decision, including any associated benchmarks.

(3) Whether the data will be deidentified.

(4) Whether the data will be used at the individual level, in aggregate form, or both.

(5) Whether the information is being disclosed or otherwise transferred to a vendor or other third party, the name of the vendor or third party, and for what purpose.

(6) The length of time the employer intends to retain each category of worker data.

(7) The worker’s right to access and correct their worker data.
(8) Any data protection impact assessments, and the identity of
any worker information systems, that are the subject of an active
investigation by the labor agency.
(b) Notice may be given after the point of collection only if at
least one of the following conditions is met:
(1) Collection is necessary to preserve the integrity of an
investigation of wrongdoing.
(2) Earlier notice would violate the requirements of federal,
state, or local laws or regulations.
(3) Earlier notice would violate a court order.
(c) If an employer discloses worker data to a vendor, third party,
or state or local government, the employer must provide affected
workers with notice that includes the information specified in
subdivision (a).
(d) An employer shall provide a copy of the above notice to the
labor agency.
1531. (a) An employer, or a vendor acting on behalf of an
employer, that collects, stores, analyzes, interprets, disseminates,
or otherwise uses worker data shall provide the following
information to the worker, in an accessible manner, upon receipt
of a verifiable request:
(1) The specific categories and specific pieces of worker data
that the employers, or a vendor acting on behalf of any employer,
retains about that work.
(2) The sources from which the data is collected.
(3) The purpose for collecting, storing, analyzing, or interpreting
the worker data.
(4) Whether and how the data is related to the worker’s essential
job functions, including whether and how the data is used to make
or assist an employment-related decision.
(5) Whether the data is being used as an input in an ADS, and
if so, what ADS output is generated based on the data.
(6) Whether the data was generated as an output of an ADS.
(7) The names of any vendors or third parties, from whom the
worker data was obtained, or to whom an employer or vendor
acting on behalf of an employer has disclosed the data, and the
specific categories of data that was obtained or disclosed.
(b) When complying with a worker’s request for data access,
the employer shall not disclose personal identity information of
any individual other than the worker who submitted the request.
(c) Information provided by an employer or a vendor acting on behalf of an employer to a worker pursuant to subdivision (a) shall be provided as follows:

(1) At no cost to the worker.
(2) In an accessible format that allows the worker to transport it to another entity without hindrance.
(3) In a timely manner upon receipt of the verifiable request.

(d) For purposes of this chapter, a “verifiable request” is a request made by a worker that the business can reasonably verify, as set forth in Section 1571 and further addressed by regulations.

(a) An employer shall ensure that worker data is accurate and, where relevant, kept up to date.
(b) A worker shall have the right to request an employer to correct any inaccurate worker data about the worker that the employer maintains.
(c) An employer that receives a verifiable request to correct inaccurate worker data shall respond to the worker’s request as follows:

(1) An employer shall investigate and determine whether the disputed worker data is inaccurate.
   (A) If an employer determines that the disputed worker data is inaccurate, the employer shall do all of the following:
      (i) Promptly correct the disputed worker data and inform the worker of the employer’s decision and action.
      (ii) Review and adjust as appropriate any employment-related decisions or ADS outputs that were partially or solely based on the inaccurate data, and inform the worker of the adjustment.
      (iii) Inform any third parties with which the employer shared the inaccurate worker data, or from which the employer received the inaccurate worker data, and direct them to correct it.
   (B) If an employer, upon investigation, determines that the disputed worker data is accurate, the employer shall inform the worker of the following:
      (i) The decision not to amend the disputed worker data.
      (ii) The steps taken to verify the accuracy of the worker data and the evidence supporting the decision not to amend the disputed worker data.
(2) An employer is not obligated to change the disputed worker data when the disputed worker data consists of subjective
information, opinions, or other nonverifiable facts, if the employer does all of the following:
(A) Documents that the disputed worker data consists of subjective information and notes the source of the subjective information.
(B) The employer informs the worker of its decision to deny the request to change the disputed worker data.
(3) An employer shall not process, use, or make any employment-related decision based on disputed worker data while the employer is in the process of determining its accuracy.
(d) Notwithstanding the use or outcome of the process described in this section, a worker retains the rights to recourse established in Sections 1570 and 1571.

1533. (a) An employer or vendor acting on behalf of an employer shall not collect, store, analyze, or interpret worker data unless the data is strictly necessary to accomplish any of the following purposes:
(1) Allowing a worker to accomplish an essential job function.
(2) Monitoring production processes or quality.
(3) Assessment of worker performance.
(4) Ensuring compliance with employment, labor, or other relevant laws.
(5) Protecting the health, safety, or security of workers.
(6) Administering wages and benefits.
(7) Additional purposes to enable business operations as determined by the labor agency.
(b) An employer or a vendor acting on behalf of an employer shall not use worker data for purposes other than those specified in the provided notice.
(c) An employer or a vendor acting on behalf of an employer shall not sell or license worker data, including deidentified or aggregated data, to a vendor or third party, including another employer.
(d) An employer or vendor acting on behalf of an employer shall not disclose or transfer worker data to a vendor or third party unless the following conditions are met:
(1) Vendor or third-party access to the worker data is pursuant to a contract with the employer and the contract prohibits the sale or licensing of the data.
(2) The vendor or third party implements reasonable security procedures and practices appropriate to the nature of the worker data to protect the data from unauthorized or illegal access, destruction, use, modification, or disclosure.

(e) An employer or vendor acting on behalf of an employer shall not transfer or otherwise disclose biometric, health, or wellness data to any third party unless required under state or federal law.

(f) An employer or vendor acting on behalf of an employer shall not share worker data with the state or local government unless allowed under this part or otherwise necessary to do the following:

(1) Provide information to the labor agency or the department as required by this part.

(2) Comply with the requirements of federal, state, or local law or regulation.

(3) Comply with a court-issued subpoena, warrant, or order.

(g) An employer or vendor acting on behalf of an employer that is in possession of biometric, health, or wellness data shall permanently destroy that data when the initial purpose for collecting the data has been satisfied or at the end of the worker’s relationship with the employer, unless there is a reasonable interest for the worker to access the data after the relationship has ended.

(h) An employer or vendor acting on behalf of an employer shall not use biometric data or wellness data, including a worker’s decision not to participate in a wellness program, as a basis for any employment-related decision.

1534. (a) An employer that collects, stores, analyzes, interprets, disseminates, or otherwise uses worker data shall undertake its best efforts to implement, maintain, and keep up-to-date security protections that are appropriate to the nature of the data, and to protect the data from unauthorized access, destruction, use, modification, or disclosure. The security program shall include administrative, technical, and physical safeguards.

(b) An employer that collects, stores, analyzes, interprets, disseminates, or otherwise uses worker data in any form and that becomes aware of a breach of the security of worker data shall promptly provide written notice to each affected worker. The employer shall provide a description of the specific categories of data that were, or are reasonably believed to have been, accessed or acquired by an unauthorized person, and what steps it will take to address the impact of the data breach on affected workers. The
notification shall be made in the most expedient time possible. The employer shall promptly notify the labor agency in writing of such a breach.

1535. (a) A vendor that collects, stores, analyzes, interprets, disseminates, or otherwise uses worker data on behalf of an employer shall comply with the requirements of this chapter, and employers are jointly and severally liable if the vendor fails to do so.

(b) A vendor that collects, stores, analyzes, interprets disseminates, or otherwise uses worker data on behalf of the employer must provide all necessary information to the employer to enable the employer to comply with the requirements of this chapter.

(c) A vendor that collects, stores, analyzes, or interprets worker data on behalf of the employer shall do all of the following upon termination of the contract with the employer:

(1) Return all of the worker data to the employer.

(2) Delete all of the worker data.

Chapter 3. Accountability in Electronic Monitoring

1540. (a) An employer or vendor acting on behalf of an employer that is planning to electronically monitor a worker shall provide a worker with notice that electronic monitoring will occur prior to conducting each specific form of electronic monitoring. Notice shall include, at a minimum, the following elements:

(1) A description of the allowable purpose that the specific form of electronic monitoring is intended to accomplish, as specified in Section 1553.

(2) A description of the specific activities, locations, communications, and job roles that will be electronically monitored.

(3) A description of the technologies used to conduct the specific form of electronic monitoring and the worker data that will be collected as a part of the electronic monitoring.

(4) Whether the data gathered through electronic monitoring will be used to make or inform an employment-related decision, and if so, the nature of that decision, including any associated benchmarks.
(5) Whether the data gathered through electronic monitoring will be used to assess workers’ productivity performance or to set productivity standards, and if so, how.

(6) The names of any vendors conducting electronic monitoring on the employer’s behalf and any associated contract language related to that monitoring.

(7) A description of a vendor or third party to whom information collected through electronic monitoring will be disclosed or transferred. The description will include the name of the vendor and the purpose for the data transfer.

(8) A description of the organizational positions that are authorized to access the data gathered through the specific form of electronic monitoring and under what conditions.

(9) A description of the dates, times, and frequency that electronic monitoring will occur.

(10) A description of where the data will be stored and the length it will be retained.

(11) An explanation of why the specific form of electronic monitoring is strictly necessary to accomplish an allowable purpose described in subdivision (a) of Section 1543.

(12) An explanation for how the specific monitoring practice is the least invasive means available to accomplish the allowable monitoring purpose.

(13) Notice of the workers’ right to access or correct the data.

(14) Notice of the workers’ right to recourse under Sections 1570 and 1571.

(b) Notice of the specific form of electronic monitoring shall be clear and conspicuous and provide the worker with actual notice of electronic monitoring activities. A notice that states electronic monitoring “may” take place or that the employer “reserves the right” to monitor shall not be considered clear and conspicuous.

(c) (1) An employer who engages in random or periodic electronic monitoring of workers shall inform the affected workers of the specific events which are being monitored at the time the monitoring takes place. Notice shall be clear and conspicuous.

(2) Notice of random or periodic electronic monitoring may be given after electronic monitoring has occurred only if necessary to preserve the integrity of an investigation of illegal activity or protect the immediate safety of workers, customers, or the public.
Employers shall provide a copy of the disclosure required by this section to the labor agency.

1541. An employer shall provide additional notice to workers when a significant update or change is made to the electronic monitoring or in how the employer is using it.

1542. (a) An employer shall maintain an updated list of electronic monitoring systems currently in use.
   (b) (1) An employer shall annually, by January 1 of each year, provide notice to workers of all electronic monitoring systems currently in use. The notice shall include the information specified in subdivision (a) of Section 1540.
   (2) An employer shall provide a copy of the notice provided pursuant to paragraph (1) to the labor agency no later than January 31 of that year.

1543. (a) An employer or vendor acting on behalf of an employer shall not electronically monitor a worker unless all of the following conditions are met:
   (1) The electronic monitoring is primarily intended to accomplish any of the following allowable purposes:
      (A) Allowing a worker to accomplish an essential job function.
      (B) Monitoring production processes or quality.
      (C) Assessment of worker performance.
      (D) Ensuring compliance with employment, labor, or other relevant laws.
      (E) Protecting the health, safety, or security of workers.
      (F) Administering wages and benefits.
      (G) Additional electronic monitoring purposes to enable business operations as determined by the labor agency.
   (2) The specific form of electronic monitoring is strictly necessary to accomplish the allowable purpose and is the least invasive means to the worker that could reasonably be used to accomplish the allowable purpose.
   (3) The specific form of electronic monitoring is limited to the smallest number of workers and collects the least amount of data necessary to accomplish the allowable purpose.
   (4) The information collected via electronic monitoring will be accessed only by authorized agents and used only for the purpose and duration for which authorization was given as specified in the notice required by Section 1540.
(b) Notwithstanding the allowable purposes for electronic monitoring described in paragraph (1) of subdivision (a), the following practices are prohibited:

(1) The use of electronic monitoring that results in a violation of labor and employment laws.

(2) The monitoring of workers who are off-duty and not performing work-related tasks.

(3) The monitoring of workers in order to identify workers exercising their legal rights, including, but not limited to, rights guaranteed by employment and labor law.

(4) Audio-visual monitoring of bathrooms or other similarly private areas, including locker rooms, changing areas, breakrooms, smoking areas, employee cafeterias, and lounges, including data collection on the frequency of use of those private areas.

(5) Audio-visual monitoring of a workplace in a worker’s residence, a worker’s personal vehicle, or property owned or leased by a worker, unless that audio-visual monitoring is strictly necessary to ensure worker health and safety, to verify the security of company or client data, or to accomplish other similarly compelling purposes.

(6) Electronic monitoring systems that incorporate facial recognition, gait, or emotion recognition technology.

(7) Additional specific forms of electronic monitoring as determined by the labor agency.

(c) Before an employer uses an electronic productivity system, the employer shall submit a summary of the system to the labor agency, including information on the specific form of monitoring, the number of workers impacted, the data that will be collected, and how that data will be used in making employment-related decisions. Electronic productivity systems must also be reviewed by the labor agency’s Division of Occupation Safety and Health before implementation to ensure electronic productivity systems do not result in physical or mental harm to workers. This subdivision shall not be construed to conflict with the powers of the Labor Commissioner pursuant to Section 2107.

(d) An employer or a vendor acting on behalf of an employer shall not require workers to either install applications on personal devices that collect or transmit worker data or to wear, embed, or physically implant those devices, including those that are installed
subcutaneously or incorporated into items of clothing or personal accessories, unless the electronic monitoring is strictly necessary to accomplish essential job functions and is narrowly limited to only the activities and times necessary to accomplish essential job functions. Location-tracking applications and devices shall be disabled outside the activities and times necessary to accomplish essential job functions.

1544. (a) An employer or vendor acting on behalf of an employer shall use worker data collected through electronic monitoring only to accomplish its specified allowable purpose.

(b) An employer or vendor acting on behalf of an employer shall not solely rely on worker data collected through electronic monitoring when making hiring, promotion, termination, or disciplinary decisions.

1. An employer shall conduct its own assessment before making hiring, promotion, termination, or disciplinary decisions independent of worker data gathered through electronic monitoring. This includes corroborating the electronic monitoring worker data by other means, including a supervisor’s documentation or managerial documentation.

2. If an employer cannot independently corroborate the worker data gathered through electronic monitoring, the employer shall not rely upon that data in making hiring, promotion, termination, or disciplinary decisions.

3. The information and judgements involved in an employer’s corroboration or use of electronic monitoring data shall be documented and communicated to affected workers prior to the hiring, promotion, termination, or disciplinary decision going into effect.

4. Data that provides evidence of criminal activity, when independently corroborated by the employer, is exempt from this subdivision.

1545. (a) A vendor that collects, stores, analyzes, interprets, disseminates, or otherwise uses worker data on behalf of an employer shall comply with the requirements of this chapter. An employer is jointly and severally liability if the vendor fails to comply.

(b) A vendor that collects, stores, analyzes, interprets, disseminates, or otherwise uses worker data on behalf of an employer shall provide all necessary information to the employer
to enable the employer to comply with the requirements of this 
chapter.

(c) A vendor that collects, stores, analyzes, interprets, 
disseminates, or otherwise uses worker data on behalf of an 
employer shall do both of the following upon termination of its 
contract with the employer:
(1) Return all of the worker data to the employer.
(2) Delete all of the worker data.

Chapter 4. Algorithms

1550. (a) An employer or a vendor acting on behalf of any 
employer shall provide sufficient notice to workers prior to 
adopting an ADS. An employer with an existing ADS at the time 
this part takes effect shall provide notice pursuant to this section 
within 30 days after this part takes effect.
(b) Notice required by subdivision (a) shall be considered 
sufficient if it meets at least the following requirements:
(1) The notice is provided within a reasonable time prior to the 
use of the ADS.
(2) The notice is provided to all workers affected by the ADS 
in the manner in which routine communications are provided to 
workers.
(3) The notice contains the following information:
(A) The nature, purpose, and scope of the decisions for which 
the ADS will be used, including the range of employment-related 
decisions potentially affected and how, including any associated 
benchmarks.
(B) The type of ADS outputs.
(C) The specific category and sources of worker data that the 
ADS will use.
(D) The individual, vendor, or entity that created the ADS.
(E) The individual, vendor, or entity that will run, manage, and 
interpret the results of the ADS.
(F) The right to recourse pursuant to Sections 1570 and 1571.
(c) An employer or vendor acting on behalf of an employer shall 
provide a copy of the notice to the labor agency within 10 days of 
distribution to workers.

1551. An employer or vendor acting on behalf of an employer 
shall provide additional notice to workers when any significant
updates or changes are made to the ADS or in how the employer is using the ADS.

1552. (a) An employer or vendor acting on behalf of an employer shall maintain an updated listing of automated decision systems currently in use.
(b) An employer shall annually, on or before January 1 of each year, provide notice to workers of all ADS currently in use. The notice shall include the information required by paragraph (3) of subdivision (b) of Section 1550.
(c) The notice shall be submitted to the labor agency and the department on or before January 31 of each year.

1553. (a) An employer or vendor acting on behalf of an employer shall not use an ADS to make employment-related decisions in any of the following ways:
(1) Use of an ADS that results in a violation of labor or employment law.
(2) Use of an ADS to make predictions about a worker’s behavior that are unrelated to the worker’s essential job functions.
(3) Use of an ADS to identify, profile, or predict the likelihood of workers exercising their legal rights.
(4) Use of an ADS that draws on facial recognition, gait, or emotion recognition technologies, or that makes predictions about a worker’s emotions, personality, or other types of sentiments.
(5) Use of customer ratings as input data for an ADS.
(6) Any additional use of an ADS that poses harm to workers prohibited by the labor agency pursuant to Section 1571.
(b) (1) Before an employer or a vendor acting on behalf of an employer uses a productivity system that uses algorithms, the employer shall submit a summary of the system to the labor agency. The summary shall include all of the following information:
(A) The role and nature of the algorithm’s use.
(B) The number of workers impacted by the system.
(C) The nature of the algorithmic output.
(D) How the algorithmic output will be used in making employment-related decisions.
(2) Productivity systems that use algorithms shall also be reviewed by the labor agency’s Division of Occupational Safety and Health before implementation to ensure that electronic productivity systems do not result in physical or mental harm to workers.
(3) This subdivision shall not be construed to conflict with the powers of the Labor Commissioner pursuant to Section 2107.

1554. (a) An employer or vendor acting on behalf of an employer shall not use ADS outputs regarding a worker’s health as a basis for any employment-related decision.

(b) An employer or vendor acting on behalf of an employer shall not solely rely on output from an ADS to make a hiring, promotion, termination, or disciplinary decision.

(1) An employer shall conduct its own evaluation of the worker before making a hiring, promotion, termination, or disciplinary decision, independent of the output used from the ADS. This includes establishing meaningful human oversight by a designated internal reviewer to corroborate the ADS output by other means, including supervisory or managerial documentation, personnel files, or the consultation of coworkers.

(2) Meaningful human oversight requires that the designated internal reviewer meet the following conditions:

(A) The designated internal reviewer is granted sufficient authority, discretion, resources, and time to corroborate the ADS output.

(B) The designated internal reviewer has sufficient expertise in the operation of similar systems and a sufficient understanding of the ADS in question to interpret its outputs as well as results of relevant algorithmic impact assessments.

(C) The designated internal review has education, training, or experience sufficient to allow the reviewer to make a well-informed decision.

(3) When an employer cannot corroborate the ADS output produced by the ADS, the employer shall not rely on the system to make the hiring, promotion, termination, or disciplinary decision.

(4) When an employer can corroborate the ADS output and makes the hiring, promotion, termination, or disciplinary decision based on that output, a notice containing the following information shall be given to affected workers:

(A) The specific decision for which the ADS was used.

(B) Any information or judgments used in addition to the ADS output in making the decision.

(C) The specific worker data that the ADS used.

(D) The individual, vendor, or entity who created the ADS.
(E) The individual or entity that executed and interpreted the results of the ADS.

(F) A copy of any completed algorithmic impact assessments regarding the ADS in question.

(G) Notice of the worker’s right to dispute an algorithmic impact assessment regarding the ADS in question pursuant to Section 1563.

5. When an employer uses corroborated output from an ADS to make a hiring, promotion, termination, or disciplinary decision, notice shall be given to the affected worker prior to the implementation of that decision.

1555. (a) A vendor that uses an ADS on behalf of an employer shall comply with the requirements of this chapter. An employer is jointly and severally liable for a vendor’s failure to comply.

(b) A vendor that uses an ADS on behalf of an employer shall provide all necessary information to the employer to enable the employer to comply with the requirements of this chapter.

(c) A vendor that collects or stores worker data in order to use an ADS on behalf of an employer shall do both of the following upon termination of its contract with the employer:

1. Return all of the worker data, including any relevant ADS outputs, to the employer.

2. Delete all worker data.

Chapter 5. Impact Assessments

1560. (a) An employer that develops, procures, uses, or otherwise implements an ADS to make or assist an employment-related decision shall complete an Algorithmic Impact Assessment (AIA) prior to using the system, and retroactively for any ADS that is in place at the time this part takes effect, for each separate position for which the ADS will be used to make an employment-related decision. When an employer procures an ADS from a vendor, the employer may submit an AIA conducted by the vendor if it meets all of the requirements set forth in this chapter.

(b) An “Algorithmic Impact Assessment (AIA)” means a study evaluating an ADS that makes or assists an employment-related decision and its development process, including the design and training data of the ADS, for negative impacts on workers. An AIA shall include, at minimum, all of the following:
(1) A detailed description of the ADS and its intended purpose.

(2) A description of the data used by the ADS, including the specific categories of data that will be processed as input and any data used to train the model that the ADS relies on.

(3) A description of the outputs produced by the ADS, including the following:

(A) The types of ADS outputs produced by the ADS.

(B) How to interpret the ADS outputs.

(C) The types of employment-related decisions that may be made on the basis of the ADS outputs.

(4) An assessment of the necessity and proportionality of the ADS in relation to its purpose, including reasons for the superiority of the ADS over nonautomated decisionmaking methods.

(5) An evaluation of the risk of the ADS, including the following risks:

(A) Errors, including both false positives and false negatives.

(B) Discrimination against protected classes.

(C) Violation of legal rights of affected workers.

(D) Direct or indirect harm to the physical health, mental health, or safety of affected workers.

(E) Chilling effect on workers exercising legal rights, including, but not limited to, rights guaranteed by employment and labor laws.

(F) Privacy harms, including the risks of security breach or inadvertent disclosure.

(G) Negative economic impacts or other negative material impacts on workers, including, but not limited to, impacts related to wages, benefits, other compensation, hours, work schedule, performance evaluation, hiring, discipline, promotion, termination, assignment of work, access to work opportunities, job responsibilities, and productivity requirements.

(H) Infringement on the dignity and autonomy of affected workers.

(6) The specific measures that will be taken to minimize or eliminate the identified risks.

(7) A description of the methodology used to evaluate the identified risks and mitigation measures.

(8) Any additional components necessary to evaluate the negative impacts of an ADS as determined by the labor agency.
1561. (a) An employer that develops,procures, uses, or otherwise implements a Worker Information System (WIS) shall complete a Data Protection Impact Assessment prior to using the system, or retroactively for a WIS in place prior to the effective date of this part. When an employer procures a WIS from a vendor, the employer may submit an impact assessment conducted by the vendor, if it meets all of the requirements set forth in this section.

(b) A “Data Protection Impact Assessment (DPIA)” means a study evaluating a WIS for negative impacts on workers. A DPIA shall include, at minimum, all of the following:

(1) A systematic description of the nature, scope, context, and purpose of the WIS.

(2) An assessment of the necessity and proportionality of the WIS in relation to its purpose.

(3) An evaluation of the potential risks of the WIS, including the following risks:
   (A) Violation of the legal rights of affected workers.
   (B) Discrimination against protected classes.
   (C) Privacy harms, including the risks of invasive or offensive surveillance, security breach, or inadvertent disclosure.
   (D) Chilling effect on workers exercising legal rights, including, but not limited to, rights guaranteed by employment and labor laws.
   (E) Infringement upon the dignity and autonomy of affected workers.
   (F) Negative economic impacts or other negative material impacts on affected workers, including on dimensions including wages, benefits, other compensation, hours, work schedule, performance evaluation, hiring, discipline, promotion, termination, job content, assignment of work, access to work opportunities, and productivity requirements.

(4) The specific measures that will be taken to minimize or eliminate the identified risks.

(5) A description of the methodology used to evaluate the identified risks and recommended mitigation measures.

(6) Any additional components necessary to evaluate the negative impacts of a WIS determined by the labor agency.

1562. (a) The AIA or DPIA shall be conducted by an independent assessor with relevant experience.
(b) An employer shall initiate an AIA or DPIA at the beginning of the procurement or development process for any ADS or WIS, or retroactively for any ADS or WIS in place at the time this part takes effect. An AIA or DPIA shall be continuously updated throughout the procurement, development, or implementation process and thereafter to reflect any material changes to the ADS or WIS as they become evident.

(c) An employer shall fully comply with all requests from the assessor for information required to conduct the AIA or DPIA.

(d) (1) Throughout the assessment process, the assessor shall consult with workers who are potentially affected by the ADS or WIS. Consultation shall include, but is not limited to, the following stages:
   (A) Identification of the specific risks that need to be evaluated.
   (B) Development of mitigation measures to minimize the risks associated with the system.

(2) An assessor shall make the preliminary assessment available to potentially affected workers for anonymous review and comment during a defined open comment period.
   (A) An employer shall not retaliate against a worker who participates in the open comment period.
   (B) A worker or a designated worker representative may comment or request additional information.
   (C) An assessor shall incorporate a record of the feedback received and a description of why the suggestions were either incorporated or rejected.
   (D) An assessor shall ensure that potentially affected workers are adequately informed of their ability to review and comment on the AIA or DPIA.

(e) An employer shall submit and update, as needed, the completed AIA or DPIA to the labor agency and potentially affected workers prior to the use of the ADS or WIS.
   (1) If health and safety risks are found or implicated, an employer shall also submit its assessment to the Division of Occupational Safety and Health.
   (2) If a risk of discrimination or bias is detected or believed to exist, an employer shall also submit its assessment to the state agency overseeing workplace discrimination.
(f) An employer may use the ADS or WIS once it submits the relevant impact assessments to the labor agency, unless the labor agency directs otherwise, as described in subdivision (g).

(g) Upon review of the AIA or DPIA, the labor agency may require any of the following:

1. Require the employer to submit additional documentation.
2. Require the employer to implement mitigation measures in using the ADS or WIS.
3. Prohibit the employer from using the ADS or WIS.

(h) Upon submitting the AIA or DPIA to the labor agency, the employer shall develop and publish on its internet website an impact assessment summary that describes the assessment’s methodology, findings, results, and conclusions for each element required by this part, as well as any modification made to it based on the assessment results.

(i) The AIA or DPIA and its summary shall be written in a manner that is precise, transparent, comprehensible, and easily accessible.

(j) The full AIA or DPIA and all relevant materials and sources used for the development of the assessment may be made available to external researchers at the discretion of the labor agency.

1563. (a) At any point after an employer has submitted an AIA or DPIA to the labor agency, a worker may anonymously dispute the AIA or DPIA and request that the labor agency conduct an investigation of the employer. The following are bases for challenging an AIA or DPIA:

1. The AIA or DPIA provided insufficient information, was incomplete, or inaccurate.
2. The AIA or DPIA assessor was not adequately independent from the employer.
3. The AIA or DPIA failed to adequately identify risks or appropriately weigh harms against benefits.
4. Mitigation measures identified in the AIA or DPIA were not implemented or, once implemented, failed to reduce residual risks to acceptable levels.
5. Any other reason the AIA or DPIA was defective or incomplete as identified by the labor agency.

(b) If an employer fails to conduct an impact assessment of an ADS or WIS used in making or assisting an employment-related
decision, a worker may anonymously request that the labor agency conduct an investigation of the employer.

(c) Regardless of the use or outcome of the dispute processes available in this section, a worker retains the right to recourse pursuant to Sections 1570 and 1571.

1564. (a) A vendor that develops, procures, uses, or otherwise implements an ADS or WIS on behalf of an employer shall comply with the requirements of this chapter. An employer shall be jointly and severally liable for a vendor’s failure to comply.

(b) A vendor that develops, procures, uses, or otherwise implements an ADS or WIS on behalf of an employer shall provide all necessary information to the employer to enable the employer to comply with the requirements of this chapter.

(c) A vendor that develops, procures, uses, or otherwise implements an ADS or WIS on behalf of an employer shall provide any additional information, as requested by the independent assessor or labor agency, necessary to conduct an assessment or investigation.

Chapter 6. Enforcement

1570. (a) A worker may bring a civil action for injunctive relief and recover civil penalties against the employer in an amount equal to the penalties provided in this chapter. A plaintiff who brings a successful civil action for violation of these provisions is entitled to recover reasonable attorney’s fees and costs.

(b) An employer or vendor that violates this part shall be subject to an injunction and liable for civil penalties provided in this chapter, which shall be assessed and recovered in a civil action by the Labor Commissioner. In a successful civil action brought by the commissioner to enforce this part, the court may grant injunctive relief in order to obtain compliance with the part and shall award costs and reasonable attorney’s fees.

(c) An employer shall not retaliate against a worker because the worker exercised, or notified another worker of their right to exercise, any of the rights under this part.

(d) Provisions of a collective bargaining agreement that provide additional worker protections are not superseded by this part.

1571. (a) The labor agency shall have the authority to enforce and assess penalties under this part and to adopt regulations
relating to the procedures for an employee to make a complaint alleging a violation of this part.

(b) On or before January 1, 2024, the labor agency shall adopt regulations to further the purpose of this part, including, but not limited to, regulations on all of the following:

(1) Developing, maintaining, and regularly updating the following:

(A) A list of allowable purposes for data collection and electronic monitoring.

(B) Definition of specific categories of worker data required in notices mandated in this part.

(C) A list of prohibited forms of electronic monitoring.

(D) A list of prohibited ADS.

(E) A list of valid reasons for disputing an employer’s AIA or DPIA and requesting investigation by the labor agency.

(F) Rules specifying employers’ and workers’ respective obligations to ensure occupation health and safety in home offices, personal vehicles, and other workplaces owned, leased, or regularly used or occupied during nonwork hours by a worker. The rules shall specify the manner, means, and frequency with which employers may collect data or electronically monitor those workplaces in order to satisfy the employers’ obligation under applicable occupational health and safety laws.

(G) The specific requirements of the notices required by this part.

(H) Any additional rules and standards, as needed, to respond to the rapid developments in existing and new technologies introduced in the workplace in order to prevent harm to the health and well-being of workers.

(2) Developing agency procedures to review and evaluate employers’ submissions of AIA, DPIA, and summaries of electronic productivity systems.

(3) Engaging in coordinated and strategic enforcement efforts with the divisions within the Department of Industrial Relations, including the Division of Occupational Safety and Health and the Division of Workers’ Compensation.

(c) To assist in developing the regulations required by subdivision (b), the Labor Commissioner shall convene an advisory committee to recommend best practices to mitigate harms to workers from the use of data-driven technology in the workplace.
The advisory committee shall be composed of stakeholders and other related subject matter experts and shall also include representatives of the Division of Labor Standards Enforcement, the Division of Occupational Safety and Health, and the Department of Fair Employment and Housing. The Labor Commissioner shall convene the advisory committee no later than March 1, 2023.

(d) The labor agency shall strategically collaborate with stakeholders to educate workers and employers about their rights and obligations under this part, respectively, in order to increase compliance.

(e) The labor agency shall make all reports submitted to the agency pursuant to this part available to the department to review.

1572. (a) An employer or vendor acting on behalf of an employer who fails to comply with Chapter 2 (commencing with Section 1530) is subject to the following penalties:

1. A violation of Section 1530 shall be subject to a penalty of ten thousand dollars ($10,000) per violation.

2. A violation of Section 1531 shall be subject to a penalty of five thousand dollars ($5,000) for each verified request made by a worker.

3. A violation of Section 1532 shall be subject to a penalty of five thousand dollars ($5,000) per violation.

4. A violation of Section 1533 shall be subject to a penalty of twenty thousand dollars ($20,000) per violation.

5. A violation of Section 1534 shall be subject to a penalty of one hundred dollars ($100) per affected worker for each violation of this provision.

(b) An employer or vendor acting on behalf of an employer who fails to comply with Chapter 3 (commencing with Section 1540) is subject to the following penalties:

1. A violation of Section 1540 shall be subject to a penalty of ten thousand dollars ($10,000) per violation.

2. A violation of Section 1543 shall be subject to a penalty of five thousand dollars ($5,000) for each day that the violation occurs.

3. A violation of Section 1544 shall be subject to a penalty of ten thousand dollars ($10,000) per worker for each violation.
(c) An employer or vendor acting on behalf of an employer who fails to comply with Chapter 4 (commencing with 1550) is subject to the following penalties:

1. A violation of Section 1550, 1551, or 1554 shall be subject to a penalty of ten thousand dollars ($10,000) per violation.
2. A violation of Section 1552 shall be subject to a penalty of two thousand five hundred dollars ($2,500) per violation.
3. A violation of Section 1553 shall be subject to a penalty of twenty thousand dollars ($20,000) per violation.

(d) An employer or vendor acting on behalf of an employer who fails to submit an impact assessment pursuant to Section 1560, 1561, 1562, or 1563 shall be subject to a penalty of twenty thousand dollars ($20,000) per violation.

SECTION 1. Section 156 of the Labor Code is amended to read:

156. The department shall complete and publish an annual report containing statistics on California work injuries and occupational diseases and fatalities by industry classification, with subcategories separated by the ethnicity, race, and gender of affected individuals, no later than December 31 of the following calendar year. All of the reports and statistics shall be available to the public.
Item B-3
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: May 2, 2022
SUBJECT: Assembly Bill 1771 (Ward) - The California Housing Speculation Act: Income Taxes: Capital Gains: Sale or Exchange of Qualified Asset: Housing
ATTACHMENTS: 1. Summary Memo – AB 1771
2. Bill Text – AB 1771

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

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Assembly Bill 1771 (Ward) - The California Housing Speculation Act: Income Taxes: Capital Gains: Sale or Exchange of Qualified Asset: Housing ("AB 1771") involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for AB 1771 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1771, the Liaisons may recommend the following actions:

1) Support AB 1771;
2) Support if amended AB 1771;
3) Oppose AB 1771;
4) Oppose unless amended AB 1771;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1771, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 26, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1771 (Ward) California Housing Speculation Act: Capital Gains Tax

Version
As Amended in the Assembly on March 25, 2022

Summary
Beginning January 1, 2023, this measure would impose a twenty-five percent (25%) surtax on the net capital gain resulting from the disposition of a real property within three years of purchase, reducing the tax each year thereafter by five percentage points until the tax would be phased out after more than seven years from the purchase date. Specifically, this bill:

1. Sets a timetable to reduce the tax that this measure would impose by five (5) percentage points to twenty percent (20%) of the net capital gain on the sale or exchange beginning three and one hundredth (3.01) years to four (4) years, inclusive, after the initial purchase of the qualified asset by the qualified taxpayer, and continues to reduce the tax by an additional five percentage points each year thereafter, until the tax is phased out after more than 7 years from the initial purchase.

2. Establishes several definitions for a “qualified asset” under the provisions of this bill.

3. Requires all moneys and remittances received by the Franchise Tax Board (FTB) as amounts imposed under this bill, and related penalties, additions to tax, and interest imposed under this bill, to be deposited, after clearance of remittances in the Speculation Recapture Community Reinvestment Fund (Fund). The bill also requires the FTB to allocate, upon appropriation by the Legislature, moneys in the Fund as follows:
   a. At least 30% to counties to be used to create affordable housing in the county;
   b. 20% to school districts for general purposes;
   c. 40% to cities, or counties if the "qualified asset" is within an unincorporated area, for general infrastructure, transit projects, active transportation projects, or community facilities; and,
   d. Up to 10% to FTB to administer this bill's tax, with any remaining balance to be allocated to counties for the purposes of creating affordable housing in the county.
4. Specifies that allocations made to eligible entities pursuant to this bill shall be made in proportion to the percentage of moneys in the Fund that are associated with the sale of the "qualified asset" within the jurisdiction of the eligible entity, as applicable.

5. Takes effect immediately as a tax levy.

**Background and Existing Law**

The author cites information from the California Association of Realtors’ quarterly index, which indicates that California’s median price for a single-family home increased 17% to $814,580 in the third quarter of 2021 while near-record lows of 42% of Californians could meet home-buying qualification standards. Further, prices of condominiums and townhomes are at an all-time high, reaching an average of $620,000 in November 2021 or 19.2% over 12 months.

During the same period, market analysis estimates that investor-buyers represented approximately 51% growth of sales year over year from 2020 to 2021 of sales in Southern California alone, compared to a national average of 18%. The report goes on to state that the share of total sales of investor-buyers has increased significantly in recent years in the state and across the nation. Investor-buyer interest is not limited to recent years. Increased interest was present in 2006 to 2008, ahead of the market collapse, which decimated home equity and public revenue, and during other periods in market cycles over the decades.

Individual homebuyers find it increasingly difficult to obtain a home because cash-rich investor buyers have added additional demand for housing, even as supply has remained the same, causing home prices to skyrocket. Additionally, direct competition from investor-buyers, often presenting cash-only offers or higher offers, is further shutting out opportunity for middle- and lower-income Californians to buy a home.

The Legislature has enacted housing policies to increase the supply of housing and extend affordability. The Legislature has further prioritized subsidies to produce more affordable housing. Increasing the supply of housing is certainly extremely important, but may fall short of the total scale of solutions needed to address both the decades-long deficit in housing supply needed, and the continuing increases in housing prices; and,

Short-term speculative transactions, allowed unchecked, contribute significantly to higher housing costs for all and has negative social and economic consequences. A reasonable control mechanism should be enacted to discourage real estate as a short-term equity gain mechanism by capturing excessive property value increases, thereby increasing the risk to investors and redirecting their interest from investing in real estate to investments in other assets. Funds generated through this equity recapture should be directed to local governments, schools, and affordable housing purposes for general benefit to offset the negative consequences of short-term speculation.

Supporters of AB 1771 argue that the bill will impose a 25% surtax on the profit from the quick sale of a home or residential property by investors seeking short term investments. After the third year of the original purchase, the surtax will be reduced by 20% every year. Exemptions will be afforded for owner-occupied homes, affordable housing, military service members required to relocate, and first-time homeowners.

Assemblymember Ward and supporters assert that we have reached a point in discussions on California’s housing policy where we must consider stronger interventions to keep housing pricing
within reach. AB 1771 will create a disincentive for housing speculators who are inflating home prices for working Californians.

Opponents argue that AB 1771 will cause unintended consequences by reducing the number of homes available for sale. In January 2022, new home listings continued to drop by the double digits, with listings declining from 13,301 to just shy of 10,000 between January and December of 2021. The reduction in listings would be exacerbated by this bill as it incentivizes investors to actually hold on to their properties longer.

Contrary to the author's stated intent, opponents argue that the additional tax would both reduce investment in much-needed housing renovations and force investors to convert rehabilitated housing into rental properties unavailable for sale to the public.

**Status of Legislation**
This measure was heard in the Assembly Committee on Revenue and Taxation on Monday, April 25, 2022.

**Support**
Alliance of Californians for Community Empowerment Action
American Federation of Teachers Guild, Local 1931
California Labor Federation, AFL-CIO
California Reinvestment Coalition
City Heights Community Development Corporation
Civicwell
Housing California
Housing Now! California
Inland Congregations United for Change
LISC, San Diego
New Livable California
Public Counsel
Strategic Actions for a Just Economy
Tenderloin Housing District

**Opposition**
American Association of Private Lenders
California Association of Realtors
California Building Industry Association
California Chamber of Commerce
California Mortgage Association
Geraci Law Firm
South Pasadena Residents for Responsible Growth (Oppose Unless Amended)
Attachment 2
ASSEMBLY BILL

No. 1771

Introduced by Assembly Member Ward
(Coauthor: Assembly Member Mullin)

February 2, 2022

An act to amend Sections 19602 and 19604 of, to add Article 1 (commencing with Section 18200) to Chapter 14 of Part 10 of Division 2 of, to add Article 1.5 (commencing with Section 19609) to Chapter 8 of Part 10.2 of Division 2 of, and to add Article 6 (commencing with Section 25000) to Chapter 15 of Part 11 of Division 2 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL’S DIGEST

AB 1771, as amended, Ward. The California Housing Speculation Act: income taxes: capital gains: sale or exchange of qualified asset: housing.

The Personal Income Tax Law and Corporation Tax Law impose taxes upon income, including income generated from any gain from the sale or exchange of a capital asset.

This bill would, for taxable years beginning on or after January 1, 2023, impose an additional 25% tax on that portion of a qualified taxpayer’s net capital gain from the sale or exchange of a qualified asset, as defined. The bill would reduce those taxes depending on how many years has passed since the qualified taxpayer’s initial purchase of the qualified asset. The bill would create the Speculation Recapture
Community Reinvestment Fund and would deposit the revenues received as a result of this increase in tax in the fund. The bill would require the Franchise Tax Board, upon appropriation by the Legislature, to allocate moneys in the fund, as described.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.


State-mandated local program: no.

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

SECTION 1. This act shall be known, and may be cited, as The California Housing Speculation Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) According to the California Association of Realtors’ quarterly index, California’s median price for a single-family home increased 17 percent to $814,580 in the third quarter of 2021 while near-record lows of 42 percent of Californians could meet home-buying qualification standards. Further, prices of condominiums and townhomes are at an all-time high, reaching an average of $620,000 in November 2021 or 19.2 percent over 12 months.

(b) During the same period, market analysis estimates that investor-buyers represented approximately 51 percent growth of sales year over year from 2020 to 2021 of sales in southern California alone, compared to a national average of 18 percent.

(c) The share of total sales of investor-buyers has increased significantly in recent years in the state and across the nation. Investor-buyer interest is not limited to recent years. Increased interest was present in 2006 to 2008, ahead of the market collapse, which decimated home equity and public revenue, and during other periods in market cycles over recent decades.

(d) Individual homebuyers find it increasingly difficult to obtain a home because cash-rich investor-buyers have added additional demand for housing, even as supply has remained the same, causing home prices to skyrocket. Additionally, direct competition from investor-buyers, often presenting cash-only offers or higher offers,
is further shutting out opportunity for middle- and lower-income Californians to buy a home.

(e) The Legislature has enacted housing policies to increase the supply of housing and extend affordability. The Legislature has further prioritized subsidies to produce more affordable housing. Increasing the supply of housing is certainly extremely important, but may fall short of the total scale of solutions needed to address both the decades-long deficit in housing supply needed, and the continuing increases in housing prices.

(f) Short-term speculative transactions, allowed unchecked, contribute significantly to higher housing costs for all and has negative social and economic consequences. A reasonable control mechanism should be enacted to discourage real estate as a short-term equity gain mechanism by capturing excessive property value increases, thereby increasing the risk to investors and redirecting their interest from investing in real estate to investments in other assets. Funds generated through this equity recapture should be directed to local governments, schools, and affordable housing purposes for general benefit to offset the negative consequences of short-term speculation.

SEC. 3. Article 1 (commencing with Section 18200) is added to Chapter 14 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 1. Capital Gains Tax for Housing

18200. (a) (1) For each taxable year beginning on or after January 1, 2023, in addition to any other tax imposed by this part, an additional tax shall be imposed at the rate of 25 percent, and as modified pursuant to paragraph (2), on that portion of a qualified taxpayer’s net capital gain generated as a result of the sale or exchange of a qualified asset.

(2) The 25-percent tax described in paragraph (1) shall be reduced as follows:

(A) The tax shall be reduced by 20 percent if the sale or exchange of the qualified asset occurred 3.01 to 4 years, inclusive, after the qualified taxpayer’s initial purchase of the qualified asset.

(B) The tax shall be reduced by 40 percent if the sale or exchange of the qualified asset occurred 4.01 to 5 years, inclusive, after the qualified taxpayer’s initial purchase of the qualified asset.
(C) The tax shall be reduced by 60 percent if the sale or exchange of the qualified asset occurred 5.01 to 6 years, inclusive, after the qualified taxpayer’s initial purchase of the qualified asset.

(D) The tax shall be reduced by 80 percent if the sale or exchange of the qualified asset occurred 6.01 to 7 years, inclusive, after the qualified taxpayer’s initial purchase of the qualified asset.

(E) The tax shall be reduced by 100 percent if the sale or exchange of the qualified asset occurred more than seven years after the qualified taxpayer’s initial purchase of the qualified asset.

(3) For purposes of applying Part 10.2 (commencing with Section 18401), the tax imposed under this section shall be treated as if imposed under Section 17041.

(b) For purposes of this section:

(1) “Qualified asset” means any real property other than any of the following:

(A) (i) Real property that meets all of the following requirements:

(I) The real property is composed of multiple units.

(II) The real property is restricted, by deed, to require that at least 15 percent of residential units on the property are affordable housing.

(III) The deed restriction described in subclause (II) was recorded against the property within three years of the sale or exchange of the property.

(ii) The exemption for the real property described in clause (i) only applies to the first sale or exchange of that property by any person.

(B) Real property that is part of subdivided or lot split property for which the qualified taxpayer is also the recorded owner, if the other portions of the subdivided or lot split property have not been sold.

(C) Any real property that is designated or dedicated open space.

(D) Any real property that is not suitable for residential use or not permitted for residential or mixed-development with residential use under local or state law.

(E) Any real property for which any property transfer taxes do not apply.

(F) Real property that is restricted, by deed, to require that the property remain affordable.
(G) Any residential real property that meets both of the following requirements:

(i) The property is the first residential real property that the qualified taxpayer has owned.

(ii) The qualified taxpayer has used the property as their primary residence since their initial purchase of the property.

(H) Any residential real property occupied by the qualified taxpayer as their principal place of residence and that is eligible for a homeowners' property tax exemption pursuant to subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218.

(2) “Qualified taxpayer” shall not include either of the following:

(A) Any active duty military personnel.

(B) A decedent.

(c) All moneys and remittances received by the Franchise Tax Board as amounts imposed under this section, and related penalties, additions to tax, and interest imposed under this part, shall be deposited, after clearance of remittances, in the Speculation Recapture Community Reinvestment Fund.

SEC. 4. Section 19602 of the Revenue and Taxation Code is amended to read:

19602. Except for amounts collected or accrued under Sections 17935, 17941, 17948, 19532, and 19561, and revenues deposited pursuant to Sections 18200 and 19602.5, all moneys and remittances received by the Franchise Tax Board as amounts imposed under Part 10 (commencing with Section 17001), and related penalties, additions to tax, and interest imposed under this part, shall be deposited, after clearance of remittances, in the State Treasury and credited to the Personal Income Tax Fund.

SEC. 5. Section 19604 of the Revenue and Taxation Code is amended to read:

19604. (a) Except for fees received for services under Section 23305e, and revenues deposited pursuant to Section 25000, all moneys and remittances received by the Franchise Tax Board as amounts imposed under Part 11 (commencing with Section 23001), and related penalties, additions to tax, fees, and interest imposed under this part, shall be deposited in a special fund in the State Treasury, to be designated the Corporation Tax Fund. The moneys in the fund shall, upon the order of the Controller, be drawn therefrom for the purpose of making refunds under this part or be
transferred into the General Fund. All undelivered refund warrants shall be redeposited into the Corporation Tax Fund upon receipt by the Controller. Fees received for services under Section 23305e shall be treated as reimbursement of the Franchise Tax Board’s costs and shall be deposited into the General Fund.

(b) Notwithstanding Section 13340 of the Government Code, all moneys in the Corporation Tax Fund are hereby continuously appropriated, without regard to fiscal year, to the Franchise Tax Board for purposes of making all payments as provided in this section.

SEC. 6. Article 1.5 (commencing with Section 19609) is added to Chapter 8 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.5. Speculation Recapture Community Reinvestment Fund

19609. (a) There is hereby created in the State Treasury the Speculation Recapture Community Reinvestment Fund for the purpose of allocating moneys deposited pursuant to Article 1 (commencing with Section 18200) of Chapter 14 of Part 10 and Article 6 (commencing with Section 25000) of Chapter 15 of Part 11.

(b) Upon appropriation by the Legislature, the Franchise Tax Board shall allocate moneys in the fund as follows:

(1) At least 30 percent shall be allocated to counties to be used to create affordable housing in the county.

(2) Twenty percent shall be allocated to school districts to be used for general purposes.

(3) Forty percent shall be allocated to cities, or counties if the qualified asset is located in an unincorporated area, to be used for general infrastructure, transit or active transportation projects, or community facilities.

(4) Up to 10 percent shall be allocated to the Franchise Tax Board to administer this article. Any remaining moneys under this paragraph shall be allocated to counties, as specified in paragraph (1).

(c) Allocations to counties, cities, and school districts under subdivision (b) shall be made in proportion to the percentage of moneys in the fund that are associated with the sale of the qualified
asset within the jurisdiction of the county, city, or school district, as applicable.

SEC. 7. Article 6 (commencing with Section 25000) is added to Chapter 15 of Part 11 of Division 2 of the Revenue and Taxation Code, to read:

Article 6. Capital Gains Tax for Housing

25000. (a) (1) For each taxable year beginning on or after January 1, 2023, in addition to any other tax imposed by this part, an additional tax shall be imposed at the rate of 25 percent, and as modified pursuant to paragraph (2), on that portion of a qualified taxpayer’s net capital gain generated as a result of the sale or exchange of a qualified asset.

(2) The 25-percent tax described in paragraph (1) shall be reduced as follows:

(A) The tax shall be reduced by 20 percent if the sale or exchange of the qualified asset occurred 3.01 to 4 years, inclusive, after the qualified taxpayer’s initial purchase of the qualified asset.

(B) The tax shall be reduced by 40 percent if the sale or exchange of the qualified asset occurred 4.01 to 5 years, inclusive, after the qualified taxpayer’s initial purchase of the qualified asset.

(C) The tax shall be reduced by 60 percent if the sale or exchange of the qualified asset occurred 5.01 to 6 years, inclusive, after the qualified taxpayer’s initial purchase of the qualified asset.

(D) The tax shall be reduced by 80 percent if the sale or exchange of the qualified asset occurred 6.01 to 7 years, inclusive, after the qualified taxpayer’s initial purchase of the qualified asset.

(E) The tax shall be reduced by 100 percent if the sale or exchange of the qualified asset occurred more than seven years after the qualified taxpayer’s initial purchase of the qualified asset.

(3) For purposes of applying Part 10.2 (commencing with Section 18401), the tax imposed under this section shall be treated as if imposed under Section 23151.

(b) For purposes of this section:

(1) “Qualified asset” means any real property other than any of the following:

(A) (i) Real property that meets all of the following requirements:

(I) The real property is composed of multiple units.
The real property is restricted, by deed, to require that at least 15 percent of residential units on the property are affordable housing.

The deed restriction described in subclause (II) was recorded against the property within three years of the sale or exchange of the property.

The exemption for the real property described in clause (i) only applies to the first sale or exchange of that property by any person.

(B) Real property that is part of subdivided or lot split property for which the qualified taxpayer is also the recorded owner, if the other portions of the subdivided or lot split property have not been sold.

(C) Any real property that is designated or dedicated open space.

(D) Any real property that is not suitable for residential use or not permitted for residential or mixed-development with residential use under local or state law.

(E) Any real property for which any property transfer taxes do not apply.

(F) Real property that is restricted, by deed, to require that the property remain affordable.

(2) “Qualified taxpayer” shall not include active duty military personnel.

(c) All moneys and remittances received by the Franchise Tax Board as amounts imposed under this section, and related penalties, additions to tax, and interest imposed under this part, shall be deposited, after clearance of remittances, in the Speculation Recapture Community Reinvestment Fund.

SEC. 8. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.
Item B-4
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 1845 (Calderon) - Metropolitan Water District of Southern California: Alternative Project Delivery Methods (AB 1845) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language. The Metropolitan Water District is seeking letters of support from cities throughout the region for this bill.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1845 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1845, the Liaisons may recommend the following actions:

- Oppose AB 1845;
- Support AB 1845;
- Support if amended AB 1845;
- Oppose unless amended AB 1845;
- Remain neutral; or
- Provide other direction to City staff.

Any position recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
April 27, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1845 (Calderon) Metropolitan Water District of Southern California: alternative project delivery methods.

Version
As amended in the Assembly on April 4, 2022

Summary
Authorizes the Metropolitan Water District of Southern California (MWD) to use design-build, progressive design-build, and construction manager/general contractor (CM/GC) project delivery methods for a regional water recycling project or drought response projects. These project delivery methods shall be used for no more than 15 capital outlay projects.

Specifically, this bill:
1) Permits MWD, upon approval by its governing body, to use design-build, progressive design-build, and CM/GC project delivery methods for a regional water recycling project or water infrastructure projects undertaken to alleviate water supply shortages resulting from drought or climate change.
2) Permits MWD to award progressive design-build or CM/GC contracts on a best value or qualifications basis or to the lowest responsible bidder.
3) Provides that MWD can use design-build, progressive design-build, or CM/GC delivery methods for no more than 15 capital outlay projects.
4) Requires MWD to develop guidelines for a standard organizational conflict-of-interest policy, consistent with applicable law, regarding the ability of a person or entity that performs services for MWD relating to the solicitation of a design-build or progressive design-build project to submit a proposal as a design-build entity, or to join a design-build team.
5) Defines “best value” as a value determined by evaluation of objective criteria that relate to price, features, functions, life-cycle costs, experience, and past performance.
6) Defines the terms “construction manager,” “Construction Manager/General Contractor method,” “design-build,” “design-build entity,” “district,” “guaranteed maximum price,” “preconstruction services,” “progressive design-build,” and “project” for purposes of this bill.
7) Requires MWD to follow the design-build procedure for local agencies under existing law when utilizing the design-build project delivery method as authorized by this bill (the existing authority for local agencies to use design-build sunsets on January 1, 2025).
8) Requires MWD, when using the progressive design-build procurement process, to proceed as follows:

a. Prepare and issue a request for qualifications (RFQ) in order to select a design-build entity to execute the project. The RFQ shall include, but need not be limited to, the following elements:
   i. Documentation of the size, type, and desired design character of the project and any other information deemed necessary to describe adequately MWD's needs and to inform interested parties of the contracting opportunity, as specified.
   ii. Significant factors that MWD reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, and all other non-price-related factors. MWD may require that a cost estimate, including the detailed basis for the estimate, be included in the design-build entities' responses and may consider those costs in evaluation of the statements of qualifications.
   iii. The relative importance or the weight assigned to each of the factors identified in the RFQ.
   iv. A request for statements of qualifications with a template for the statement that is prepared by MWD and requires specified information relative to the design-build entity's organizational structure, experience and competency, professional credentials, insurance, and safety record.
   v. Information required in a statement of qualifications shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.

b. Review the submissions at the close of the solicitation period; the review may be based solely upon the information provided in each design-build entity's statement of qualifications or informed by subsequent interviews with some or all of the design-build entities to further evaluate their qualifications for the project.

c. Publicly announce an award upon issuance of a contract. The announcement shall identify the design-build entity to which the award is made and include a statement regarding the basis of the award.

d. Enter into a contract and direct the design-build entity to begin design and preconstruction activities sufficient to establish a guaranteed maximum price for the project.

e. Amend a contract upon agreement of the guaranteed maximum price for the project to direct the design-build entity to complete the remaining design, preconstruction, and construction activities sufficient to complete and close out the project. MWD may add funds not exceeding the guaranteed maximum price to the contract for these activities. If the costs for completing these activities exceed the guaranteed maximum price, the costs exceeding the guaranteed maximum price shall be the responsibility of the design-build entity. If the costs for these activities are less than the guaranteed maximum price, the design-build entity shall not be entitled to the difference between the costs and the guaranteed maximum price.

f. Solicit proposals to complete the project from other firms that submitted statements of qualifications or requests for proposals if MWD and the design-build entity do not reach agreement on a guaranteed maximum price, or MWD otherwise elects not to amend the design-build entity's contract to complete the remaining work. MWD may also, upon written determination that it is in the best interest of MWD to do so, formally solicit proposals from other design-build entities.
g. Submit a report to the relevant committees of the Legislature on or before January 1, 2027, that contains a description of each public works project procured by MWD through the progressive design-build process described in this bill that is completed after January 1, 2023, and before December 1, 2026, and other specified contents.

9) Requires MWD, when using the CM/GC procurement process, to proceed as follows:

a. Establish a procedure for the evaluation and selection of a construction manager through an RFQ. The RFQ shall include, but not be limited to, the following:

i. A list of all the partners, general partners, or association members who will participate in the CM/GC method contract if the construction manager is a partnership, limited partnership, or other association;

ii. Evidence that the members of the construction manager have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete construction of the project, as well as a financial statement that assures MWD that the construction manager has the capacity to complete the project, construction expertise, and an acceptable safety record;

iii. Information regarding the licenses, registrations, or credentials required to construct the project, including information on the revocation or suspension of any license, registration, or credential;

iv. Evidence that establishes the construction manager has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance;

v. Information regarding any prior serious or willful violation of the California Occupational Safety and Health Act or the federal Occupational Safety and Health Act settled against any member of the construction manager and information concerning workers’ compensation experience history and worker safety program;

vi. Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project, including any instance in which a construction manager, its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder;

vii. Information regarding any instance in which the construction manager, or its owners, officers, or managing employees, defaulted on a construction contract;

viii. Specified information regarding any violations of the Contractors State License Law or Federal Insurance Contributions Act;

ix. Information concerning the bankruptcy or receivership of any member of the construction manager, including information concerning any work completed by a surety;

x. Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the construction manager during the five years preceding submission of a bid pursuant to this bill, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000); and

xi. A copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be fully liable for
the performance under the contract if the construction manager is a partnership or other association that is not a legal entity.

b. Require that the information in an RFQ be verified under oath by the construction manager and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act shall not be open to public inspection.

c. Generate a final list of qualified persons or firms that participated in each RFQ prior to entering into negotiations on the contract for which an RFQ applies.

d. Enter into negotiations for the contract with the highest qualified person or firm on the final list for that contract, which shall include consideration of compensation and other contract terms that MWD determines to be fair and reasonable, as specified. If MWD is not able to negotiate a satisfactory contract with the highest qualified person or firm on the final list, MWD shall formally terminate negotiations and may undertake negotiations with the next most qualified person or firm on the final list in sequence until an agreement is reached or a determination is made to reject all persons or firms on the final list, as specified.

e. Adhere to specified rules and procedures for preconstruction services by the construction manager, if included in the contract, and refrain from requesting or obtaining a fixed price or a guaranteed maximum price for the construction contract from the construction manager or entering into a construction contract with the construction manager until after MWD has entered into a services contract. A preconstruction services contract shall provide for the subsequent negotiation for construction of all or any discrete phase or phases of the project.

f. Award a contract for construction services after the plans have been sufficiently developed and either a fixed price or a guaranteed maximum price has been successfully negotiated. In the event that a fixed price or a guaranteed maximum price is not negotiated, MWD shall not award the contract for construction services.

g. Refrain from commencing any phase, package, or element until MWD and a construction manager agree in writing on either a fixed price that MWD will pay for the construction to be commenced or a guaranteed maximum price for the construction to be commenced and a construction schedule for the project.

h. Stipulate that all subcontractors are afforded the protections of the Subletting and Subcontracting Fair Practices Act, as specified.

i. Submit a report to the relevant committees of the Legislature on MWD’s use of the CM/GC method that contains specified information on or before January 1, 2027.

10) Provides that neither a design-build entity nor a construction contractor shall be awarded a construction contract unless it provides an enforceable commitment to MWD that the design build entity or construction contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, as specified. This requirement shall not apply if any of the following requirements are met:

a. MWD has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the design-build entity or construction contractor agrees to be bound by that project labor agreement, as defined.

b. The design-build entity or construction contractor has entered into a project labor agreement, as defined, that will bind the design-build entity or construction contractor and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.
11) Provides that MWD may not award a design-build-operate contract for any project pursuant to this bill. A contract may, however, cover operations during a training or transition period.

12) Requires MWD to perform construction inspection services for all projects authorized and awarded pursuant to this bill, and requires it to use district employees or consultants under contract with MWD to perform these services.

13) Requires any design-build entity or CM/GC that is selected to construct a project pursuant to this bill to possess or obtain sufficient bonding to cover the contract amount for construction services and risk and liability insurance MWD may require. Any payment or performance bond written for the purposes of this bill shall be written using a bond form developed by MWD.

14) Provides that the authority to use progressive design-build and CM/GC project delivery methods sunsets on January 1, 2028.

15) Contains a number of findings and declarations regarding this bill’s purposes and intent, and finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need to improve water infrastructure in the geographic area served by MWD.

16) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, or changes the definition of a crime.

Background
The traditional project delivery method that public agencies use to complete a public works projects is the “design-bid-build” process. Under the “design-bid-build” process, a public agency fully completes the design of a project prior to awarding a construction contract and must award that contract to the “lowest responsible bidder.” This process is intended to ensure that the project is built for the lowest possible cost.

Design-build. The Legislature began granting design-build authority in the early 1990’s, and has typically done so with specified parameters, such as the duration of the authority, the types of agencies allowed to use it, the types of projects for which it can be used, cost thresholds, and specified procedures that must be followed in preparing and awarding contracts. Under the design-build method, a single contract covers the design and construction of a project with a single company or consortium that acts as both the project designer and builder. The design-build entity arranges all architectural, engineering, and construction services, and is responsible for delivering the project at a guaranteed price and schedule based upon performance criteria set by the public agency. The design-build method can be faster, and therefore cheaper, than the design-bid-build method, but it requires a higher level of management sophistication since design and construction may occur simultaneously.

CM/GC. The CM/GC project-delivery method allows an agency to engage a construction manager during the design process to provide assistance to the design team, which can ultimately lead to a more constructible project. When design is nearly complete, the agency and the construction manager negotiate a guaranteed maximum price for the construction of the project based on the defined scope and schedule. If this price is acceptable to both parties, they execute a contract for construction services, and the construction manager becomes the general contractor. CM/GC can lead to less costly or more expediently delivered projects because of the construction manager’s
involvement in the design process. Caltrans and some regional transportation agencies are authorized to use the CM/GC method to construct certain projects.

**Progressive design-build.** Progressive design-build is a stepped project delivery method where a qualified design-builder is retained by a public agency early in the life of the project to help with design and preconstruction activities. The preconstruction phase helps determine the total cost of the project. Generally, once the design is 40 to 60 percent complete, the public agency and design-builder then negotiate a total maximum price for the project and, if there is agreement, both parties proceed to the second phase of the project to complete project design and construction. The public agency typically has an “off ramp” option if it cannot come to terms with the design-builder. In such a situation, the public agency may use the design developed by the first design-builder, but enter into a new contract with another design-builder to complete the project. DGS has limited authority to use the progressive design-build project delivery method.

**Status of Legislation**
The bill had its first hearing in the Assembly Local Government Committee on March 23, 2022, and passed with a vote of 8-0. On April 24, the bill was heard in Assembly Water, Parks and Wildlife Committee, and passed 12-0 with 3 abstentions. The measure is now headed to Assembly Appropriations Committee for a review of the impact on state finances.

**Arguments in support**
MWD and a number of local agencies in its service area support this bill arguing that building the regional recycled water and drought response projects “is critically important to Southern California's water agencies and our customers. Alternative delivery methods not only have the potential to lower overall project costs and help develop earlier cost certainty, which will save Southern California ratepayers money, they will accelerate our efforts to adapt to prolonged droughts exacerbated by climate change.”

**Support**
- Metropolitan Water District of Southern California (sponsor)
- Azusa Chamber of Commerce
- Beverly Hills Chamber of Commerce
- California Municipal Utilities Association
- California Special Districts Association
- Calleguas Municipal Water District
- Central City Association of Los Angeles
- City of Burbank, Water and Power
- City of Glendale Water & Power
- City of Torrance
- Coalition of Labor, Agriculture & Business, Imperial County
- Cucamonga Valley Water District
- El Monte/south El Monte Chamber of Commerce
- El Segundo Chamber of Commerce
- Elsinore Valley Municipal Water District
- Foothill Municipal Water District
- Glendora Chamber of Commerce
- Inland Empire Economic Partnership
- Inland Empire Utilities Agency
- Las Virgenes Municipal Water District
- League of California Cities, Los Angeles County Division
- Los Angeles Business Council
- Los Angeles County Business Federation
- Los Angeles County Sanitation District
- Pasadena Chamber of Commerce
- Pasadena Water and Power
- Rowland Water District
- San Dimas Chamber of Commerce
- San Gabriel Valley Legislative Coalition of Chambers
- Santa Ana Public Works; City of
- Santa Monica Chamber of Commerce
- Simi Valley Chamber of Commerce
- Southern California Water Coalition
- Three Valleys Municipal Water District
- United Chambers of Commerce
- Valley Industry and Commerce Association
Water Replenishment District of Southern California
West Ventura County Business Alliance

Opposition
None received.

Western Municipal Water District
Westside Council of Chambers of Commerce
Attachment 2
An act to amend Section 21565 of, and to add Article 121.1 (commencing with Section 21568) to Chapter 1.5 of Part 3 of Division 2 of, the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL’S DIGEST

AB 1845, as amended, Calderon. Metropolitan Water District of Southern California: alternative project delivery methods.

Existing law generally sets forth the requirements for the solicitation and evaluation of bids and the awarding of contracts by local agencies for public works contracts. Existing law authorizes certain entities, including the Department of General Services, the Military Department, the Department of Corrections and Rehabilitation, and specified local agencies, to use the design-build procurement process, as prescribed, for specified public works.

This bill would authorize the Metropolitan Water District of Southern California to use the design-build procurement process for certain regional recycled water projects or other water infrastructure projects. The bill would define “design-build” to mean a project delivery process in which both the design and construction of a project are procured from a single entity. The bill would require the district to use a specified
design-build procedure to assign contracts for the design and construction of a project, as defined.

Existing law authorizes the Director of General Services to use the progressive design-build procurement process for certain public works projects.

This bill would authorize the Metropolitan Water District of Southern California to use the progressive design-build procurement process for regional recycled water projects or other water infrastructure projects under specified conditions. The bill would define “progressive design-build” to mean a project delivery process in which both the design and construction of a project are procured from a single design-build entity that is selected through a qualifications-based selection at the earliest feasible stage of the project. The bill would require a progressive design-build contract be awarded on a best value or qualifications basis or to the lowest responsible bidder. The bill would require the district, if using this process, to prepare and issue a request for qualifications in order to select a design-build entity based on certain factors.

Existing law authorizes certain entities, including the Department of Transportation, the Department of Water Resources, regional transportation agencies, and the San Diego Association of Governments, to engage in a Construction Manager/General Contractor project delivery method (CM/GC method) for specified public work projects.

This bill would authorize the Metropolitan Water District of Southern California to utilize the CM/GC method for regional recycled water projects or other water infrastructure projects under specified conditions. The bill would define the CM/GC method generally as a project delivery method in which a construction manager is procured to provide preconstruction services during the design phase of the project and construction services during the construction phase of the project, whereby construction services may be entered into at the same time as the contract for preconstruction services or at a later time. The bill would require a CM/GC method contract be awarded on a best value or qualifications basis or to the lowest responsible bidder. The bill would specify the procedure for CM/GC projects, including, among other things, requiring the district to select a construction manager through a request for qualifications, as prescribed.

The bill would permit the use of alternative project delivery methods on no more than 15 capital outlay projects. The bill would also prohibit
contractor from being awarded a construction contract unless it provides an enforceable commitment to the district that the entity or design-build entity, construction manager, or construction contractor and its subcontractors at every tier will use a skilled and trained workforce to perform project work applicable to certain apprenticeable occupations in the building and construction trades, in accordance with existing law, and subject to certain exceptions. By expanding the application of the crime of perjury for a violation of certain certification and skilled and trained workforce requirements, the bill would impose a state-mandated local program.

The bill would require the district to submit to the relevant committees of the Legislature, on or before January 1, 2027, a report containing a description of each public works project and a report containing a description of each CM/GC project procured by the district through the processes described in these provisions that is completed after January 1, 2023, and before December 1, 2026, as specified.

The bill would make its provisions pertaining to the progressive design-build and CM/GC methods effective only until January 1, 2028. The bill would provide that its provisions pertaining to design-build remain in effect in accordance with a related provision governing local agency design-build projects, which is repealed on January 1, 2025.

Existing law generally requires the board, when work is not performed by a district itself by force account and the amount involved is $25,000 or more, to provide for the letting of contracts to the lowest responsible bidder, after publication of notices inviting bids, and subject to the right of the board to reject proposals.

This bill would create an exception to those provisions for the alternative project delivery methods authorized by this bill.

The bill would make legislative findings and declarations as to the necessity of a special statute for the geographic area served by the Metropolitan Water District of Southern California.

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

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

SECTION 1. Section 21565 of the Public Contract Code is amended to read:

21565. Except as otherwise provided in Article 121.1 (commencing with Section 21568) of this chapter, whenever any work is not to be done by the district itself by force account, and the amount involved shall be twenty-five thousand dollars ($25,000) or more, the board shall provide for the letting of contracts to the lowest responsible bidder, after publication of notices inviting bids, but subject to the right of the board to reject any and all proposals.

SEC. 2. Article 121.1 (commencing with Section 21568) is added to Chapter 1.5 of Part 3 of Division 2 of the Public Contract Code, to read:

Article 121.1. Metropolitan Water District of Southern California - Alternative Project Delivery Program

21568. (a) The Legislature finds and declares that severe drought conditions and climate change have negatively impacted the imported water supplies of the Metropolitan Water District of Southern California, necessitating an increase in local water supplies, including recycled water, and the construction of water infrastructure to more efficiently transport limited water supplies within the district’s service area.

(b) The Legislature further finds and declares that alternative project delivery, using the best value procurement methodology, has been authorized for various agencies that have reported benefits from those projects not achievable through the traditional design-bid-build method, including reduced project costs and expedited project start and completion.

(c) This article provides for a range of procurement methods for district projects, including a planned regional recycled water project, designed to counteract the negative impacts of severe and ongoing drought and the continuing impacts of climate change on water supplies in southern California.

(d) It is the intent of the Legislature in enacting this article to authorize the district to utilize the methods specified herein as
cost-effective options for accelerating the construction of drought-resilient water infrastructure projects.

21568.1. (a) Upon approval by its governing body, the Metropolitan Water District of Southern California may use, in addition to other methods of project delivery otherwise allowable by law, the following methods of project delivery for a regional recycled water project or other water infrastructure project undertaken by the district to alleviate water supply shortages attributable to drought or climate change:

   (1) Design-build.
   (2) Progressive design-build.
   (3) Construction Manager/General Contractor method.

(b) (1) A design-build contract shall be awarded pursuant to Chapter 4 (commencing with Section 22160).
   (2) A progressive design-build contract or a Construction Manager/General Contractor method contract shall be awarded on a best value or qualifications basis or to the lowest responsible bidder.
   (c) The authority under this article shall apply to no more than 15 capital outlay projects.
   (d) The district shall develop guidelines for a standard organizational conflict-of-interest policy, consistent with applicable law, regarding the ability of a person or entity that performs services for the district relating to the solicitation of a design-build or progressive design-build project to submit a proposal as a design-build entity, or to join a design-build team.

21568.2. As used in this article:

(a) “Best value” means a value determined by evaluation of objective criteria that relate to price, features, functions, life-cycle costs, experience, and past performance. A best value determination may involve the selection of the lowest cost proposal meeting the interests of the district and meeting the objectives of the project, selection of the best proposal for a stipulated sum established by the district, or a tradeoff between price and other specified factors.
(b) “Construction manager” means a partnership, corporation, or other legal entity that is a licensed contractor pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code and that is able to provide appropriately licensed contracting and engineering services as needed pursuant to a Construction Manager/General Contractor method contract.
(c) “Construction Manager/General Contractor method” means a project delivery method in which a construction manager is procured to provide preconstruction services during the design phase of the project and construction services during the construction phase of the project. The contract for construction services may be entered into at the same time as the contract for preconstruction services or at a later time. The execution of the design and the construction of the project may be in sequential phases or concurrent phases.

(d) “Design-build” means a project delivery process in which both the design and construction of a project are procured from a single entity.

(e) “Design-build entity” means a corporation, limited liability company, partnership, joint venture, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(f) “District” means the Metropolitan Water District of Southern California.

(g) “Guaranteed maximum price” means the maximum payment amount agreed upon by the district and the design-build entity or the Construction Manager/General Contractor for the design-build entity or the Construction Manager/General Contractor to finish all remaining design, preconstruction, and construction activities sufficient to complete and close out the project.

(h) “Preconstruction services” means advice during the design phase, including, but not limited to, scheduling, pricing, and phasing to assist the district to design a more constructible project.

(i) “Progressive design-build” means a project delivery process in which both the design and construction of a project are procured from a single design-build entity that is selected through a qualifications-based selection at the earliest feasible stage of the project.

(j) “Project” means a public work necessary for the construction of a recycled water facility or infrastructure designed specifically to alleviate water shortages attributable to drought, climate change, or other environmental factors.

21568.3. (a) The district shall follow the design-build procedure described in Chapter 4 (commencing with Section 22160) to award a design-build contract pursuant to this article.
(b) For purposes of this section, all references in Chapter 4 (commencing with Section 22160) to “county” and “local agency” shall mean the district, as defined in subdivision (f) of Section 21568.2.

21568.4. The procurement process for progressive design-build projects shall proceed as follows:

(a) The district shall prepare and issue a request for qualifications in order to select a design-build entity to execute the project. The request for qualifications shall include, but need not be limited to, the following elements:

1. Documentation of the size, type, and desired design character of the project and any other information deemed necessary to describe adequately the district’s needs, including the expected cost range, the methodology that will be used by the district to evaluate the design-build entity’s qualifications, the procedure for final selection of the design-build entity, and any other information deemed necessary by the district to inform interested parties of the contracting opportunity.

2. Significant factors that the district reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, and all other non-price-related factors. The district may require that a cost estimate, including the detailed basis for the estimate, be included in the design-build entities’ responses and may consider those costs in evaluation of the statements of qualifications.

3. The relative importance or the weight assigned to each of the factors identified in the request for qualifications.

4. A request for statements of qualifications with a template for the statement that is prepared by the district. The district shall require all of the following information in the statement and indicate, in the template, that the following information is required:

   (A) If the design-build entity is a privately held corporation, limited liability company, partnership, or joint venture, a listing of all of the entity’s shareholders, partners, or members known at the time of the statement of qualification submission who will perform work on the project.

   (B) Evidence that the members of the design-build team have completed, or have demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed personnel have sufficient
experience and training to competently manage and complete the
design and construction of the project, and a financial statement
that ensures that the design-build entity has the capacity to
complete the project.
(C) The licenses, registration, and credentials required to design
and construct the project, including, but not limited to, information
on the revocation or suspension of any license, credential, or
registration.
(D) Evidence that establishes that the design-build entity has
the capacity to obtain all required payment and performance
bonding, liability insurance, and errors and omissions insurance.
(E) Information concerning workers’ compensation experience
history and a worker safety program.
(F) If the proposed design-build entity is a corporation, limited
liability company, partnership, joint venture, or other legal entity,
a copy of the organizational documents or agreement committing
to form the organization.
(G) An acceptable safety record. A proposer’s safety record
shall be deemed acceptable if its experience modification rate for
the most recent three-year period is an average of 1.00 or less, and
its average total recordable injury or illness rate and average lost
work rate for the most recent three-year period does not exceed
the applicable statistical standards for its business category or if
the proposer is a party to an alternative dispute resolution system
as provided for in Section 3201.5 of the Labor Code.
(5) The information required under this subdivision shall be
certified under penalty of perjury by the design-build entity and
its general partners or joint venture members.
(b) At the close of the solicitation period, the district shall review
the submissions. The district may evaluate submissions based
solely upon the information provided in each design-build entity’s
statement of qualifications. The district may also interview some
or all of the design-build entities to further evaluate their
qualifications for the project.
(c) Notwithstanding any other provision of this code, upon
issuance of a contract award, the district shall publicly announce
its award, identifying the design-build entity to which the award
is made, along with a statement regarding the basis of the award.
The statement regarding the district’s contract award and the
contract file shall provide sufficient information to satisfy an external audit.

(d) After selecting a design-build entity based on qualifications, the district may enter into a contract and direct the design-build entity to begin design and preconstruction activities sufficient to establish a guaranteed maximum price for the project.

(e) (1) Upon agreement of the guaranteed maximum price for the project, the district, at its sole and absolute discretion, may amend its contract to direct the design-build entity to complete the remaining design, preconstruction, and construction activities sufficient to complete and close out the project, and may add funds not exceeding the guaranteed maximum price to the contract for these activities.

(2) If the costs for completing all remaining design, preconstruction, and construction activities sufficient to complete and close out the project exceed the guaranteed maximum price, the costs exceeding the guaranteed maximum price shall be the responsibility of the design-build entity. If the costs for these activities are less than the guaranteed maximum price, the design-build entity shall not be entitled to the difference between the costs and the guaranteed maximum price.

(f) If the district and the design-build entity do not reach agreement on a guaranteed maximum price, or the district otherwise elects not to amend the design-build entity’s contract to complete the remaining work, the district may solicit proposals to complete the project from other firms that submitted statements of qualifications or requests for proposals. The district may also, upon written determination that it is in the best interest of the district to do so, formally solicit proposals from other design-build entities.

(g) (1) The district, in each design-build request for qualifications, may identify specific types of subcontractors that shall be included in the design-build entity’s statement of qualifications. All construction subcontractors that are identified in the statement of qualifications shall be afforded the protections of Chapter 4 (commencing with Section 4100) of Part 1.

(2) Following award of the design-build contract, except for those construction subcontractors listed in the statement of qualifications, the design-build entity shall proceed as listed in this subdivision in awarding construction subcontracts with a value
exceeding one-half of 1 percent of the contract price allocable to construction work.
(A) Provide public notice of availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the district, including a fixed date and time on which qualifications statements, bids, or proposals will be due.
(B) Establish reasonable qualification criteria and standards.
(C) Award the subcontract either on a best value basis or to the lowest responsible bidder. The process may include prequalification or short-listing.
(3) Subcontractors awarded construction subcontracts under this subdivision shall be afforded all the protections of Chapter 4 (commencing with Section 4100) of Part 1.
(h) (1) The district shall submit to the relevant committees of the Legislature, on or before January 1, 2027, a report containing a description of each public works project procured by the district through the progressive design-build process described in this article that is completed after January 1, 2023, and before December 1, 2026.
(2) The report shall include, but is not limited to, all of the following information:
(A) A description of the project and the design-build entity that was awarded the contract for the project.
(B) The initial estimated, actual final project costs, and guaranteed maximum price.
(C) An assessment of the selection process and criteria required by this article.
(D) An assessment of the effects of the progressive design-build process described in this article on cost and schedule for the project.
(E) The number of specialty subcontractors listed by construction trade type, on each project, that provided construction services, but did not meet the target price for their scope of work.
(F) Whether or not any portion of a design prepared by the specialty subcontractor that did not perform the construction work for that design was used by the district.
(G) In instances where the district determined that the guaranteed maximum price of any subcontract exceeded the anticipated target price for that portion of the project, which
subcontracts were impacted and on what basis the district
determined what the anticipated target price was.

(H) The number of specialty subcontractors listed by
construction trade type, on each project, that meet the definition
of a small business under subparagraphs (A) and (B) of paragraph
(1) of subdivision (d) of Section 14837 of the Government Code.

(I) The number of specialty subcontractors listed by construction
trade type, on each project, that meet the definition of a
microbusiness under paragraph (2) of subdivision (d) of Section

(3) The report shall be submitted in compliance with Section
9795 of the Government Code and may be combined with the
report required pursuant to Section 21568.5.

21568.5. The procurement process for Construction
Manager/General Contractor method projects shall proceed as
follows:

(a) (1) The district shall establish a procedure for the evaluation
and selection of a construction manager through a request for
qualifications (RFQ). The RFQ shall include, but not be limited
to, the following:

(A) If the construction manager is a partnership, limited
partnership, or other association, a list of all the partners, general
partners, or association members known at the time of the statement
of qualifications submission who will participate in the
Construction Manager/General Contractor method contract.

(B) Evidence that the members of the construction manager
have completed, or demonstrated the experience, competency,
capability, and capacity to complete, projects of similar size, scope,
or complexity, and that proposed key personnel have sufficient
experience and training to competently manage and complete
construction of the project, as well as a financial statement that
assures the district that the construction manager has the capacity
to complete the project, construction expertise, and an acceptable
safety record.

(C) The licenses, registration, and credentials required to
construct the project, including information on the revocation or
suspension of any license, registration, or credential.

(D) Evidence that establishes the construction manager has the
capacity to obtain all required payment and performance bonding,
liability insurance, and errors and omissions insurance.
(E) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of the Labor Code), or the federal Occupational Safety and Health Act of 1970 (Public Law 91-596), settled against any member of the construction manager, and information concerning workers’ compensation experience history and worker safety program.

(F) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance in which a construction manager, its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder.

(G) Any instance in which the construction manager, or its owners, officers, or managing employees, defaulted on a construction contract.

(H) Any violations of the Contractors State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of the Federal Insurance Contributions Act (26 U.S.C. Sec. 3101 et seq.) withholding requirements settled against any member of the construction manager.

(I) Information concerning the bankruptcy or receivership of any member of the construction manager, including information concerning any work completed by a surety.

(J) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the construction manager during the five years preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(K) In the case of partnership or other association that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be fully liable for the performance under the contract.

(L) For the purpose of this paragraph, a construction manager’s safety record shall be deemed acceptable if their experience
modification rate for the most recent three-year period is an average of 1.00 or less, and their average total recordable injury/illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical requirements for its business category.

(2) The information required pursuant to this subdivision shall be verified under oath by the construction manager and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall not be open to public inspection.

(b) For each RFQ, the district shall generate a final list of qualified persons or firms that participated in the RFQ prior to entering into negotiations on the contract for which the RFQ applies.

(c) (1) For each contract included in the RFQ, the district shall enter into negotiations for the contract with the highest qualified person or firm on the final list for that contract. However, if the RFQ is for multiple contracts and specifies that all of the multiple contracts will be awarded to a single construction manager, there may be a single negotiation for all the multiple contracts. The negotiations shall include consideration of compensation and other contract terms that the district determines to be fair and reasonable to the district. In making this decision, the district shall take into account the estimated value, the scope, the complexity, and the nature of the professional services or construction services to be rendered. If the district is not able to negotiate a satisfactory contract with the highest qualified person or firm on the final list regarding compensation and on other contract terms the district determines to be fair and reasonable, the district shall formally terminate negotiations with that person or firm. The district may undertake negotiations with the next most qualified person or firm on the final list in sequence until an agreement is reached or a determination is made to reject all persons or firms on the final list.

(2) If a contract for construction services is entered into pursuant to this section and includes preconstruction services by the construction manager, the district shall enter into a written contract with the construction manager for preconstruction services under
which contract the district shall pay the construction manager a fee for preconstruction services in an amount agreed upon by the district and the construction manager. The preconstruction services contract may include fees for services to be performed during the contract period, provided, however, that the district shall not request or obtain a fixed price or a guaranteed maximum price for the construction contract from the construction manager or enter into a construction contract with the construction manager until after the district has entered into a preconstruction services contract. A preconstruction services contract shall provide for the subsequent negotiation for construction of all or any discrete phase or phases of the project.

(3) A contract for construction services shall be awarded after the plans have been sufficiently developed and either a fixed price or a guaranteed maximum price has been successfully negotiated. In the event that a fixed price or a guaranteed maximum price is not negotiated, the district shall not award the contract for construction services.

(4) The district is not required to award the construction services contract.

(5) Construction shall not commence on any phase, package, or element until the district and a construction manager agree in writing on either a fixed price that the district will pay for the construction to be commenced or a guaranteed maximum price for the construction to be commenced and a construction schedule for the project.

(d) All subcontractors bidding on contracts pursuant to this article shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1. The construction manager shall do all of the following:

(1) Provide public notice of the availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the district.

(2) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with the procedure established pursuant to this article.

(3) Comply with any subcontracting procedures adopted by the district that were included in the district’s RFQ. If the district has adopted procedures to prequalify public works contractors, the
construction manager may use the procedures to prequalify subcontractors.

(e) (1) The district shall submit to the relevant committees of the Legislature, on or before January 1, 2027, a report that describes each Construction Manager/General Contractor project approved under this article.

(2) The report shall provide relevant data on each project that includes, but is not limited to, all of the following:

(A) The cost of the project.

(B) The state of completion for the project.

(C) The estimated time of completion for the project.

(D) A comprehensive assessment of the effectiveness of the Construction Manager/General Contractor project delivery method relative to project cost and time savings.

(3) The report shall be submitted in compliance with Section 9795 of the Government Code and may be combined with the report required pursuant to Section 21568.4.

21568.6. (a) Neither a design-build entity nor a construction manager, or construction contractor shall not be awarded a construction contract unless it provides an enforceable commitment to the district that the design-build entity, construction manager, or construction contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1.

(b) This subdivision shall not apply if any of the following requirements are met:

(1) The district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the design-build entity, construction manager, or construction contractor agrees to be bound by that project labor agreement.

(2) The design-build entity, construction manager, or construction contractor has entered into a project labor agreement that will bind the design-build entity or construction contractor and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.
c) For purposes of this subdivision, “project labor agreement” has the same meaning as in paragraph (1) of subdivision (b) of Section 2500.

21568.7. (a) The district may not award a design-build-operate contract for any project pursuant to this article. A contract may, however, cover operations during a training or transition period.

(b) The district shall perform construction inspection services for all projects authorized and awarded pursuant to this article, and it shall use district employees to the fullest extent possible, and then consultants under contract with the district to perform these services.

21568.8. Any design-build entity or Construction Manager/General Contractor that is selected to construct a project pursuant to this article shall possess or obtain sufficient bonding to cover the contract amount for construction services and risk and liability insurance the district may require. Any payment or performance bond written for the purposes of this article shall be written using a bond form developed by the district.

21568.9. If the district elects to award a project pursuant to this article, retention proceeds withheld by the district from the design-build entity or Construction Manager/General Contractor shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

21568.10. Nothing in this article affects, expands, alters, or limits any rights or remedies otherwise available at law.

21568.11. (a) The provisions of this article pertaining to the progressive design-build and Construction Manager/General Contractor delivery methods shall remain in effect only until January 1, 2028, and as of that date are inoperative.

(b) The provisions of this article pertaining to design-build shall remain in effect in accordance with Section 22169.

(c) A contract awarded pursuant to this article before the applicable portions of the article are inoperative shall continue in full force and effect until completion, including any subsequently executed changes to the contract, or termination.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need to improve water
infrastructure in the geographic area served by the Metropolitan
Water District of Southern California.
SEC. 4. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.
Item B-5
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 2011 (Wicks) - Affordable Housing and High Road Jobs Act of 2022 (AB 2011) involves a policy matter which may have a nexus to the City’s adopted Legislative Platform language. Specifically, the following statements may apply to this bill:

- 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.

Councilmember Mirisch has requested the Legislative/Lobby Liaison Committee consider taking a position on AB 2011.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 2011 (Attachment 1) to the City. The state lobbyist will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee on this bill.

After discussion of AB 2011, the Liaisons may recommend the following actions:

- Oppose AB 2011;
- Support AB 2011;
- Support if amended AB 2011;
- Oppose unless amended AB 2011;
- 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
April 26, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 2011 (Wicks) Affordable Housing and High Roads Jobs Act of 2022

Version
As Amended in the Assembly on April 18, 2022

Summary
Establishes the Affordable Housing and High Road Jobs Act of 2022 (Act), to create a ministerial, streamlined approval process for 100 percent affordable housing in commercially-zoned areas and for mixed-income housing along commercial corridors. Specifically, this bill:

1) Affordable Housing: Allows 100 percent affordable housing projects to be a use by right, and subject to a streamlined, ministerial review process, notwithstanding any inconsistent provision of a local government’s plans, ordinances, or regulations, if it meets all of the following provisions:

   a) Affordability provisions:

      i. One hundred percent of the units within the development project, excluding managers’ units, are dedicated to lower income households at an affordable rent or, as for-sale homes, an affordable cost; and

      ii. The units must be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

   b) Location provisions:

      i. It is within a zone where office, retail, or parking are a principally permitted use;

      ii. It is located on a legal parcel or parcels that are located either:

         A. Within a city where the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau; or

         B. In an unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
iii. At least 75 percent of the site perimeter adjoins parcels that are developed with urban uses, as specified;

iv. It is not adjacent to any site where more than two-thirds of the square footage on the site is dedicated to industrial use, as specified;

v. It is not on environmentally unsafe or sensitive areas, as specified, such as wetlands, a high or very high fire severity zone unless the site has adopted fire hazard mitigation measures required by existing building standards, a hazardous waste site, an earthquake fault zone, a flood plain or floodway, lands identified for conservation in an adopted natural community conservation plan, and lands under conservation easement; and

vi. It is not an existing parcel of land or site that is governed under the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.

c) Design Standards:

i. It is a multifamily housing project;

ii. At least 67 percent of the square footage of the new construction associated with the project is designated for residential use;

iii. The residential density will meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households in that jurisdiction as specified in Housing Element Law. Generally, that density is 30 units per acre in urban areas, 20 units per acre in suburban areas, and 10 units per acre in rural areas;

iv. It meets the applicable objective zoning standards, objective subdivision standards, and objective design review standards, as specified, for the zone that allows residential use at a greater density between the following:

A. The existing zoning designation for the parcel; and

B. The closest parcel that allows residential use at a density that meets the density requirements described above, in iii.

v. The applicable standards are those in effect at the time that the development is submitted to the local government; and

vi. The applicable standards must not preclude any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to Density Bonus Law.

d) Labor Provisions:

i. A proponent of a development project approved pursuant to the provisions of this bill must require, in contracts with construction contractors, that all of the labor provisions of this bill's standards will be met in project construction. The proponent must certify this to the local government;
ii. A development that is not in its entirety a public work, as specified, must be subject to specified wage requirements:

**e) Reporting Requirements**

i. The development proponent is subject to the following reporting requirements:

ii. They must provide to the local government, on a monthly basis while its construction contracts on the development are being performed, a report demonstrating compliance with the requirements of A and B, above. The reports are considered public records under the California Public Records Act;

iii. A development proponent that fails to provide the monthly report is subject to a civil penalty for each month for which the report has not been provided, in the amount of 10 percent of the dollar value of construction work performed by that contractor on the development in the month in question, up to a maximum of $10,000;

iv. Any contractor or subcontractor that fails to comply with the requirements in A and B, above, are subject to a civil penalty of $200 per day for each worker employed in contravention of those requirements; and

v. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the procedures for issuance of civil wage and penalty assessments, as specified. Penalties must be deposited in the State Public Works Enforcement Fund, as specified.

**f) Requirements for construction contractors:**

i. Each construction contractor must maintain and verify payroll records, as specified. Each construction contractor must submit payroll records directly to the Labor Commissioner at least monthly in a format prescribed by the Labor Commissioner, as specified. The records must include a statement of fringe benefits. Upon request by a joint labor-management cooperation committee, the records must be provided, as specified;

ii. All construction contractors must report any change in apprenticeship program participation or health care expenditures to the local government within 10 business days, and must reflect those changes on the monthly report. The reports are considered public records pursuant to the California Public Records Act and all open to public inspection; and

iii. A joint labor-management cooperation committee has standing to sue a construction contractor for failure to make health care expenditures pursuant to B., above, as specified.

**g) Mixed-Income Housing:** Allows mixed-income housing projects to be a use by right, and subject to a streamlined, ministerial review process, notwithstanding any inconsistent provision of a local government's plans, ordinances, or regulations, if it meets all of the following provisions:
h) **Affordability provisions:**

i. A rental housing development must have a recorded deed restriction that ensures, at a minimum, that for a period of 55 years, 15 percent of the units shall be set at an affordable rent to lower income households;

ii. An owner-occupied housing development must have a recorded deed restriction that ensures, at a minimum, either of the following affordability criteria for a period of 45 years:

   A. Thirty percent of the units must be offered at an affordable housing cost to moderate-income households; or

   B. Fifteen percent of the units must be offered at an affordable housing cost to lower income households.

iii. If the amount of affordable housing required by a local inclusionary housing ordinance exceeds that of this section, then the project must abide by the local inclusionary housing ordinance.

i) **Location provisions:**

i. The project site meets all of the locational provisions for 100 percent affordable housing projects, as described above;

ii. The project site abuts a commercial corridor, which is a road that is not a freeway that has a right-of-way of at least 70 and not greater than 150 feet;

iii. The project site has a frontage along the commercial corridor of a minimum of 50 feet;

iv. The project site is not greater than 20 acres;

v. The development would not require the demolition of:

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

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

   C. Housing that has been occupied by tenants within the past 10 years, excluding any manager’s units. This provision includes sites previously used for housing that were occupied by tenants, excluding any manager’s units, that was demolished within 10 years before the development proponent submits an application pursuant to this bill; and

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

vi. The property does not contain housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.
j) **Design Standards:**

i. It is a multifamily housing project;

ii. At least 67 percent of the square footage of the new construction associated with the project is designated for residential use;

iii. The residential density for the development is determined as follows:

   A. In a metropolitan jurisdiction, as specified, the residential density for the development must meet or exceed the greater of the following:
      1. The residential density allowed on the parcel by the local government;
      2. For sites on a commercial corridor of less than 100 feet in width, 40 units per acre;
      3. For sites on a commercial corridor of 100 feet in width or greater, 60 units per acre;
      4. Notwithstanding 2. and 3. above, for sites within one-half mile of a major transit stop, 80 units per acre.

   B. In a jurisdiction that is not a metropolitan jurisdiction, as specified, the residential density for the development must meet or exceed the greater of the following:
      1. The residential density allowed on the parcel by the local government;
      2. For sites on a commercial corridor of less than 100 feet in width, 30 units per acre;
      3. For sites on a commercial corridor of 100 feet in width or greater, 50 units per acre; and
      4. Notwithstanding 2. and 3. above, for sites within one-half mile of a major transit stop, 70 units per acre.

iv. The height limit applicable to the housing development must be the greater of the following:

   A. The height allowed on the parcel by the local government;
   B. For sites on a commercial corridor of less than 100 feet in width, 35 feet;
   C. For sites on a commercial corridor of 110 feet in width or greater, 45 feet;
   D. Notwithstanding B. and C. above, for sites within one-half mile of a major transit stop, 65 feet.

v. The property meets the following setback standards:

   A. For the portion of the property that fronts a commercial corridor, the following must occur:
1. No setbacks can be required;

2. All parking must be set back at least 25 feet; and

3. On the ground floor, the development must abut within 10 feet of the property line for at least 80 percent of the frontage.

B. For the portion of the property that fronts a side street, which is a road that is not a freeway that has a right-of-way of at least 25 and fewer than 70 feet, the development must abut within 10 feet of the property line for at least 60 percent of the frontage;

C. When the property line of a development site abuts a single-family property, as specified, the following must occur:

1. The ground floor of the development project must be set back at 10 feet from the single-family property. The amount required to be set back may be decreased by the local government; and

2. Starting with the third floor of the property, each subsequent floor of the development project must be stepped back from the single-family property in an amount equal to five feet multiplied by the floor number. The amount required to be stepped back may be decreased by the local government.

D. When the property line of a development site abuts a property that is not a single-family property, starting with the third floor of the property, each subsequent floor of the development project must be stepped back from the other property in an amount equal to five feet multiplied by the floor number. The amount required to be stepped back may be decreased by the local government.

vi. No parking can be required, except that this bill does not reduce, eliminate, or preclude the enforcement of any requirement to provide bicycle parking, electric vehicle supply equipment installed parking spaces, or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development;

vii. It meets the applicable objective zoning standards, objective subdivision standards, and objective design review standards, as specified, for the zone that allows residential use at the residential density determined pursuant to iii, above. If no zone exists that allows such a residential density, the applicable standards are those for the zone that allows the greatest density within the city, county, or city and county;

viii. The applicable standards are those in effect at the time that the development is submitted to the local government; and

ix. The applicable standards must not preclude any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to Density Bonus Law.

k) **Labor Provisions:** Same as required for 100 percent affordable projects, as described above.

2) **Local review process:** For both 100 percent affordable housing and mixed-income housing projects, the following local review process applies:
a) The local government’s determination of whether the proposed development is in conflict with any of the objective planning standards specified by this bill must occur as follows:

i. If the local government determines that the proposed development is in conflict with any of the objective planning standards specified by this bill, it must provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the following timeframes:

   A. Within 60 days of submittal of the development proposal to the local government if the development contains 150 or fewer housing units; and

   B. Within 90 days of submittal of the development proposal to the local government if the development contains more than 150 housing units.

ii. If the local government fails to provide the required documentation, the development satisfies the required objective planning standards.

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

iv. The determination of whether a proposed project submitted pursuant to this section is or is not in conflict with the objective planning standards is not a “project” pursuant to the California Environmental Quality Act (CEQA).

b) Design review of the development may be conducted by the local government’s planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as follows:

i. It must be objective;

ii. It must be strictly focused on assessing compliance with criteria required for streamlined, ministerial review of projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submittal of the development to the local government;

iii. It must be broadly applicable to developments within the jurisdiction;

iv. It must not in any way inhibit, chill, or preclude the ministerial approval provided by this bill; and

v. It must be completed within the following timeframes:

   A. Within 90 days of submittal of the development proposal to the local government pursuant to this section if the development contains 150 or fewer housing units; and

   B. Within 180 days of submittal of the development proposal to the local government pursuant to this section if the development contains more than 150 housing units.
c) In addition to the demolition protections specified for mixed-income housing projects in 2)b)v. above, the local government must ensure that the project does not result in the demolition of any units unless the new project results in an at least an equal number of overall units and units dedicated to lower income households, as specified;

d) If the development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act is exempt from the requirements of CEQA;

e) A local government’s approval of a development pursuant to this section is subject to the following expiration timeframes:

i. For projects that include public investment in housing affordability, beyond tax credits, and at least 50 percent of the units are affordable to households making at or below 80 percent of the area median income, then the approval cannot expire; and

ii. For all other projects, the approval expires in three years, as specified.

f) If a project approved pursuant to this bill proposed modifications, and the local government has not issued the final building permit required for construction of the development, then the local government must review the modifications within specified timeframes and approve the modification if they meet specified criteria;

g) A local government must not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive streamlined, ministerial review pursuant to this bill;

h) A local government must issue a subsequent permit required for a development approved pursuant to the provisions of this bill if the application substantially complies with the development as it was approved, as specified; and

i) If a public improvement is necessary to implement a development that is approved pursuant to the provisions of this bill, to the extent that the public improvement requires approval from the local government, the local government must not exercise its discretion over any approval relating to the public improvement in a manner that would inhibit, chill, or preclude the development, as specified.

3) **State Implementation:** The Department of Housing and Community Development (HCD) may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth by this bill. Any such guidelines or terms adopted are not subject to the Administrative Procedure Act.

4) **Severability:** The provisions of this bill are severable, as specified.

5) Provides that no reimbursement is required by this Act for certain costs that may be incurred by a local agency or school district because, in that regard, this Act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, as specified, or changes the definition of a crime, as specified. However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs must be made, as specified.
Background and Existing Law

According to the author, “This bill combines some of the best ideas advanced in the Legislature over the last several years for promoting affordable housing development with a requirement to create ‘high road’ jobs. The author argues that AB 2011 advances all of the state’s housing goals, allowing every community to build more climate-friendly, infill affordable housing for struggling families, seniors, workers, and veterans – while also growing a thriving, high wage, middle-class construction workforce in every community. It does so by making affordable housing by right on commercially zoned lands, and mixed-income housing by right along commercial corridors, as long as the projects meet specified affordability, labor, and environmental criteria.

Increasing the Affordability of Housing through the Affordable Housing and High Road Jobs Act of 2022: This bill, the Affordable Housing and High Road Jobs Act of 2022, is intended to build on and greatly accelerate the recent efforts by the state to facilitate the construction of more affordable housing. It would allow do so as follows:

Approval process:
This bill would require housing to be “by right” if it conforms to the provisions below regarding affordability, location, objective standards, and labor. In being by right, it would not be subject to a local government’s discretionary approval process and would be exempt from the California Environmental Quality Act. Local governments would be able to apply objective standards and design review processes as long as they do not conflict with the provisions in the bill and do not preclude development of the housing.

Affordability requirements:
This bill would require at least 15 percent of new units be affordable to lower-income households, generally defined as those making 80 percent of the area median income (AMI) or less. Affordable units would be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units. Mixed-income, for-sale projects could, alternatively, provide least 30 percent of the units at affordable levels to moderate-income households (generally defined as those making between 80-120 percent AMI). The option for a for-sale project to direct 30 percent of its units to moderate-income households could result in a substantial increase in homeownership opportunities for that demographic.

Location requirements:
This bill facilitates the development of two kinds of housing – 100-percent affordable housing, and mixed-income housing. To qualify to utilize the by right provisions of this bill, both kinds of housing projects must be located in zones where office, retail, or parking are a principally permitted use. Mixed-income housing projects would be limited to sites that abut a “commercial corridor,” which is a local road with a right-of-way of 70 to 150 feet (generally, four to six lanes). These commercial corridors are typically the location of strip retail centers and parking lots. Directing new development along these existing thoroughfares can facilitate transit use and other non-vehicular modes of transportation.

By allowing housing in zones where residential development may not currently be permitted, this bill expands the potential sites where housing can be developed, while directing development away from existing residential neighborhoods – in particular, existing single-family neighborhoods.

This bill includes provisions that would preclude development on environmentally unsafe or sensitive area, per previously established objective standards. It would also require development to
occur within infill areas, which would help reduce commutes and, commensurately, greenhouse gas emissions.

To protect existing communities, projects would not be allowed to demolish existing housing, with the exception of housing that is owner-occupied by a higher income household that chooses to sell their property to enable a development of greater density. Additionally, the development could not lead to the demolition of a historic structure.

**By-Right provisions:**
To utilize the by right provisions of this bill, housing projects would need to meet the objective standards specified in the bill. All projects would need to be multi-family projects where no more than one-third of the space can be for a non-residential use.

For 100-percent affordable projects, the residential density would need to meet or exceed the density considered geographically appropriate for affordable housing projects in Housing Element Law. Generally, that density is 30 units per acre in urban areas, 20 units per acre in suburban areas, and 10 units per acre in rural areas. The site must otherwise meet the local government’s height limits, objective zoning standards, and objective design review standards.

**Rebuilding the Residential Workforce through the Affordable Housing and High Road Jobs Act of 2022:** This bill would make it easier to build housing, ensures that the workers who build that housing are well compensated, and provides opportunity for job training to grow the skilled construction workforce.

This bill would require compensation consistent with standards in place for public works projects by requiring projects to pay prevailing wages. The prevailing wages are the most common wage found in a region for a construction craft, and are usually based on rates specified in collective bargaining agreements between employers and unions. Prevailing wages are established by the Director of the Department of Industrial Relations (DIR), according to the type of work and location of the project, and published on DIR’s website. The prevailing wage encompasses an hourly pay, as well as compensation for other benefits should the employer not provide them, including health care, vacation, and pension.

This bill includes an enforcement component by the Labor Commissioner, an underpaid workers, or a joint labor-management cooperation committee established under federal law. These provisions would help bolster enforcement capacity of the labor standards and help ameliorate concerns about wage theft.

This bill requires that all contractors on projects of 50 or more units participate in a state-approved apprenticeship program or request the dispatch of apprentices from a program. Construction trades apprenticeships result in the elevation of most participating construction workers’ wages to living wage levels. As such, this provision would help ensure that these projects train the next generation of skilled craftspeople, so that over time the residential construction workforce is large enough to build the housing we need to end the housing crisis.

This bill allows for a locally negotiated Collective Bargaining Agreement to supersede the labor provisions in the bill. Collective Bargaining Agreements are agreements reached between the employer and the labor union that will govern the employment for the employee-members of that labor union.
### Status of Legislation

This measure was heard and approved by the Assembly Committee on Housing and Community Development. The bill was referred to the Assembly Rules Committee.

### SUPPORT AND OPPOSITION

**Support**
- CA Conference of Carpenters (Co-Sponsor)
- California Housing Consortium (Co-Sponsor)
- AARP
- Abundant Housing LA
- Affirmed Housing
- All Home
- Bay Area Council
- Burbank Housing Development Corporation
- California Apartment Association
- California Association of Local Housing Finance Agencies
- California Coalition for Rural Housing
- California Community Builders
- California Housing Partnership
- California YIMBY
- Carpenter Local Union 1599
- Carpenters Local 152
- Carpenters Local 22
- Carpenters Local 562
- Carpenters Local 619
- Carpenters Local 661
- Carpenters Local 701
- Carpenters Local 714
- Carpenters Local 721
- Carpenters Local 909
- Carpenters Local 951
- Carpenters Local Union #1109
- Carpenters Local Union 1789
- Carpenters Local Union 2236
- Carpenters Union Local 180
- Carpenters Union Local 405
- Carpenters Union Local 46
- Carpenters Union Local 505
- Carpenters Union Local 605
- Carpenters Union Local 713
- Carpenters Union Local 805
- Carpenters Women's Auxiliary 001
- Carpenters Women's Auxiliary 007
- Carpenters Women's Auxiliary 101
- Carpenters Women's Auxiliary 1904
- Carpenters Women's Auxiliary 417
- Carpenters Women's Auxiliary 66
- Carpenters Women's Auxiliary 710
- City of San Mateo
- CivicWell
- Construction Employers' Association
- Council of Infill Builders
- Destination: Home
- Drywall Lathers Local 9109
- Drywall Local Union 9144
- East Bay Asian Local Development Corporation
- Fieldstead and Company
- Generation Housing
- Greenbelt Alliance
- Housing Action Coalition
- Housing California
- Lathers Local 681
- Making Housing and Community Happen
- Mercy Housing California
- MidPen Housing Corporation
- Millwrights Local 102
- Modular Installers Association
- Non Profit Housing Association of Northern California
- Northern California Carpenters Regional Council
- Pile Drivers Local 34
- Richmond Community Foundation
- San Diego Housing Federation
- San Francisco Bay Area Planning and Urban Research Association
- San Francisco Housing Development Corporation
- Satellite Affordable Housing Associates
- Silicon Valley Community Foundation
- Southern California Association of Nonprofit Housing
- Southwest Regional Council of Carpenters
- SV@Home Action Fund
- The Kennedy Commission
- The Pacific Companies
- The Two Hundred
- United Lutheran Church of Oakland
- United Ways of California
- USA Properties Fund
Ventura County Clergy and Laity United for Economic Justice

**Opposition**
California State Association of Electrical Workers
California State Pipe Trades Council
City of Laguna Beach
City of Mission Viejo
City of Rancho Santa Margarita
District Council 16, International Union of Painters and Allied Trades
State Building & Construction Trades Council of California
Western States Council Sheet Metal, Air, Rail and Transportation
Attachment 2
ASSEMBLY BILL No. 2011

Introduced by Assembly Member Quirk-Silva Members Wicks, Bloom, Grayson, Quirk-Silva, and Villapudua
(Principal coauthor: Senator Wiener)
(Coauthors: Assembly Members Berman, Mike Fong, Reyes, and Robert Rivas)

February 14, 2022

An act to amend Section 50675.1.1 of the Health and Safety Code, relating to housing, and making an appropriation therefor: add Chapter 4.1 (commencing with Section 65912.100) to Division 1 of Title 7 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL’S DIGEST

AB 2011, as amended, Quirk Silva Wicks. Multifamily Housing Program: housing for people experiencing homelessness: recreational vehicle parking programs. Affordable Housing and High Road Jobs Act of 2022.

The Planning and Zoning Law authorizes a development proponent to submit an application for a multifamily housing development that is subject to a streamlined, ministerial approval process and not subject to a conditional use permit if the development satisfies specified objective planning standards.

This bill would make certain housing developments that meet specified affordability and site criteria and objective development standards a use by right within a zone where office, retail, or parking are a
principally permitted use, and would subject these development projects to one of 2 streamlined, ministerial review processes. The bill would require a development proponent for a housing development project approved pursuant to the streamlined, ministerial review process to require, in contracts with construction contractors, that certain wage and labor standards will be met, including that all construction workers shall be paid at least the general prevailing rate of wages, as specified. The bill would require a development proponent to certify to the local government that those standards will be met in project construction. By expanding the crime of perjury, the bill would impose a state-mandated local program. The bill would require the Labor Commissioner to enforce the obligation to pay prevailing wages. The bill would require a development proponent for a development of 50 or more housing units to require construction contractors to participate in an apprenticeship program or request dispatch of apprentices from a state-approved apprenticeship program, and to make specified health care expenditures for construction craft employees. The bill would require the development proponent to certify compliance with those requirements to the local government and to report monthly to the local government that they are in compliance with those requirements. The bill would subject the development proponent and the construction contractors and subcontractors to specified civil penalties for failing to comply with those requirements, and would require the penalty funds to be deposited in the State Public Works Enforcement Fund. The bill would prohibit a local government from imposing any requirement, including increased fees, on the basis that the project is eligible to receive ministerial or streamlined approval. Because the bill would impose new duties on local governments, the bill would impose a state-mandated local program.

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

The approval process established by this bill would be ministerial in nature, thereby exempting the approval of development projects subject to that approval process from CEQA.

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

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

Existing law establishes the Multifamily Housing Program, which is administered by the Department of Housing and Community Development. Existing law requires that funds appropriated in the 2020 Budget Act or an act related to the 2020 Budget Act to provide housing for individuals and families who are experiencing homelessness or who are at risk of homelessness and who are impacted by the COVID-19 pandemic be disbursed in accordance with the Multifamily Housing Program for specified uses.

This bill would expand the eligible use of those above-described funds to include costs relating to recreational vehicle parking programs. By authorizing the use of previously appropriated funds for a new purpose, the bill would make an appropriation.


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

1 SECTION 1. Chapter 4.1 (commencing with Section 65912.100) is added to Division 1 of Title 7 of the Government Code, to read:
Chapter 4.1. Affordable Housing and High Road Jobs
Act of 2022


65912.100. This chapter shall be known and cited as the Affordable Housing and High Road Jobs Act of 2022.

65912.101. For purposes of this chapter, the following terms have the following meanings:

(a) “Commercial corridor” means a highway, as defined in Section 360 of the Vehicle Code, that is not a freeway, as defined in Section 332 of the Vehicle Code, and that has a right-of-way, as defined in Section 525 of the Vehicle Code, of at least 70 and not greater than 150 feet.

(b) “Development proponent” means a developer who submits a housing development project application to a local government under the streamlined, ministerial review process pursuant to this chapter.

(c) “Health care expenditures” include contributions under Sections 501(c) or (d) or 401(a) of the Internal Revenue Code and payments toward “medical care” as defined under Section 213(d)(1) of the Internal Revenue Code.

(d) “Industrial use” means utilities, manufacturing, transportation storage and maintenance facilities, and warehousing uses. “Industrial use” does not include power substations or utility conveyances such as power lines, broadband wires, and pipes.

(e) “Local government” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

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

(g) “Side street” means a highway, as defined in Section 360 of the Vehicle Code, that is not a freeway, as defined in Section 332 of the Vehicle Code, and that has a right-of-way, as defined in Section 525 of the Vehicle Code, of at least 25 and fewer than 70 feet.

(h) “Single-family property” means a property with a single residential dwelling unit. For purposes of this chapter, a residential dwelling unit does not include accessory dwelling units, as defined...
in Section 65852.2, or junior accessory dwelling units, as defined in Section 65852.22.

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

65912.102. The department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this chapter. Any guidelines or terms adopted pursuant to this section are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Article 2. Affordable Housing Developments in Commercial Zones

65912.110. Notwithstanding any inconsistent provision of a local government’s general plan, specific plan, zoning ordinance, or regulation, a housing development shall be a use by right within a zone where office, retail, or parking are a principally permitted use and shall be subject to streamlined, ministerial review pursuant to Section 65912.114 if the proposed housing development satisfies all of the requirements in Sections 65912.111, 65912.112, and 65912.113.

65912.111. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.114 unless the development is proposed to be located on a site that satisfies all of the following criteria:

(a) It is a legal parcel or parcels that meet either of the following:

(1) It is within a city where the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) It is in an unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(b) At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For purposes of this subdivision, parcels that are only separated by a street or highway shall be considered to be adjoined.
(c) It is not adjacent to any site where more than two-thirds of the square footage on the site is dedicated to industrial use.

(d) It satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(e) It is not an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

65912.112. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.114 unless the development proposal meets all of the following affordability criteria:

(a) One hundred percent of the units within the development project, excluding managers' units, shall be dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable cost, as defined by Section 50052.5, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee.

(b) The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

65912.113. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.114 unless the development proposal meets all of the following objective development standards:

(a) The development shall be a multifamily housing project and at least 67 percent of the square footage of the new construction associated with the project shall be designated for residential use.

(b) The residential density for the development will meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households in that jurisdiction as specified in paragraph (3) of subdivision (c) of Section 65583.2.
(c) The development will meet the following objective zoning standards, objective subdivision standards, and objective design review standards:

1. The applicable standards shall be those for the zone that allows residential use at a greater density between the following:
   A. The existing zoning designation for the parcel.
   B. The closest parcel that allows residential use at a density that meets the requirements of subdivision (b).

2. The applicable standards shall be those in effect at the time that the development is submitted to the local government pursuant to this article.

3. The applicable standards shall not preclude any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915.

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

1. A development shall be deemed consistent with the objective zoning standards related to housing density, as applicable, if the density proposed is compliant with the maximum density allowed within that land use designation, notwithstanding any specified maximum unit allocation that may result in fewer units of housing being permitted.

2. In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this section if the development is consistent with the standards set forth in the general plan.

65912.114. (a) If the local government determines that the proposed development is in conflict with any of the objective...
planning standards specified in this article, it shall provide the
development proponent written documentation of which standard
or standards the development conflicts with, and an explanation
for the reason or reasons the development conflicts with that
standard or standards, within the following timeframes:
(1) Within 60 days of submittal of the development proposal to
the local government if the development contains 150 or fewer
housing units.
(2) Within 90 days of submittal of the development proposal to
the local government if the development contains more than 150
housing units.
(b) If the local government fails to provide the required
documentation pursuant to subdivision (a), the development shall
be deemed to satisfy the required objective planning standards.
(c) For purposes of this section, a development is consistent
with the objective planning standards if there is substantial
evidence that would allow a reasonable person to conclude that
the development is consistent with the objective planning standards.
(d) The determination of whether a proposed project submitted
pursuant to this section is or is not in conflict with the objective
planning standards is not a “project” as defined in Section 21065
of the Public Resources Code.
(e) Design review of the development may be conducted by the
local government’s planning commission or any equivalent board
or commission responsible for review and approval of development
projects, or the city council or board of supervisors, as
appropriate. That design review shall be objective and be strictly
focused on assessing compliance with criteria required for
streamlined, ministerial review of projects, as well as any
reasonable objective design standards published and adopted by
ordinance or resolution by a local jurisdiction before submittal of
the development to the local government, and shall be broadly
applicable to developments within the jurisdiction. That design
review shall be completed as follows and shall not in any way
inhibit, chill, or preclude the ministerial approval provided by this
section or its effect, as applicable:
(1) Within 90 days of submittal of the development proposal to
the local government pursuant to this section if the development
contains 150 or fewer housing units.
Within 180 days of submittal of the development proposal to the local government pursuant to this section if the development contains more than 150 housing units.

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

(g) If the development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

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

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

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

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

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

Article 3. Mixed-Income Housing Developments Along Commercial Corridors

65912.120. Notwithstanding any inconsistent provision of a local government’s general plan, specific plan, zoning ordinance, or regulation, a housing development shall be a use by right within
a zone where office, retail, or parking are a principally permitted
use and shall be subject to streamlined, ministerial review pursuant
to Section 65912.124 if the proposed housing development satisfies
all of the requirements in Sections 65912.121, 65912.122, and
65912.123.

65912.121. A development project shall not be subject to the
streamlined, ministerial review process provided by Section
65912.124 unless the development project is on a site that satisfies
all of the following criteria:
(a) It is located on a legal parcel or parcels that meet either of
the following:
   (1) It is within a city where the city boundaries include some
portion of either an urbanized area or urban cluster, as designated
by the United States Census Bureau.
   (2) It is in an unincorporated area, and the legal parcel or
parcels are wholly within the boundaries of an urbanized area or
urban cluster, as designated by the United States Census Bureau.
(b) The project site abuts a commercial corridor.
(c) The project site has a frontage along the commercial
corridor of a minimum of 50 feet.
(d) The site is not greater than 20 acres.
(e) At least 75 percent of the perimeter of the site adjoins parcels
that are developed with urban uses. For purposes of this
subdivision, parcels that are only separated by a street or highway
shall be considered to be adjoined.
(f) It is not adjacent to any site where more than two-thirds of
the square footage on the site is dedicated to industrial use.
(g) The parcel satisfies the requirements specified in
subparagraphs (B) to (K), inclusive, of paragraph (6) of
subdivision (a) of Section 65913.4.
(h) The development is not located on a site where any of the
following apply:
   (1) The development would require the demolition of the
following types of housing:
      (A) Housing that is subject to a recorded covenant, ordinance,
or law that restricts rents to levels affordable to persons and
families of moderate, low, or very low income.
      (B) Housing that is subject to any form of rent or price control
through a public entity’s valid exercise of its police power.
(C) Housing that has been occupied by tenants within the past 10 years, excluding any manager’s units.

(2) The site was previously used for housing that was occupied by tenants, excluding any manager’s units, that was demolished within 10 years before the development proponent submits an application under this article.

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

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

(i) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

65912.122. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.124 unless the development project meets all of the following affordability criteria:

(a) A rental housing development shall have a recorded deed restriction that ensures, at a minimum, that for a period of 55 years, 15 percent of the units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(b) An owner-occupied housing development shall have a recorded deed restriction that ensures, at a minimum, either of the following affordability criteria for a period of 45 years:

(1) Thirty percent of the units must be offered at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to moderate-income households, as defined in Section 50093 of the Health and Safety Code.
(2) Fifteen percent of the units must be offered at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(c) If the amount of affordable housing required by a local inclusionary housing ordinance exceeds that of this section, then the project shall abide by the local inclusionary housing ordinance.

65912.123. A development project shall not be subject to the streamlined, ministerial review process provided by Section 65912.124 unless the development project meets all of the following objective development standards:

(a) The development shall be a multifamily housing project and at least 67 percent of the square footage of the new construction associated with the project is designated for residential use.

(b) The residential density for the development shall be determined as follows:

(1) In a metropolitan jurisdiction, as determined pursuant to subdivisions (d) and (e) of Section 65853.2, the residential density for the development shall meet or exceed the greater of the following:

(A) The residential density allowed on the parcel by the local government.

(B) For sites on a commercial corridor of less than 100 feet in width, 40 units per acre.

(C) For sites on a commercial corridor of 100 feet in width or greater, 60 units per acre.

(D) Notwithstanding subparagraph (B) or (C), for sites within one-half mile of a major transit stop, 80 units per acre.

(2) In a jurisdiction that is not a metropolitan jurisdiction, as determined pursuant to subdivisions (d) and (e) of Section 65853.2, the residential density for the development shall meet or exceed the greater of the following:

(A) The residential density allowed on the parcel by the local government.

(B) For sites on a commercial corridor of less than 100 feet in width, 30 units per acre.

(C) For sites on a commercial corridor of 100 feet in width or greater, 50 units per acre.

(D) Notwithstanding paragraphs (2) and (3), for sites within one-half mile of a major transit stop, 70 units per acre.
(c) The height limit applicable to the housing development shall be the greater of the following:
(1) The height allowed on the parcel by the local government.
(2) For sites on a commercial corridor of less than 100 feet in width, 35 feet.
(3) For sites on a commercial corridor of 110 feet in width or greater, 45 feet.
(4) Notwithstanding paragraphs (2) and (3), for sites within one-half mile of a major transit stop, 65 feet.

(d) The property meets the following setback standards:
(1) For the portion of the property that fronts a commercial corridor, the following shall occur:
(A) No setbacks shall be required.
(B) All parking must be set back at least 25 feet.
(C) On the ground floor, the development must abut within 10 feet of the property line for at least 80 percent of the frontage.
(2) For the portion of the property that fronts a side street, the development must abut within 10 feet of the property line for at least 60 percent of the frontage.
(3) When the property line of a development site abuts a single-family property, the following shall occur:
(A) The ground floor of the development project shall be set back at 10 feet from the single-family property. The amount required to be set back may be decreased by the local government.
(B) Starting with the third floor of the property, each subsequent floor of the development project shall be stepped back from the single-family property in an amount equal to five feet multiplied by the floor number. For purposes of this paragraph, the ground floor counts as the first floor. The amount required to be stepped back may be decreased by the local government.
(4) When the property line of a development site abuts a property that is not a single-family property, starting with the third floor of the property, each subsequent floor of the development project shall be stepped back from the other property in an amount equal to five feet multiplied by the floor number. For purposes of this paragraph, the ground floor counts as the first floor. The amount required to be stepped back may be decreased by the local government.
(e) No parking shall be required, except that this article shall not reduce, eliminate, or preclude the enforcement of any
requirement imposed on a new multifamily residential or nonresidential development to provide bicycle parking, electric vehicle supply equipment installed parking spaces, or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development if this article did not apply.

(f) Other objective zoning standards, objective subdivision standards, and objective design review standards as follows:

1. The applicable standards shall be those for the closest zone in the city, county, or city and county that allows residential use at the residential density determined pursuant to subdivision (b). If no zone exists that allows the residential density determined pursuant to subdivision (b), the applicable standards shall be those for the zone that allows the greatest density within the city, county, or city and county.

2. The applicable standards shall be those in effect at the time that the development is submitted to the local government pursuant to this article.

3. The applicable standards shall not preclude any additional density requirements or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law in Section 65915.

4. For purposes of this section, “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards may be embodied in alternative objective land use specifications adopted by a city or county, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances. In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards pursuant to this subdivision if the development is consistent with the standards set forth in the general plan.

65912.124. (a) If the local government determines that the proposed housing development is in conflict with any of the
objective planning standards specified in this article, it shall
provide the development proponent written documentation of which
standard or standards the development conflicts with, and an
explanation for the reason or reasons the development conflicts
with that standard or standards, within the following timeframes:
(1) Within 60 days of submittal of the development proposal to
the local government if the development contains 150 or fewer
housing units.
(2) Within 90 days of submittal of the development proposal to
the local government if the development contains more than 150
housing units.
(b) If the local government fails to provide the required
documentation pursuant to subdivision (a), the development shall
be deemed to satisfy the required objective planning standards.
(c) For purposes of this section, a development is consistent
with the objective planning standards if there is substantial
evidence that would allow a reasonable person to conclude that
the development is consistent with the objective planning standards.
(d) The determination of whether a proposed project submitted
pursuant to this section is or is not in conflict with the objective
planning standards is not a “project” as defined in Section 21065
of the Public Resources Code.
(e) Design review of the development may be conducted by the
local government’s planning commission or any equivalent board
or commission responsible for review and approval of development
projects, or the city council or board of supervisors, as
appropriate. That design review shall be objective and be strictly
focused on assessing compliance with criteria required for
streamlined, ministerial review of projects, as well as any
reasonable objective design standards published and adopted by
ordinance or resolution by a local jurisdiction before submittal of
the development to the local government, and shall be broadly
applicable to developments within the jurisdiction. That design
review shall be completed as follows and shall not in any way
inhibit, chill, or preclude the ministerial approval provided by this
section or its effect, as applicable:
(1) Within 90 days of submittal of the development proposal to
the local government pursuant to this section if the development
contains 150 or fewer housing units.
Within 180 days of submittal of the development proposal to the local government pursuant to this section if the development contains more than 150 housing units.

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

(g) If the development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

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

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

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

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

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

Article 4. Labor Standards

65912.130. (a) A proponent of a development project approved by a local government pursuant to Article 2 (commencing with Section 65912.110) or Article 3 (commencing with Section 65912.120) shall require in contracts with construction
contractors, and shall certify to the local government, that the standards specified in this section will be met in project construction.

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

(1) All construction workers employed in the execution of the development shall be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

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

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

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

(B) Maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided in that section. This subparagraph does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, “project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.
The obligation of the contractors and subcontractors to pay prevailing wages pursuant to this section may be enforced by any of the following:

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

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

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

(2) If a civil wage and penalty assessment is issued pursuant to this section, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

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

(d) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing does not apply to those portions of development that are not a public work if otherwise provided in a bona fide collective bargaining agreement covering the worker.

(e) The requirement of this section to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

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65912.131. (a) For a development of 50 or more housing units approved by a local government pursuant to Article 2 (commencing with Section 65912.110) or Article 3 (commencing with Section 65912.120), the development proponent shall require in contracts
with construction contractors and shall certify to the local
government that each contractor of any tier who will employ
construction craft employees or will let subcontracts for at least
1,000 hours shall satisfy the requirements in subdivisions (b) and
(c). A construction contractor is deemed in compliance with
subdivisions (b) and (c) if it is signatory to a valid collective
bargaining agreement that requires utilization of registered
apprentices and expenditures on health care for employees and
dependents.

(b) A contractor with construction craft employees shall either
participate in an apprenticeship program approved by the State
of California Division of Apprenticeship Standards pursuant to
Section 3075 of the Labor Code, or request the dispatch of
apprentices from a state-approved apprenticeship program under
the terms and conditions set forth in Section 1777.5 of the Labor
Code. A contractor without construction craft employees shall
show a contractual obligation that its subcontractors comply with
this subdivision.

(c) Each contractor with construction craft employees shall
make health care expenditures for each employee in an amount
per hour worked on the development equivalent to at least the
hourly pro rata cost of a Covered California Platinum level plan
for two 40-year old adults and two dependents 0 to 14 years of
age for the Covered California rating area in which the
development is located. A contractor without construction craft
employees shall show a contractual obligation that its
subcontractors comply with this subdivision. Qualifying
expenditures shall be credited toward compliance with prevailing
wage payment requirements set forth in Section 65912.102.

(d) (1) The development proponent shall provide to the local
government, on a monthly basis while its construction contracts
on the development are being performed, a report demonstrating
compliance with subdivisions (b) and (c). The reports shall be
considered public records under the California Public Records
Act (Division 10 (commencing with Section 7920.000) of Title 1),
and shall be open to public inspection.

(2) A development proponent that fails to provide the monthly
report shall be subject to a civil penalty for each month for which
the report has not been provided, in the amount of 10 percent of
the dollar value of construction work performed by that contractor
on the development in the month in question, up to a maximum of
ten thousand dollars ($10,000). Any contractor or subcontractor
that fails to comply with subdivision (b) or (c) shall be subject to
a civil penalty of two hundred dollars ($200) per day for each
worker employed in contravention of subdivision (b) or (c).
(3) Penalties may be assessed by the Labor Commissioner within
18 months of completion of the development using the procedures
for issuance of civil wage and penalty assessments specified in
Section 1741 of the Labor Code, and may be reviewed pursuant
to Section 1742 of the Labor Code. Penalties shall be deposited
in the State Public Works Enforcement Fund established pursuant
to Section 1771.3 of the Labor Code.
(e) Each construction contractor shall maintain and verify
payroll records pursuant to Section 1776 of the Labor Code. Each
construction contractor shall submit payroll records directly to
the Labor Commissioner at least monthly in a format prescribed
by the Labor Commissioner in accordance with subparagraph (A)
of paragraph (3) of subdivision (a) of Section 1771.4 of the Labor
Code. The records shall include a statement of fringe benefits.
Upon request by a joint labor-management cooperation committee
established pursuant to the Federal Labor Management
Cooperation Act of 1978 (29 U.S.C. Sec. 175a), the records shall
be provided pursuant to subdivision (e) of Section 1776 of the
Labor Code.
(f) All construction contractors shall report any change in
apprenticeship program participation or health care expenditures
to the local government within 10 business days, and shall reflect
those changes on the monthly report. The reports shall be
considered public records pursuant to the California Public
Records Act (Division 10 (commencing with Section 7920.000) of
Title 1) and shall be open to public inspection.
(g) A joint labor-management cooperation committee established
pursuant to the Federal Labor Management Cooperation Act of
1978 (29 U.S.C. Sec. 175a) shall have standing to sue a
construction contractor for failure to make health care
expenditures pursuant to subdivision (c) in accordance with Section
218.7 or 218.8 of the Labor Code.
Article 5. Severability

65912.140. The provisions of this chapter are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this chapter is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this chapter. The people of the State of California hereby declare that they would have adopted this chapter and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any other portion of this chapter or application thereof would be subsequently declared invalid. In particular, the provisions of Section 65912.130 and the provisions of Section 65912.131 are distinct and severable from one another, and the provisions of subdivision (c) of Section 65912.131 concerning health care expenditure are distinct and severable from the remaining provisions of Article 4 (commencing with Section 65912.131). If Section 65912.130 is held invalid, the requirements of Section 65912.131 shall stand alone and vice versa. If any portion of Section 65912.131 is held invalid, the remaining provisions of this article shall continue in effect with the exception of subdivision (g) of Section 65912.131.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

SECTION 1. Section 50675.1.1 of the Health and Safety Code is amended to read:
50675.1.1. (a) Notwithstanding any other law, including subdivision (b) of Section 50675.1, funds appropriated in the 2020 Budget Act or an act related to the 2020 Budget Act, including, but not limited to, moneys received from the Coronavirus Relief Fund established by the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136), to provide housing for individuals and families who are experiencing homelessness or who are at risk of homelessness, as defined in Section 578.3 of Title 24 of the Code of Federal Regulation, and who are impacted by the COVID-19 pandemic, shall be disbursed in accordance with the Multifamily Housing Program, including as grants to cities, counties, and other local public entities, as necessary, created by this chapter for the following uses, consistent with applicable federal law and guidance:

(1) Acquisition or rehabilitation of motels, hotels, or hostels.
(2) Master leasing of properties.
(3) Acquisition of other sites and assets, including purchase of apartments or homes, adult residential facilities, residential care facilities for the elderly, manufactured housing, and other buildings with existing residential uses that could be converted to permanent or interim housing.
(4) Conversion of units from nonresidential to residential in a structure with a certificate of occupancy as a motel, hotel, or hostel.
(5) The purchase of affordability covenants and restrictions for units.
(6) Relocation costs for individuals who are being displaced as a result of rehabilitation of existing units.
(7) Capitalized operating subsidies for units purchased, converted, or altered with funds provided by this section.
(8) Recreational vehicle parking programs, including subsidizing rent for recreational vehicles or other costs associated with safe parking programs. For purposes of this paragraph, “recreational vehicle” has the same meaning as that term is defined in Section 48040.

(b) Where possible, the funds described in subdivision (a) shall be allocated by the department in a manner that takes into consideration all of the following:

(1) Need geographically across the state.
(2) Areas with high unsheltered populations and high COVID-19 infection rates.
(3) The demonstrated ability of the applicant to fund ongoing operating reserves.

(4) The creation of new permanent housing options.

(5) The potential for state funding for capitalized operating reserves to make additional housing units financially viable through this program.

(e) Any conflict between the other requirements of the Multifamily Housing Program created by this chapter and this section shall be resolved in favor of this section, as may be set forth in the guidelines authorized by this section.

(d) The Department of Housing and Community Development may adopt guidelines for the expenditure of the funds appropriated to the department. The guidelines shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Up to 2 percent of the funds appropriated for this section may be expended for the costs to administer this program.

(f) On or before April 1, 2021, the Department of Housing and Community Development, in coordination with the Business, Consumer Services, and Housing Agency, shall report to the chairs of each fiscal committee and each relevant policy committee of the Legislature on the use of the funds described in this section. The report shall include, but not be limited to, all of the following:

(1) The amount of funds expended for the uses described in this section.

(2) The location of any properties for which the funds are used.

(3) The number of useable housing units produced, or planned to be produced, using the funds.

(4) The number of individuals housed, or likely to be housed, using the funds.

(5) The number of units, and the location of those units, for which operating subsidies have been, or are planned to be, capitalized using the funds.

(6) An explanation of how funding decisions were made for acquisition, conversion, or rehabilitation projects, or for capitalized operating subsidies, including what metrics were considered in making those decisions.

(7) Any lessons learned from the use of the funds.

(g) Any project that uses funds received from the Coronavirus Relief Fund for any of the purposes specified in subdivision (a)
shall be deemed consistent and in conformity with any applicable
local plan, standard, or requirement, and allowed as a permitted
use, within the zone in which the structure is located, and shall not
be subject to a conditional use permit, discretionary permit, or to
any other discretionary reviews or approvals.

(h) A report to be submitted pursuant to subdivision (f) shall be
submitted in compliance with Section 9795 of the Government
Code.

CORRECTIONS:

Heading—Line 3.

REVISIONS:

Heading—Line 1.
Item B-6
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Assembly Bill 2050 (Lee) - Residential Real Property: Withdrawal of Accommodations (“AB 2050”) involves a policy matter that may not specifically addressed within the adopted Legislative Platform language. While the Legislative Platform contains statements to support initiatives around rent control and collaborating with local stakeholders on measures to maintain renter populations to prevent homelessness, there appears to be no statements directly related to the Ellis Act.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 2050 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 2050, the Liaisons may recommend the following actions:

1) Support AB 2050;
2) Support if amended AB 2050;
3) Oppose AB 2050;
4) Oppose unless amended AB 2050;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 2050, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 26, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 2050 (Lee) Residential Property: Ellis Act: Restrictions on Eviction

Version

As Amended in the Assembly on April 18, 2022

Summary
Prohibits withdrawal of property from the rental market under the Ellis Act in a rent control jurisdiction unless every owner has owned the property for at least five continuous years. Specifically, this bill:

1. Provides that, in a rent control jurisdiction, an owner of accommodations (i.e., residential rental units) cannot utilize the Ellis Act to do any of the following unless all of the owners of the accommodations have been owners of record for at least five continuous years:
   a. File a notice with the public entity that regulates rents to withdraw the accommodations from the rental market.
   b. Bring an action to recover possession of accommodations.
   c. Threaten to do either of the above.

2. Clarifies that if any owner of record is an entity (rather than a natural person), then every person with an ownership interest in that entity must have held their ownership interest for at least five continuous years.

3. Exempts owners of accommodations from the five-year ownership requirement and the prohibition on eviction and/or the prohibition on recovering accommodations (listed in items 1 and 2 above) if all of the following requirements are satisfied the owner:
   a. Is a natural person,
   b. Holds title to the property as trustee in a trust in which the settlor and all beneficiaries are natural persons, or
   c. Is a limited liability company that has no more than four members, all of whom are natural persons.
4. Requires that each natural person is either the sole beneficial owner (i.e., does not hold ownership on behalf of another) or holds title to the property as trustee.

5. Specifies that the owner of record and each natural person listed in ownership documents either directly or indirectly owns no more than four residential units, other than their primary residence.

6. Restricts an owner of accommodations—including a person or entity with an ownership interest in an entity that owns accommodations—who uses the Ellis Act to withdraw those accommodations from the rental market and then acquires a new property containing accommodations from utilizing the Act to withdraw the second property from the rental market for a period 10 years from the date it was acquired.

7. Prohibits an owner of accommodations, including a person or entity with an ownership interest in an entity that owns accommodations, from acting in concert with a co-owner, successor owner, prospective owner, agent, employee, or assignee to circumvent 1) or 4).

8. Requires an owner withdrawing accommodations under the Ellis Act to identify, for the public entity that regulates rents, each person or entity with an ownership interest in the accommodations, including each person or entity with an ownership interest in that entity. Further provides that this information is not confidential and shall be available for public inspection.

9. Provides the following remedies to tenants and lessees against any person that violates the ownership standards in this measure – listed in items 1), 4), or 0 above:
   a. Actual damages.
   b. Special damages of $2,000 per violation.
   c. Reasonable attorney’s fees and costs.

10. Provides that the remedies outlined in this measure do not exclude any other remedies available under law.

11. Finds and declares this bill applies to all cities, including charter cities, because housing, including maintenance of accommodations, is a matter of statewide concern and not a municipal affair, as that term is defined under the California constitution.

**Background and Existing Law**

The Ellis Act, enacted in 1985, allows an owner of rental property to evict tenants without cause and remove the property from the rental market, while still retaining ownership of the property—if the owner follows procedures required under state and local law. The Act applies throughout the state, but is used most often in cities where tenants are otherwise protected by rent control and “just cause” eviction ordinances.

Unfortunately, many landlords have exploited the Ellis Act to evict tenants under the pretense of removing properties from the rental market, and then re-renting them onto the market at higher rates, thereby amplifying the statewide housing crisis. Such acts are completely inconsistent with the
Act’s purpose, which was to allow property owners who no longer wished to be landlords to exit the rental market.

This bill would introduce several reforms aimed at curbing abuses of the Ellis Act. First, it would prohibit use of the Act to remove a property from the rental market in a rent control jurisdiction until all of the owners of the property (including holders of ownership interests in an entity that, in turn, owns the property) have maintained their ownership for a period of at least five continuous years.

Second, if a person utilizes the Ellis Act to remove a property from the rental market and then acquires another rental property, that person would have to wait 10 years before being allowed to utilize the Ellis Act to remove the second property from the rental market. Both of these provisions, which could be enforced in the courts by tenants, would limit speculators’ misuse of the Act to profit at the expense of tenants’ long-term housing stability.

AB 2050 is sponsored by the Coalition for Economic Survival and the Tenderloin Housing Clinic. It is supported by a broad coalition that includes the cities of Lafayette, Oakland, Santa Monica, and West Hollywood; numerous legal aid nonprofits, including Bet Tzedek Legal Services, California Rural Legal Assistance Foundation, and Western Center on Law & Poverty; grassroots organizations such as ACCE and Tenants Together; and pro-housing YIMBY groups from across the state.

The bill is opposed by five trade associations for the rental housing industry, including California Apartment Association and California Association of Realtors.

The Ellis Act, Government Code Sections 7060-7060.7, was enacted in 1985 to allow landlords to evict tenants without cause in order to remove properties from the rental market, while still retaining ownership of those properties—so long as the exiting landlords follow applicable procedures under state and local law. As subsequently interpreted by the courts, a landlord’s authority to evict under the Act even extends to properties in jurisdictions where the tenants would otherwise be protected by rent control and just-cause eviction ordinances. (Bullock v. City & County of San Francisco (1990) 221 Cal. App. 3d 1072, 1097.)

The Legislature was aware that the Act could be used to displace tenants in such jurisdictions and thereby circumvent applicable tenant protections. Accordingly, the Act includes safeguards meant to protect against bad faith withdrawals by unscrupulous actors, primarily by authorizing jurisdictions to enact regulations that prevent landlords from circumventing tenant protections.

Unfortunately, these safeguards have proven inadequate to the task of preventing misuse of the Act to evict tenants and raise rents. As explained by the bill’s author:

[L]andlords have a large monetary incentive to use the Ellis Act to circumvent the just-cause protections of a local entity’s rent stabilization ordinance in order to empty buildings of lower-rent tenants and then re-enter the market by renting to new tenants at market rates.

Landlords use Ellis to accomplish this by following a similar pattern. Before any official notices to withdraw are served, landlords will do everything they can to empty the building of as many tenants as possible through legal means, such as buyouts, and through illegal means, such as tenant harassment. Once the landlord is left with only a few holdouts, who are typically the most vulnerable long-term tenants paying the lowest rent, the notice of withdrawal is served on the local [rent control] entity, which starts the clock on the Ellis process. If a unit is listed as “vacant” on the notice of withdrawal, it does not have a current rent-stabilized rent attached to it. Once the building is
completely empty, the landlord waits out the time period with the most restrictions, which is two years, and then re-rents only those units that were listed as “vacant.” The landlord claims that the property is only back on the market as to those units, so they can continue to earn rental income without having to follow any of the other Ellis restrictions. Then, the [landlord] waits out the 5-year period, which requires any re-rental of previously-occupied units to be at the rental rate at the time of withdrawal, before re-renting any other units.

**Status of Legislation**
This measure is currently pending in the Senate Appropriations Committee.

**Support**
Coalition for Economic Survival (co-sponsor)
Tenderloin Housing Clinic (co-sponsor)
Abundant Housing LA
AIDS Healthcare Foundation
Alliance of Californians for Community Empowerment (ACCE)
Asian Americans Advancing Justice - California
Bend the Arc: Jewish Action, Southern California
Bet Tzedek Legal Services
Build Affordable Faster
California Housing Partnership Corporation
California Latinas for Reproductive Justice
California Rural Legal Assistance Foundation
California YIMBY
Central Coast Alliance United for a Sustainable Economy (CAUSE)
Chispa
City of Lafayette
City of Oakland
City of Santa Monica
City of West Hollywood
Community Housing Partnership San Francisco
East Bay Housing Organizations
East Bay YIMBY
Ground Game LA
HomeRise
Housing Is a Human Right
Housing Now!
Housing Rights Committee of San Francisco
Law Foundation of Silicon Valley
Livable California
Mountain View YIMBY
Peninsula for Everyone
PICO California
Public Advocates
Public Counsel
San Francisco Anti-Displacement Coalition
San Francisco YIMBY
Santa Cruz YIMBY
Santa Monica Democratic Club
Senior and Disability Action
Sierra Business Council
San Luis Obispo County YIMBY
South Bay Community Land Trust
South Bay YIMBY
Strategic Actions for a Just Economy (SAJE)
TechEquity Collaborative
Tenants Together
United Way of Greater Los Angeles
University of California Student Association
Western Center on Law & Poverty
Westside for Everyone
YIMBY Action
4 individuals

**Opposition**
Apartment Association of Greater Los Angeles
California Apartment Association
California Association of Realtors
California Rental Housing Association
South California Rental Housing Association
Attachment 2
An act to add Section 7060.8 to the Government Code, relating to residential real property.

LEGISLATIVE COUNSEL’S DIGEST


Existing law, commonly known as the Ellis Act, generally prohibits public entities from adopting any statute, ordinance, or regulation, or taking any administrative action, to compel the owner of residential real property to offer or to continue to offer accommodations, as defined, in the property for rent or lease.

Existing law authorizes any public entity that has in effect any control or system of control on the price at which accommodations are offered for rent or lease to require by statute or ordinance, or by regulation, that the owner notify the entity of an intention to withdraw those accommodations from rent or lease, and to require that the notice contain specified statements.
This bill would, when a public entity has a price control system in effect, prohibit an owner of accommodations from filing a notice with a public entity of an intention to withdraw accommodations or prosecuting an action to recover possession of accommodations, or threatening to do so, if not all the owners of the accommodations have been owners of record for at least 5 continuous years, with specified exceptions, or with respect to property that the owner acquired within 10 years after providing notice of an intent to withdraw accommodations at a different property: property for a period of 10 years from the date the new property is acquired.

This bill would require an owner of accommodations notifying the public entity of an intent to withdraw accommodations from rent or lease, as provided, to identify each person or entity with an ownership interest in the accommodations, as provided. That information would be available for public inspection. The bill would prohibit an owner or any person or entity with an ownership interest from acting in concert with a coowner, successor owner, prospective owner, agent, employee, or assignee to circumvent these provisions. The bill would provide specified, nonexclusive remedies for a violation.

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


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

SECTION 1. Section 7060.8 is added to the Government Code, to read:

7060.8. (a) When a public entity that, by a valid exercise of its police power, has in effect any control or system of control on the price at which accommodations are offered for rent or lease, all of the following shall apply:

(1) An owner of accommodations shall not file a notice with a public entity to withdraw accommodations pursuant to this chapter, prosecute an action to recover possession of accommodations pursuant to this chapter, or threaten to do either of these things, unless all the owners of the accommodations have been owners of record for at least five continuous years. If an owner of record is not a natural person, then all persons or entities with an
ownership interest in that entity shall have held that interest for at
least five continuous years. The five-year ownership requirements
in this paragraph shall not apply to an owner of accommodations
that meets all of the following requirements:

(A) The owner of record is a natural person, a limited liability
company in which there are no more than four members and all
of the members are natural persons, or a natural person who holds
title to the property as trustee in a trust in which the settlor and all
beneficiaries are natural persons.

(B) All natural persons referenced in subparagraph (A) are the
sole beneficial owners of the accommodations, with the exception
of a person who holds title to the property as trustee.

(C) The owner of record and all natural persons referenced in
subparagraph (A) each directly or indirectly own four or fewer
residential units in the aggregate, not including the owner’s
principal residence.

(2) If an owner of accommodations, including a person or entity
with an ownership interest in an entity that owns the
accommodations, files a notice of intent with the public entity to
withdraw accommodations under this chapter, and the owner
subsequently acquires a new property containing accommodations
within 10 years of that filing, the owner shall not withdraw
accommodations pursuant to this chapter, prosecute an action to
recover possession of accommodations pursuant to this chapter,
nor threaten to do either of these things, with respect to the later
acquired property, for a period of 10 years from the date the new property is acquired.

(3) An owner of accommodations, or any person or entity with
an ownership interest in an entity that owns the accommodations,
shall not act in concert with a coowner, successor owner,
prospective owner, agent, employee, or assignee, to circumvent
the limitations of paragraph (1) or (2).

(4) An owner of accommodations notifying the public entity of
an intention to withdraw accommodations from rent or lease shall
identify each person or entity with an ownership interest in the
accommodations, and if any entity is not a natural person, identify
all persons or entities with an ownership interest in that entity.

This information shall not be confidential and shall be available
for public inspection.
(b) A person or entity that violates the provisions described in paragraph (1) or (2) of subdivision (a) is liable to the tenant or lessee for actual damages, special damages of not less than two thousand dollars ($2,000) for each violation, and reasonable attorney’s fees and costs in an amount fixed by the court. The remedy provided by this section is not exclusive and shall not preclude either the tenant or lessee from pursuing any other remedy provided by law.

SEC. 2. The Legislature finds and declares that housing, including maintenance of accommodations, is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act adding Section 7060.8 to the Government Code applies to all cities, including charter cities.
Item B-7
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: March 8, 2022
SUBJECT: A. Assembly Bill 2097 (Friedman) - Residential and Commercial Development: Remodeling, Renovations, and Additions: Parking Requirements; AND

B. Senate Bill 1067 (Portantino) - Housing Development Projects: Automobile Parking Requirements

ATTACHMENTS: 1. Summary Memo – AB 2097
   2. Bill Text – AB 2097
   3. Summary Memo – SB 1067
   4. Bill Text – SB 1067

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

Assembly Bill 2097 (Friedman) - Residential and Commercial Development: Remodeling, Renovations, and Additions: Parking Requirements Buildings (AB 2097) and Senate Bill 1067 (Portantino) - Housing Development Projects: Automobile Parking Requirements (SB 1067) involve policy matters which have a nexus to the City's adopted Legislative Platform language. Specifically, the following statements may apply to these two bills:

- 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 summary memos for AB 2097 (Attachment 1) and SB 1067 (Attachment 2) to the City. The state lobbyist will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee on these two bills.

After discussion of AB 2097 and SB 1067, the Liaisons may recommend the following actions:

- Oppose AB 2097 and/or SB 1067;
- Support AB 2097 and/or SB 1067;
- Support if amended AB 2097 and/or SB 1067;
- Oppose unless amended AB 2097 and/or SB 1067;
- 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
April 26, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 2097 (Friedman) Residential and commercial development: remodeling, renovations, and additions: parking requirements.

Version
As introduced on February 14, 2022

Summary
Prohibits public agencies from enforcing minimum automobile parking requirements for developments located close to public transit.

Specifically, this bill:
1) Prohibits public agencies from imposing or enforcing a minimum automobile parking requirement for residential, commercial and other developments if the parcel is located within one-half mile walking distance of either of the following:
   a. A high-quality transit corridor, as defined; or
   b. A major transit stop, as defined.
2) Provides that when a development includes parking voluntarily, a local government may impose the following requirements on the voluntary parking spaces:
   a. Require spaces for car share vehicles;
   b. Require spaces to be shared with the public; and
   c. Require owners of the parking spaces to charge for parking.
3) Provides that nothing in the bill shall reduce, eliminate, or preclude the enforcement of a requirement for a development to provide electric vehicle supply equipment installed parking spaces, or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development.
4) Provides that the prohibition on minimum automobile parking requirements shall not apply to commercial parking requirements if it conflicts with an existing contractual agreement that was executed before January 1, 2023, if all of the required commercial parking is shared with the public. Specifies that this provision applies to an existing contractual agreement that is amended after January 1, 2023, provided that the amendments do not increase commercial parking requirements. Specifies that a project subject to such an agreement may voluntarily build additional parking that is not shared with the public.
5) Declares that this bill addresses a matter of statewide concern rather than a municipal affair and therefore applies to all cities, including charter cities.
6) Provides that no reimbursement is required by this bill, pursuant to Section 6 of Article XIII B of the California Constitution, because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill.

**Background and Existing Law**

1) Allows a city or a county to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including land use authority.

2) Requires the California Air Resources Board (CARB), to set regional targets for greenhouse gas (GHG) reductions and requires each metropolitan planning organization (MPO) to prepare a sustainable communities strategy (SCS) as part of its regional transportation plans (RTP). The SCS demonstrates how the region will meet its GHG targets through land use, housing, and transportation strategies.

3) Requires each city or county to adopt a general plan for the physical development of the city or county and authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities and counties.

4) Authorizes the California Building Standards Commission (BSC) to approve and adopt building standards. Every three years, BSC, in coordination with relevant state agencies, undertakes rulemaking to revise and update the California Building Standards Code (Title 24 of the California Code of Regulations). These building codes serve as the basis for the design and construction of buildings in California.
   a. Establishes, under the California Building Code, accessible parking standards and minimum levels of parking spaces accessible to persons with disabilities that must be included in new developments as follows:
      i. For specified multifamily developments, two percent of assigned parking spaces and five percent of unassigned visitor parking spaces;
      ii. For public buildings, public accommodations, public housing and commercial buildings at least one space per parking facility with graduated increases resulting in no less than two percent of total spaces;
      iii. For hospitals and outpatient facilities, at least 10 percent of patient and visitor parking spaces; and
      iv. For rehabilitation and physical therapy facilities, at least 20 percent of patient and visitor parking spaces.
   b. Establishes, under the California Green Building Code, residential and non-residential parking standards requiring new buildings to provide electric vehicle (EV) parking spaces as follows:
      i. New single- and two-family dwelling units with attached garages must include infrastructure for EV charging;
      ii. Multifamily developments must designate at least 10 percent of the total number of parking spaces provided as EV parking spaces; and
      iii. Nonresidential developments must provide at least one EV parking space for buildings with more than 10 parking spaces, and must incrementally increase the number of EV parking spaces provided in parking lots with up to 200 spaces. For developments with more than 200 spaces developments are required to dedicate at least 6 percent of the total spaces for EV parking spaces.
5) Defines “Major transit stop” and “high-quality transit corridor” as follows:
   a. “Major transit stop” means a site containing any of the following:
      i. An existing rail or bus rapid transit station;
      ii. A ferry terminal served by either a bus or rail transit service; or
      iii. The intersection of two or more major bus routes with a frequency of service
           interval of 15 minutes or less during the morning and afternoon peak
           commute periods.
   b. “High-quality transit corridor” means a corridor with fixed route bus service with
      service intervals no longer than 15 minutes during peak commute hours.

Status of Legislation
The bill had its first hearing in the Assembly Local Government Committee on April 20, 2022, and passed with a vote of 6-2. The bill was heard in Assembly Housing Committee on April 27, 2022 and passed with a vote of 6-1. The bill is now pending in the Assembly Appropriations Committee.

Arguments in Support
According to one of the sponsors, SPUR, “AB 2097 will eliminate requirements that homes and commercial buildings near transit or in neighborhoods with less car use be built with more parking than is necessary. By reducing the overbuilding of parking, this bill would reduce traffic, greenhouse gas emissions and air pollution, reduce the cost of housing to renters and homeowners, and improve the prospects of small neighborhood businesses fighting to survive during the pandemic.”

Arguments in Opposition
The League of California Cities writes in opposition, “AB 2097 would essentially allow developers to dictate parking requirements in large areas of many cities because the definition of public transit includes entire bus routes with fifteen-minute service intervals. Restricting parking requirements within one-half mile of a high-frequency transit route does not guarantee individuals living, working, or shopping on those parcels will actually use transit. Many residents will continue to own automobiles and require nearby parking, which will only increase parking demand and congestion.”

Support
350 Bay Area Action
350 Humboldt
350 Humboldt: Grass Roots Climate Action
AARP
Active San Gabriel Valley
American Planning Association, California Chapter
Asian Business Association
CA Coalition for Clean Air
California Apartment Association
California Building Industry Association
California Community Builders
California Downtown Association
California Hispanic Chamber of Commerce
California Yimby
CBIA
Central City Association
Central City Association of Los Angeles
Circulate San Diego
City of Berkeley Councilmember Lori Droste
City of Berkeley Councilmember Rashi Kesawar
City of Emeryville Mayor John J Bauters
City of Gilroy Council Member Zach Hilton
City of San Mateo Mayor Rick Bonilla
City of Santa Monica Councilmember Gleam Davis
City of Seaside Councilmember Jon Wizard
CivicWell
Climate Action Campaign
Council of Infill Builders
Culver City Councilmember Alex Fisch
Diablo Valley for Everyone
East Bay for Everyone
East Bay Young Democrats
Fremont for Everyone
Greenbelt Alliance
Habitat for Humanity California
Housing Action Coalition
Housing Action Coalition (UNREG)
Independent Hospitality Coalition
Interfaith Power & Light
LA Mesa Councilmember Colin Parent
League of Women Voters of California
LISC San Diego
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation (BIZ-FED)
Menlo Park Vice-Mayor Jen Wolosin
MidPen Housing
Monterey Bay Economic Partnership
Mountain View Yimby
Parkade
Peninsula for Everyone
People for Housing - Orange County
San Diego; City of
San Francisco Bay Area Planning and Urban Research Association (SPUR)
San Francisco Bay Area Rapid Transit District (BART)
San Francisco Bay Area Water Emergency Transportation Authority
San Francisco YIMBY
Sand Hill Property Company
Sand Cruz County Business Council
Santa Cruz YIMBY
Santa Monica Chamber of Commerce
Sierra Club California
Silicon Valley Leadership Group
South Bay YIMBY
South Pasadena Residents for Responsible Growth
Southside Forward
SPUR
Streets for All
Streets for People
Terner Center for Housing Innovation at the University of California, Berkeley
The Los Angeles Coalition for the Economy & Jobs
The Two Hundred
Transform
Urban Environmentalists
Ventura County Supervisor Carmen Ramirez
West Hollywood Councilmember John Erickson
YIMBY Action
YIMBY Democrats of San Diego County

**Opposition**
City of Santa Clarita
City/county Association of Governments of San Mateo County
Hills 2000 Friends of the Hills
Lafayette; City of
League of California Cities
Marin County Council of Mayors and Council Members
Resident Information Resource of Santa Monica
United Neighbors
Village at Sherman Oaks Business Improvement District
Individuals -2

*Oppose Unless Amended*
Truckee; Town of
Tustin, City of
Attachment 2
ASSEMBLY BILL No. 2097

Introduced by Assembly Member Friedman
(Coauthor: Assembly Member Lee)
(Coauthors: Senators Skinner and Wiener)

February 14, 2022

An act to add Section 65863.2 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL’S DIGEST

AB 2097, as introduced, Friedman. Residential and commercial development: remodeling, renovations, and additions: parking requirements.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a land use element and a conservation element. Existing law also permits variances to be granted from the parking requirements of a zoning ordinance for nonresidential development if the variance will be an incentive to the development and the variance will facilitate access to the development by patrons of public transit facilities.

This bill would prohibit a public agency from imposing a minimum automobile parking requirement, or enforcing a minimum automobile parking requirement, on residential, commercial, or other development if the development is located on a parcel that is within one-half mile of public transit, as defined. When a project provides parking voluntarily, the bill would authorize a public agency to impose specified requirements on the voluntary parking. The bill would prohibit these
provisions from reducing, eliminating, or precluding the enforcement of any requirement imposed on a new multifamily or nonresidential development to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons with disabilities. The bill would exempt certain commercial parking requirements from these provisions if the requirements of the bill conflict with an existing contractual agreement of the public agency that was executed before January 1, 2023.

By changing the duties of local planning officials, this bill would impose a state-mandated local program.

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

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

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


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

SECTION 1. Section 65863.2 is added to the Government Code, to read:

(a) A public agency shall not impose a minimum automobile parking requirement, or enforce a minimum automobile parking requirement, on residential, commercial, or other development if the parcel is located within one-half mile of public transit.

(b) When a project provides parking voluntarily, a public agency may impose requirements on that voluntary parking to require spaces for car share vehicles, require spaces to be shared with the public, or require parking owners to charge for parking.

(c) Subdivision (a) shall not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new multifamily residential or nonresidential development to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development if this section did not apply.
(d) (1) Subdivision (a) shall not apply to commercial parking requirements if it conflicts with an existing contractual agreement of the public agency that was executed before January 1, 2023, provided that all of the required commercial parking is shared with the public. This subdivision shall apply to an existing contractual agreement that is amended after January 1, 2023, provided that the amendments do not increase commercial parking requirements. 

(2) A project may voluntarily build additional parking that is not shared with the public.

(e) For purposes of this section, “public transit” means any of the following:

(1) A high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, except that it also includes a high-quality transit corridor included in an applicable regional transportation plan.

(2) A major transit stop as defined in Section 21064.3 of the Public Resources Code, except that it also includes a major transit stop that is included in an applicable regional transportation plan.

(f) The Legislature finds and declares that this section addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
Attachment 3
April 27, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: SB 1067 (Portantino) Housing development projects: automobile parking requirements.

Version
As amended in the Senate on April 4, 2022

Summary
This bill prohibits local governments from imposing parking minimums on certain housing developments near a major transit stop, as specified.

Specifically, this bill:

1) Precludes a local government from imposing or enforcing parking minimums on a housing development project that meets the following requirements:
   a. The housing development is located within ½ a mile of public transit.
   b. The development satisfies either of the following:
      i. The development dedicates a minimum of 25% of the total number of housing units to very low, low-, and moderate-income households, students, the elderly, or persons with disabilities.
      ii. Except as provided by (2) below, the developer demonstrates to the local government that the development would not have a negative impact on any of the following:
         A. The local government's ability to meet its share of the regional housing need for low- and very low-income households.
         B. The local government's ability to meet any special needs housing as required by housing element law.
         C. Existing residential or commercial parking within ½ mile of the housing development project.

2) States that (1)(b)(ii) does not apply to a project if, within 30 days, a local government makes a finding, supported by the preponderance of the evidence, that the demonstration meets one or more of the following:
   a. The developer did not employ a qualified entity with demonstrated expertise preparing planning documents.
   b. The methodology did not follow best practices.
c. The methodology was not sufficiently rigorous to allow an assessment of whether the project would have a negative impact on any of the conditions in (1)(b)(ii).

**Background**

*Parking standards.*

Cities and counties generally establish requirements for a minimum amount of parking that developers must provide for a given facility or use, known as parking minimums or parking ratios. Local governments commonly index parking minimums to conditions related to the building or facility with which they are associated. For example, shopping centers may have parking requirements linked to total floor space, restaurants may be linked to the total number of seats, and hotels may have parking spaces linked to the number of beds or rooms.

In 2019, the California Air Resources Board (CARB) reviewed over 200 municipal codes and found that for nonresidential construction, an average of at least one parking space is installed for every 275 square feet of nonresidential building floor space. Accounting for the fact that approximately 60% of reviewed municipal codes already allow developers to reduce parking by an average of 30%, CARB staff estimated that between 1.4 million and 1.7 million new nonresidential parking spaces may be constructed from 2021-2024.

CARB also conducted a limited review of minimum parking requirements and found that parking requirements often result in an over-supply of parking. In reviewing 10 developments in Southern California, CARB noted that while most sites built exactly the minimum parking required by the local agency, the peak parking utilization at these sites ranged from 56% to 72% at each development, suggesting that the minimum requirements established by the local agency created an oversupply of parking.

*Sustainability goals and transit-oriented development.*

AB 32 (Núñez, Chapter 488, Statutes of 2006) requires California to reduce greenhouse gas (GHG) emissions to 1990 levels by 2020. SB 375 (Steinberg, Chapter 728, Statutes 2008) supports the state’s climate action goals to reduce GHG emissions through coordinated transportation and land-use planning with the goal of more sustainable communities by requiring cities and counties to adopt sustainable communities strategies to show how development will support reduction in GHG emissions. A key component of reducing GHG is to move people out of their cars and into public transit. To encourage use of transit, some cities and counties have adopted policies like eliminating minimum parking requirements for projects that are close to transit where demand for parking spaces is low. Parking requirements often prevent infill redevelopment on small lots where it is difficult and costly to fit both a new building and the required parking. In addition, parking requirements prevent new uses for older buildings that lack the required parking spaces.

*Density Bonus Law (DBL).*

Given California’s high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. DBL allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance, in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of DBL is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy.
Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions (hereafter referred to as incentives); waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards.

This bill would eliminate parking under specified circumstances, without the additional benefits awarded under density bonus law.

**Upcoming Amendments**
The Senate Housing Committee on April 27 passed the bill with the following amendments:

1) Eliminate parking requirements on developments with at least 20% of the units affordable to lower-income households, instead of 25%.
2) Switch the burden to the local government to prove that reduced parking would have negative impacts (instead of placing the burden on the developer to prove it won't have a negative impact), to maintain consistency with density bonus law parking study requirements. This would include provisions from the Governance and Finance Committee to ensure specific metrics are provided within 30 days and supported by a preponderance of the evidence.
3) Eliminate parking requirements on any project with fewer than 20 units.
4) Add this bill to the AB 72 list so HCD can monitor violations and report to the AG.

These amendments have yet to be in print.

**Status of Legislation**
The bill had its first hearing in the Senate Governance and Finance Committee March 31, 2022 and passed with a vote of 4-0 with 1 abstention. The Senate Housing Committee passed the bill as amended on April 27 with a 6-2 vote. The bill is now pending in the Senate Appropriations Committee.

**Arguments in Support**
Author’s Statement. “Cities and counties generally require property owners to provide and maintain a certain number of off-street parking spaces. The imposition of mandatory parking minimums can increase the cost of housing, limit the number of available units, led to an oversupply of parking spaces, and increased greenhouse gas emissions. While some cities have voluntarily moved towards removing parking minimums, others review projects on a case-by-case basis, and some provide for reduced parking requirements with safeguards for protecting the production of units for low-income, senior citizens, and disabled persons. To this end, SB 1067 prohibits a city from imposing any minimum automobile parking requirement on a housing development project that is located within 1/2 mile of public transit as long as specific conditions are met. The project must either dedicate 25% of the total units to lower-income households, the elderly, or persons with disabilities, or the developer must demonstrate to the local agency that the development would not have a negative impact on the local agency’s ability to meet specified housing needs and would not have a negative impact on traffic circulation or existing residential or commercial parking within 1/2 mile of the project.”

**Arguments in Opposition**
Local governments and community groups oppose this bill due to a lack of local control, reduced parking requirements, and a general concern over continually changing state housing laws. South Pasadena Residents for Responsible Growth are opposed because they would like to see the bill
expanded to provide that all housing development parking requirements are eliminated. The State Building and Construction Trades are opposed because the bill does not allow for electric vehicle owners to park their cars and would prefer investments in public transit.

**Support**
California Apartment Association

**Opposition**
City of Paramount
City of Santa Clarita
City of Torrance
Livable California
South Pasadena Residents for Responsible Growth
State Building & Construction Trades Council of California
Attachment 4
An act to add Section 65863.14 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL’S DIGEST

SB 1067, as amended, Portantino. Housing development projects: automobile parking requirements.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a housing element. Existing law also authorizes the legislative body of a city or a county to adopt ordinances establishing requirements for parking.

This bill would prohibit a city, county, or city and county from imposing any minimum automobile parking requirement on a housing development project that is located within ½ mile of public transit, as defined, and that either (1) dedicates 25% of the total units to very low, low-, and moderate-income households, students, the elderly, or persons with disabilities or (2) the developer demonstrates that the development would not have a negative impact on the city’s, county’s, or city and county’s ability to meet specified housing needs and would not have a negative impact on existing residential or commercial parking within ½ mile of the project, unless the city, county, or city and county makes specified findings. By changing the duties of local planning officials, this bill would impose a state-mandated local program.
The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities and counties, cities, including charter cities and counties. cities.

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

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


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

SECTION 1. Section 65863.14 is added to the Government Code, immediately following Section 65863.13, to read:

65863.14. (a) A city, county, or city and county shall not impose or enforce any minimum automobile parking requirement on a housing development project that meets all of the following requirements:

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

(2) The development satisfies either of the following:

(A) The development dedicates a minimum of 25 percent of the total number of housing units to very low, low-, and moderate-income households, students, the elderly, or persons with disabilities.

(B) Except as provided in clause (ii), the developer demonstrates to the city, county, or city and county that the development would not have a negative impact on any of the following:

(I) The city’s, county’s, or city and county’s ability to meet its share of the regional housing need in accordance with Section 65584 for low- and very low income households.

(II) The city’s, county’s, or city and county’s ability to meet any special housing needs for the elderly or persons with disabilities identified in the analysis required pursuant to paragraph (7) of subdivision (a) of Section 65583.
(iii) Existing residential or commercial parking within one-half mile of the housing development project.

(ii) Clause (i) shall not apply to a proposed housing development project if, within 30 days of receipt of a demonstration provided by the developer of that project pursuant to clause (i), a city, county, or city and county makes a finding, supported by a preponderance of the evidence, that the demonstration meets one or more of the following conditions:

(I) The developer did not employ a qualified entity with demonstrated expertise preparing planning documents.

(II) The methodology did not follow best professional practices.

(III) The methodology was not sufficiently rigorous to allow an assessment of whether the project would have a negative impact on any of the conditions identified in clause (i).

(b) For purposes of this section:

(1) “Housing development project” means a housing development project as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(2) “Low- and very low income households” means the same as “lower income households” as defined in Section 50079.5 of the Health and Safety Code.

(3) “Moderate-income households” means the same as “persons and families of moderate income,” as defined in Section 50093 of the Health and Safety Code.

(4) “Public transit” means a major transit stop as defined in Section 21064.3 of the Public Resources Code, except that it also includes a major transit stop that is included in an applicable regional transportation plan.

SEC. 2. The Legislature finds and declares that Section 1 of this act adding Section 65863.14 to the Government Code addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act applies to all cities and counties, including charter cities and counties.

SEC. 2. The Legislature finds and declares that to lower the cost of housing production by reducing unnecessary parking requirements is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act adding
Section 65863.14 to the Government Code applies to all cities, including charter cities.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
Item B-
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: May 2, 2022
SUBJECT: Assembly Bill 2428 (Ramos) - Mitigation Fee Act: Fees for improvements: Timeline for Expenditure

ATTACHMENTS: 1. Summary Memo – AB 2428
2. Bill Text – AB 2428

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

Assembly Bill 2428 (Ramos) - Mitigation Fee Act: Fees for improvements: Timeline for Expenditure (“AB 2428”) involves a policy matter which may have a nexus to the City’s adopted Legislative Platform language. Specifically, the following statements may apply to this bill:

- Oppose legislation that would preempt the City’s authority over local taxes and fees.
- Oppose any efforts by the state or county to alter the fee structure established by cities to recover costs associated with developer impacts or other projects.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 2428 (Attachment 1) to the City. The state lobbyist will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee on this bill.

After discussion of AB 2428, the Liaisons may recommend the following actions:
- Oppose AB 2428;
- Support AB 2428;
- Support if amended AB 2428;
- Oppose unless amended AB 2428;
- 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
April 26, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 2428 (Ramos) Mitigations Fees for Improvements: Timeline for Expenditure

Version
As introduced in the Assembly on February 17, 2022

Summary
Requires a local agency to deposit revenue from fees that they mandate for improvements, into an escrow account as a condition for receiving a conditional use permit or equivalent development permit to expend the fees within 5 years of the deposit.

This bill would also require any fees not expended within this period to be returned to the qualified applicant. By imposing new duties on local officials, the bill would impose a state-mandated local program.

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

Background and Existing Law
Existing law, the Mitigation Fee Act, requires a local agency that establishes, increases, or imposes a fee as a condition of approval of a development project to, among other things, determine a reasonable relationship between the fee’s use and the type of development project on which the fee is imposed.

The Mitigation Fee Act also imposes additional requirements for fees imposed to provide for an improvement to be constructed to serve a development project, or which is a fee for public improvements, as specified, including that the fees be deposited in a separate capital facilities account or fund.

Since the passage of Proposition 13 and other measures limiting local agencies' general revenue sources, local agencies have increasingly required development projects to bear their own costs within the community. The Mitigation Fee Act (Act), defines a “fee” as a monetary exaction (other than a tax or special assessment) that is charged by a local agency to an applicant in connection with approval of a development project for the purposes of defraying all or a portion of the cost of public facilities related to the project.
When establishing, increasing, or imposing a fee as a condition of approving a development project, existing law requires local officials to identify the purpose of the fee and public facilities to be financed, and determine a reasonable relationship between the development project and use of the fee, as well as the relationship between need for the public facility and the type of project on which the fee is imposed.

When imposing a fee as a condition of approving a development project, the Act also requires local officials to determine a reasonable relationship between the fee's amount and the cost of the public facility or portion of the facility attributable to the development. As a result of court decisions and the Act, local governments must conduct a nexus study to ensure that any proposed development fees meet “essential nexus” and “rough proportionality” legal tests to ensure that conditions on development are related to a project’s impacts. Other requirements in the Mitigation Fee Act ensure that development fees are appropriately levied and spent.

Under current law, local jurisdictions typically charge more than two dozen different types of development-related fees, most of which fall into three broad categories:

- Planning fees, which cover administrative costs of reviewing planning documents;
- Building permit, plan check, and inspection fees, which cover site-specific review requirements; and
- Capital facilities fees, which cover up-front costs of providing capital infrastructure.

The largest component is usually capital facilities fees and may cover on-site costs of connecting to utilities, broader off-site impact fees associated with providing infrastructure to serve residential development, mitigation fees, and in-lieu fees. Local development fees may vary significantly by jurisdiction for a variety of reasons (density, land use, location, etc.), and these fees may be a sizable component of housing production costs.

Local jurisdictions that have an internet website are required under current law to post and update specified information, including a current schedule of housing development project costs, zoning ordinances and development standards, annual impact fee reports, and an archive of specified impact fee nexus studies.

**Status of Legislation**
This measure has been referred to the Assembly Committee on Local Government and to the Assembly Committee on Housing and Community Development. It has not been scheduled for a hearing.

**Support**
None received.

**Opposition**
None received.
Attachment 2
An act to add Section 66008.1 to the Government Code, relating to development fees.

LEGISLATIVE COUNSEL’S DIGEST

AB 2428, as introduced, Ramos. Mitigation Fee Act: fees for improvements: timeline for expenditure.

Existing law, the Mitigation Fee Act, requires a local agency that establishes, increases, or imposes a fee as a condition of approval of a development project to, among other things, determine a reasonable relationship between the fee’s use and the type of development project on which the fee is imposed. The Mitigation Fee Act also imposes additional requirements for fees imposed to provide for an improvement to be constructed to serve a development project, or which is a fee for public improvements, as specified, including that the fees be deposited in a separate capital facilities account or fund.

This bill would require a local agency that requires a qualified applicant, as described, to deposit fees for improvements, as described, into an escrow account as a condition for receiving a conditional use permit or equivalent development permit to expend the fees within 5 years of the deposit. The bill would require any fees not expended within this period to be returned to the qualified applicant. By imposing new duties on local officials, the bill would impose a state-mandated local program.
The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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


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

SECTION 1. Section 66008.1 is added to the Government Code, to read:

66008.1. (a) Notwithstanding any other law, a local agency that requires a qualified applicant to deposit fees for improvements into an escrow account as a condition for receiving a conditional use permit or equivalent development permit shall expend the fees within five years of the deposit. Any fees for improvements that are collected and that are not expended within this period shall be returned to the qualified applicant.

(b) For purposes of this section, both of the following definitions apply:

(1) “Fees for improvement” means any fee imposed to provide for an improvement to be constructed to serve a development project, or which is a fee for public improvements within the meaning of subdivision (b) of Section 66000, and that is imposed by the local agency as a condition of approving the development project.

(2) “Qualified applicant” means an applicant for a conditional use permit or equivalent development permit for a business and that employs 25 or fewer employees for that business at the time the fees are deposited into the escrow account.

SEC. 2. The Legislature finds and declares that the implementation of uniform and reasonable safeguards on the use of public improvement fees held in escrow is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section
1 of this act adding Section 66008.1 to the Government Code applies to all cities, including charter cities.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIIIIB of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
Item B-9
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Policy and Management Analyst

DATE: May 2, 2022

SUBJECT: Assembly Bill 2710 (Kalra) - Residential Real Property: Sale of Rental Properties: Right of First Offer

ATTACHMENTS: 1. Summary Memo – AB 2710
2. Bill Text – AB 2710

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

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Assembly Bill 2710 (Kalra) - Residential Real Property: Sale of Rental Properties: Right of First Offer (“AB 2710”) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 2710 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 2710, the Liaisons may recommend the following actions:

1) Support AB 2710;
2) Support if amended AB 2710;
3) Oppose AB 2710;
4) Oppose unless amended AB 2710;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 2710, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 26, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 2710 (Kalra) Sale Rental Properties: Initial Purchase Right

Version
As Amended in the Assembly on April 18, 2022

Summary
Ensures that tenants, nonprofit affordable housing providers, community land trusts, limited-equity housing cooperatives, and local public entities have both a right of first offer, and a right of first refusal, for most rental housing that goes on sale in California. Specifically, this bill:

1) Enacts the Stable Homes Act.

2) Defines “residential real property” as including both of the following:
   a) Single-family residential property that is occupied by a tenant.
   b) Multifamily residential property, whether vacant or occupied by tenants.

3) Excludes from the definition of “residential real property” the following:
   a) Deed-restricted affordable housing that is being transferred to nonprofit ownership and management in which occupancy is restricted to lower-income households for at least 30 years.
   b) A property owned by a local, state, or federal government.
   c) A dormitory owned and operated by an educational institution.
   d) A single-family property, including a property with an accessory dwelling unit or other secondary dwelling unit, any of which the owner occupies as their principal residence.
   e) A property owned by a corporation that is owned and controlled by a majority of residents 18 years or older who occupy the property.

4) Requires the Department of Housing and Community Development (HCD) to develop a process by which any of the types of organizations listed in item 5) below can notify HCD of their interest
in purchasing residential real property pursuant to this measure. Also requires HCD to maintain an up-to-date list of these organizations on its internet website.

5) Permits any of the following organizations to notify HCD of their interest in purchasing residential real property pursuant to this measure:

a) A local public entity, as defined under the Health and Safety Code.

b) An eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable rental housing.

c) A limited partnership in which the managing general partner is an eligible nonprofit corporation.

d) A limited liability company in which the managing member is an eligible nonprofit corporation.

e) A community land trust, as defined under the Revenue and Taxation Code.

f) A corporation controlled by a majority of residents.

g) A limited-equity housing cooperative as defined under the Civil Code.

h) A resident organization formed for the purpose of acquiring either (i) a multifamily residential real property in which the residents reside or (ii) a single-family residential real property to be converted to resident ownership.

6) Defines “qualified entity” to mean any of the following:

a) A tenant of a single-family residential property.

b) The types of organizations listed in item 5) above.

7) Requires all notices required by this measure to be delivered by certified mail and also by email if email addresses are available.

8) Requires an owner of residential real property to send notice of the owner’s intent to sell the property, including its location and a description of the property, to each tenant and to each organization that registered with the Department pursuant to item 4) above.

9) Provides a qualified entity 10 days, from receipt of notice of the owner’s intent to sell, to send property owner notice expressing interest in purchasing the property.

10) Permits an owner who does not receive a notice of interest under 9) to proceed with sale of the property without regard to this measure.

11) Requires an owner who receives a notice of interest in purchasing the property from any qualified entity to send each such entity a disclosure package that includes specified information about the property, the tenants and status of applicable rental or leasing agreements.
12) Sets specific timeframes for a qualified entity that desires to purchase a residential real property after receiving this disclosure package to submit an offer to purchase:

13) Requires an owner, on timely request, to meet-and-confer with a qualified entity that submitted a notice of interest in purchasing the property within the timeframes set forth in this measure.

14) Permits an owner who does not receive an offer to proceed with sale of the property without regard to this measure.

15) Sets a specific timeline for an owner who accepts an offer under the protocol established by this measure to obtain financing depending on the type of property.

16) Permits an owner, if the qualified entity does not obtain financing within the timeframes in 15), to proceed with sale of the property without regard to this measure.

17) Requires an owner who rejects an offer made by a qualified entity to take the specified steps if the owner intends to accept an offer from a party that is not a qualified entity.

18) Provides a qualified entity that does not receive the notice required under this measure with 80 days to invoke a right of first refusal to match any offer submitted by a party that is not a qualified entity and that is accepted by the property owner, on the same terms as that offer.

19) Requires an owner of residential real property to comply with the protocols established by this measure before offering the property for sale, soliciting an offer to purchase, accepting unsolicited offers or entering into a contract for sale of the property.

20) Exempts from the requirements of this bill certain types of residential real property transfers, including a) transfers to spouses, domestic partners, parents, children, grandparents, and grandchildren, and b) transfers pursuant to court order or court-ordered settlement.

21) Forbids a property owner from retaliating against or harassing a tenant seeking to exercise their rights under this measure, and from engaging in conduct intended to prevent a tenant from exercising those rights.

22) Allows a tenant or a resident organization to assign its rights under 7) – 18) to any qualified entity prior to expiration of its right of first refusal.

23) Imposes specific restrictions on any qualified entity that acquires a residential real property using the process enacted by this bill, as well as every successive owner.

24) Requires every owner that sells a residential real property, as defined by this bill, to record a certification of compliance under penalty of perjury.

25) Deems an owner’s failure to file the certification of compliance under 24) an infraction punishable under an existing schedule of fines in the Government Code. Further deems willful or knowing failure to file the certificate punishable by a fine of $1,000 per day per rental unit in the property. These fines are payable to the city, county, or city and county in which the property is located.

26) Requires the affordability restrictions required under this measure to be contained in a covenant or restriction that is recorded at the time of sale and runs with the land.
27) Deems these affordability restrictions enforceable by any of the following, against any owner who violates them:
   a) Former or current residents.
   b) Residents’ associations.
   c) Applicants that meet specified criteria.
   d) The state of California, or the city, county, or city and county in which the property is located.
   e) An organization registered with the Department pursuant to 4).

28) Permits any of the parties listed under 27) to enforce any right or provision in this bill. Authorizes specified damages as remedies.

29) Specified that the bill does not preempt any local law that provides a qualified entity with a right of first offer, right of first refusal, or other opportunity to purchase a residential real property

30) In the event of a conflict with a local law, the provision that provides a qualified entity with a stronger right to purchase the residential real property shall prevail.

31) Declares the foregoing provisions to be severable, so that if any provision is held invalid, that invalidity does not affect other provisions that can be given effect without the invalid provision.

32) Requires, in the event of a nonjudicial foreclosure on multifamily residential property, the foreclosing entity to do both of the following within three business days of recording a notice of default:
   a) Provide the borrower with a list of qualified entities located within the county where the property is located and that have registered with the Department under 4).
   b) Conspicuously post the notice of default on the property.

**Background and Existing Law**
According to the author, low-income Californians are continuing to be priced out of their homes or displaced due to the rising cost of real estate, lack of deed-restricted housing, and increase of real estate speculators, like corporations and Wall Street landlords. When low-income people are priced out of their homes, it causes a chain reaction of unfortunate events like housing instability, overcrowding, low affordable housing stock, and housing cost burdens, which make it difficult for families to afford essentials like healthcare and education. Not only does this impact our housing crisis but this also harms our environment, causing Californians to move further away from their job locations and become commuters, which can result in increased greenhouse gasses.

Supporters argue that the number of homes on the private market that are accessible to low-income households is decreasing far faster than we can build new affordable housing. An analysis of real estate transaction data by California Housing Partnership estimates there are at least 710,000 unsubsidized affordable units in California; however, this number is rapidly dwindling. The Bay Area lost 32,000 unsubsidized affordable homes annually between 2012-2017, and San Diego lost an estimated 72 percent of its unsubsidized housing stock affordable to very low-income households between 2000-2020. This loss is displacing low-income Californians from their communities, causing
housing instability and homelessness, increasing overcrowding, and forcing people to choose between paying rent or paying for other essentials like healthcare and education.

While recent legislation has streamlined the approval process for production of affordable housing, it remains the case that it is far more efficient (both in terms of time and cost) to preserve existing affordable housing and to place existing market-rate housing under affordability restrictions than to build new affordable units.

**AB 2710 would enact a statewide Tenant and Community Opportunity to Purchase (TOPA/COPA) program.** Tenants, affordable housing providers, and local public entities would be given the right to make the first offer for most rental property that goes on sale in the state, as well as a right of first refusal to match the highest offer made during the sale process. Properties acquired through the TOPA/COPA process would become subject to permanent affordability deed restrictions and just cause eviction protections, and could only be resold at an affordable price.

Proponents argue that TOPA/COPA policies have proven to be effective in combating displacement of low-income households and increasing the affordable housing stock. To address rising unaffordability and displacement, cities from Washington, D.C. (“DC”) to San Francisco have adopted or are pursuing TOPA/COPA. DC has the most well-established TOPA policy.

In 2014–2015, one-third of all multifamily transactions in DC happened through TOPA. Since 2002, DC TOPA has helped preserve over 3,500 homes. Between 2015–2018 alone, over 1,400 units were purchased through the DC Department of Housing and Community Development’s TOPA acquisition funding across 26 projects.

TOPA has also been an important part of creating limited equity housing cooperatives in DC; as of October 2019, DC had 4,400 units of limited equity housing cooperative housing across 99 buildings. San Francisco’s COPA policy, adopted in 2019, has already demonstrated success. In the program’s first six months, one non-profit organization purchased three buildings and entered into contracts to purchase three more. While these local ordinances have demonstrated the effectiveness of this type of policy, statewide action is urgently needed to make the preservation of private market rental housing feasible throughout the state.

The effect of this measure on housing in California, including its availability and affordability, is a topic for the Assembly Housing and Community Development Committee, which will hear the bill should it be passed by this Committee. This analysis will explain how the bill would function, and how its provisions would be enforced.

Recent amendments to the bill, while extensive, were largely focused on ensuring that the bill functions as the author and sponsors intended. In other words, these amendments were technical or clarifying in nature, and introduced no significant policy changes to the measure.

**How this bill would work.** The TOPA/COPA program under this bill would apply to virtually all residential rental property in California, defined to include both (i) single-family residential property that is occupied by a tenant and (ii) multifamily residential property, whether vacant or occupied.

While this measure is intricate, at its core, it would function as follows:

1. Interested organizations would register with the Department of Housing and Community Development (HCD) to be notified whenever rental property becomes available for sale in
California. The types of organizations permitted to register include nonprofit affordable housing providers, local public entities, community land trusts, limited-equity housing cooperatives, and resident organizations formed for the purpose of acquiring rental properties and converting them to resident ownership.

2. An owner who intends to sell rental property would provide both the tenants in the property and each organization registered with HCD a right of first offer by notifying these parties (termed “qualified entities” in the bill) of the owner's intent to sell.

3. Any qualified entity interested in purchasing the property would have 10 days to send a notice of interest to the owner. An owner who did not receive timely notice of interest could proceed to sell the property, unaffected by any further provision of this bill.

4. Otherwise, the owner would have to send each interested qualified entity a disclosure package with information about the property, including the number of bedrooms and bathrooms in each unit, the rent for each unit, and the owner's expenses to operate the property. This disclosure would trigger a 40 to 60 day period to make an offer.

5. An owner who accepts an offer from a qualified entity would provide the offeror a specified period of time to obtain financing, based on the size of the property and the time required by the lender for approval—between 30 days (for a single-family residence) to 160 days (for multifamily properties with more than 4 units, if the financing entity requires this additional time). If no qualified entity makes a timely offer, or the entity does not obtain financing within the specified period, the owner can proceed to sell the property, unaffected by any further provision of this bill.

6. An owner who rejects an offer from a qualified entity and then accepts an offer from a non-qualified entity must notify the rejected qualified entity that it has a 10-day right of first refusal to match the latter's offer.

7. A qualified entity that purchases rental property using this bill’s TOPA/COPA process must include specified affordability restrictions in the recorded deed, so that these restrictions permanently run with the land. The qualified entity must also abide by several other requirements, such as adopting just cause eviction measures for all existing and future tenants and agreeing to only sell the property in the future at an affordable resale price, as defined.

**How this bill would be enforced.** This bill's provisions would be enforced in several ways:

1. A qualified entity's 10-day right of first refusal to match an offer would be extended to 80 days if the property owner fails to notify the qualified entity of this right.

2. Property owners are expressly forbidden from retaliating against, harassing, or interfering with tenants exercising their rights under this bill.

3. Every owner that sells rental property must record a certificate of compliance under penalty of perjury stating either that they abided by this bill's requirements or were statutorily exempt. Failure to file this certificate would be an infraction punishable by fines; these fines are quite significant if the failure is willful or knowing.
4. Provides qualified entities, as well as state and local governments, a private right of action to enforce any right or provision in the bill. Available remedies include damages, injunctive relief, and attorney’s fees and costs.

These enforcement mechanisms appear appropriately robust to ensure compliance with this measure’s provisions. It is hoped that, as the author writes, “This desperately needed measure will help preserve and grow our affordable housing stock, giving Californians the opportunity to become homeowners and the security to stay in a safe and affordable home.”

**Status of Legislation**
This measure is currently pending in the Assembly Committee on Housing and Community Development.

**SUPPORT AND OPPOSITION**

**Support**
- Housing California (co-sponsor)
- Public Advocates (co-sponsor)
- Action Center on Race and the Economy
- Alliance for Community Transit - Los Angeles (ACT-LA)
- Alliance of Californians for Community Empowerment (ACCE)
- Berkeley Tenants Union
- Beverly-Vermont Community Land Trust
- Brilliant Corners
- California Community Land Trust Network
- California Coalition for Rental Housing
- California Democratic Party Renters Council
- California Housing Partnership Corporation
- California Latinas for Reproductive Justice
- California Reinvestment Coalition
- California Rural Legal Assistance Foundation
- Central Coast Alliance United for A Sustainable Economy (CAUSE)
- Child Care Law Center
- City Heights Community Development Corporation
- Council of Community Housing Organizations, San Francisco (CCHO)
- East Bay Permanent Real Estate Cooperative
- Faith in the Valley
- Ground Game LA
- Housing Equality and Advocacy Resource Team (HEART LA)
- Housing Now!
- Indivisible CA: StateStrong
- Local Initiatives Support Corporation Bay Area
- Local Initiatives Support Corporation Los Angeles
- Local Initiatives Support Corporation San Diego
- Mi Familia Vota
- Northern California Land Trust
- Oakland Community Land Trust
- Organize Sacramento
- Parable of the Sower Intentional Community Cooperative
- PolicyLink
- Public Interest Law Project
- Strategic Actions for a Just Economy (SAJE)
- Thai Community Development Center
- Voices for Progress
- Western Center on Law and Poverty
- Working Partnerships USA

**Opposition**
- Building Owners and Managers Association
- California Apartment Association
- California Association of Realtors
- California Bankers Association
- California Building Industry Association
- California Business Properties Association
- California Credit Union League
- California Land Title Association
- California Mortgage Bankers Association
- Commercial Real Estate Development of California
- Institute of Real Estate Management
- Southern California Rental Housing Association
- Western Manufactured Housing Communities Association
Attachment 2
Introducing Assembly Member Kalra

February 18, 2022

An act to add Article 1.6 (commencing with Section 1102.50) to Chapter 2 of Title 4 of Part 4 of Division 2 of, and to add Section 2923.56 to, the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST


Existing law establishes various real estate disclosure requirements applicable to the transfer of residential real property. This bill would require an owner of residential real property, defined to include a single-family residential property that is occupied by a tenant or a multifamily residential property except as specified, to take various actions before offering the residential real property for sale to any purchaser, soliciting any offer to purchase the residential real property, or otherwise entering into a contract for sale of the residential real property. The bill would exempt certain transfers of a residential real property from its provisions, including, among others, a transfer between spouses, domestic partners, parent and child, siblings, grandparent and grandchild, a transfer pursuant to a court order, and a transfer by eminent domain.

This bill would require the owner of the residential real property to notify each tenant and each qualified entity, as defined, of the owner’s
intent to sell the residential real property. The bill would provide each qualified entity with 10 days to notify the property owner of their interest in purchasing the property and further provide a qualified entity with either 60 days or 40 days, depending on the number of units of the property, to submit an offer to purchase the residential real property.

This bill would allow a property owner to sell the property to any party if the property owner does not receive any interest to purchase the property from a qualified entity or receive an offer from a qualified entity within these timeframes. The bill would allow a property owner to reject any offer received from a qualified entity and sell to a party that is not a qualified entity, but would provide a qualified entity that submits a rejected offer with 10 days to invoke a right of first refusal to accept a subsequent offer accepted by the property owner, as specified.

This bill would require a qualified entity that purchases a residential real property pursuant to these provisions and all successive owners to retain all existing tenancies and to restrict the units of the property to rents affordable to persons and families of low and moderate income, with the maximum average income of the tenants not to exceed 80% of the area median income, as specified. The bill would provide that these affordability requirements shall be recorded, as specified, and that the affordability requirements are enforceable, as specified. The bill would require the qualified entity to commit to providing the tenants of a single-family residential real property or a current or future resident organization in a multifamily residential real property with 18 months to purchase the entire residential real property, or, if ownership of the land will be retained by a community land trust under a 99-year ground lease, the opportunity to purchase improvements, after the qualified entity takes title of the property.

This bill would require the Department of Housing and Community Development to develop a process for qualified entities, including, among others, a local public entity, eligible nonprofit corporation, limited equity housing cooperative, and resident organizations formed for the purpose of acquiring a multifamily residential real property, to notify the department of their interest in purchasing residential real property. The bill would require the department to maintain a list of those organizations that have submitted this notice on its internet website.

This bill would require each owner that sells a residential real property to record, or cause to be recorded, a certification of compliance under
penalty of perjury at the time of sale, as specified, and would make
failure to file the certificate an infraction punishable as specified. By
expanding existing crimes, the bill would impose a state-mandated local
program.

The bill would also grant a private cause of action to specified entities
to enforce the provisions of the bill, and would allow for civil remedies,
as specified.

Existing law imposes various requirements to be satisfied prior to
exercising a power of sale under a mortgage or deed of trust. Existing
law, with respect to residential real property containing up to 4 dwelling
units, requires a mortgagee, trustee, beneficiary, or authorized agent to
provide to the mortgagor or trustor a copy of the recorded notice of
default and a copy of the recorded notice of sale.

This bill would additionally require a mortgagee, trustee, beneficiary,
or authorized agent to, upon filing a notice of default, provide to the
mortgagor or trustor a list of qualified entities located within the county
of the residential real property, as defined. The bill would also require
the mortgagee, trustee, beneficiary, or authorized agent to notify the
tenant of the residential real property of the filing of a notice of default.

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

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

State-mandated local program: yes.

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

SECTION 1. Article 1.6 (commencing with Section 1102.50)
is added to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil
Code, to read:

Article 1.6. Stable Homes Act

1102.50. For purposes of this article, the following definitions apply:
(a) “Department” means the Department of Housing and
Community Development.
(b) (1) “Residential real property” means any of the following:
(A) A single-family residential property that is occupied by a tenant.

(B) A multifamily residential property, whether vacant or occupied by tenants.

(2) “Residential real property” does not include any of the following:

(A) A property that is currently subject to a regulatory agreement with a governmental agency that restricts rents to occupancy by low-income households and is being transferred to a nonprofit entity, or a limited partnership or limited liability company controlled by a nonprofit, that agrees to a condition of the sale or transfer to record a new regulatory agreement with a governmental agency that restricts occupancy to eligible low-income households for at least 30 years.

(B) A property owned by a local, state, or federal government.

(C) A property owned by and operated as a hospital, convent, monastery, extended care facility, or convalescent home.

(D) A dormitory owned and operated by an educational institution.

(E) A single-family property that an owner occupies as their principal residence.

(F) A single-family property with an accessory dwelling unit or other secondary dwelling unit where an owner occupies either the single-family property or the secondary unit as their principal residence.

(G) A property owned by a corporation that is owned, occupied, and controlled by a majority of residents who occupy the property and are at least 18 years of age.

(c) “Qualified entity” means either of the following:

(1) A tenant of a single-family residential property.

(2) An organization registered pursuant to Section 1102.56.

(a) An owner of residential real property shall comply with the requirements of this section before taking any of the following actions:

(1) Offering the residential real property for sale to any purchaser other than a qualified entity.

(2) Soliciting any offer to purchase the residential real property from any purchaser other than a qualified entity.

(3) Accepting any unsolicited offer to purchase the residential real property from any party other than a qualified entity.
(4) Entering into a contract for sale of the residential real property with any party other than a qualified entity, whether through listing or off-market sale, whether individual properties or a bundled portfolio of properties.

(b) (1) An owner of residential real property shall send notice of the owner’s intent to sell the property to each tenant, and to each organization that has registered with the department pursuant to Section 1102.56.

(2) The notice required by this subdivision shall include the location and a description of the residential real property.

(c) (1) A qualified entity may, within 10 days of receipt of the notice, send notice to the property owner expressing interest in purchasing the property.

(2) If the property owner does not receive notice expressing interest in purchasing the property from any qualified entity, the property owner may proceed in selling the property without regard to this section.

(d) If the property owner receives a written notice expressing interest in purchasing the property from any qualified entity, the property owner shall provide the interested party with a disclosure package that provides, at a minimum, all of the following information:

(1) The unit number or other designation of each rental unit of the residential real property.

(2) The number of bedrooms and bathrooms in each rental unit.

(3) The move-in date of each tenant of the residential real property.

(4) Base rent for each rental unit of the residential real property.

(5) The residential real property’s costs that are passed through to each tenant, if any.

(6) Whether each tenant has a written lease or rental agreement.

(7) The annual expenses for the residential real property, including, but not limited to, management, insurance, utilities, and maintenance costs.

(e) (1) After receiving the disclosure package, if the qualified entity remains interested in purchasing the residential real property, the qualified entity shall, within 20 days, give notice of its interest to purchase the property to each tenant.
(2) Within 20 days of receiving the disclosure package, the qualified entity may request to meet and confer with the property owner to confirm interest in purchasing the residential real property. The property owner shall meet and confer with the qualified entity within the applicable timeframe in paragraph (1) of subdivision (f) upon request.

(f) (1) A qualified entity desiring to purchase a residential real property consisting of five or more units shall submit an offer to purchase the property within 60 days of receiving so that it reaches the property owner within 60 days of the date on which the qualified entity received the disclosure package required pursuant to subdivision (d). If the property consists of four or fewer units, the qualified entity desiring to purchase a residential real property shall submit an offer to purchase the property within 40 days of receiving so that it reaches the property owner within 40 days of the date on which the qualified entity received the disclosure package.

(2) If a qualified entity submits an offer to purchase the property, it shall simultaneously give notice to each tenant that it has made an offer to purchase the property.

(2) (3) If the property owner does not receive an offer to purchase the property within the applicable timeframes in paragraph (1), the property owner may proceed in selling the property without regard to this section.

(3) (4) If a property owner receives a substantially equivalent offer from both a tenant of a single-family residential real property or a resident organization in a multifamily residential real property, and some other qualified entity, and the property owner decides to accept any of these offers, the property owner shall give priority to accept the tenant’s or the resident organization’s offer.

(g) (1) (A) If the property owner accepts an offer submitted pursuant to this subdivision for a single-family residential real property, the property owner shall afford the qualified entity 30 days after the date of entering into the contract with the qualified entity the offer was accepted to secure financing.

(B) If, within 30 days after the date of contracting the property owner accepts the qualified entity’s offer for the single-family residential real property, the qualified entity presents the property
owner with the written decision statement of a lending institution or agency that states that the institution or agency estimates that a decision with respect to financing or financial assistance will be made within 45 days after the date of contracting. The offer was accepted, the property owner shall afford an extension of time consistent with the written estimate.

(2) (A) If the property owner accepts an offer submitted pursuant to this subdivision for a multifamily residential real property containing two to four units, the property owner shall afford the qualified entity 90 days after the date of entering into contract with the qualified entity the offer was accepted to secure financing.

(B) If, within 90 days after the date of contracting the property owner accepts the qualified entity’s offer for the multifamily residential real property containing two to four units, the qualified entity presents the property owner with the written decision statement of a lending institution or agency that states that the institution or agency estimates that a decision with respect to financing or financial assistance will be made within 120 days after the date of contracting. The offer was accepted, the property owner shall afford an extension of time consistent with the written estimate.

(3) (A) If the property owner accepts an offer submitted pursuant to this subdivision for a multifamily residential real property containing more than four units, the property owner shall afford the qualified entity 120 days after the date of entering into contract with the tenant or qualified entity the offer was accepted to secure financing.

(B) If, within 120 days after the date of contracting the property owner accepts the qualified entity’s offer for the multifamily residential real property containing more than four units, the qualified entity presents the property owner with the written decision statement of a lending institution or agency that states that the institution or agency estimates that a decision with respect to financing or financial assistance will be made within 160 days after the date of contracting. The offer was accepted, the property owner shall afford an extension of time consistent with the written estimate.

(4) If the tenant or qualified entity does not secure financing within the applicable timeframe of this subdivision, the property
owner may proceed in selling the property without regard to this section.

(h) (1) A property owner may reject any offer submitted to purchase a residential real property pursuant to this section.

(2) If the property owner receives an offer pursuant to subdivision (f) and rejects that offer, the property owner may sell the property to any other buyer subject to paragraph (3).

(3) If the property owner rejects an offer received pursuant to subdivision (f) and then intends to accept an offer from a party that is not a qualified entity, the property owner shall do both of the following:

(A) Notify the qualified entity that the property owner intends to accept an offer from a party that is not a qualified entity.

(B) Provide the qualified entity of a rejected offer with 10 days to invoke a right of first refusal to match the offer submitted by a party that is not a qualified entity on the same terms as the offer. The qualified entity may invoke its right of first refusal by submitting a notice that reaches the property owner within 10 days of the date on which the qualified entity received notice under subparagraph (A).

(4) A qualified entity that does not receive notice from a property owner as required by subdivision (b) shall be given 80 days to invoke a right of first refusal to match an offer submitted by a party that is not a qualified entity that is accepted by the property owner, on the same terms as that offer. The qualified entity may invoke its right of first refusal by submitting a notice that reaches the property owner within 80 days of the date on which the property owner accepted the offer submitted by a party that is not a qualified entity.

(i) Notices and the disclosure package required pursuant to this section shall be delivered by certified mail and additionally by email if email addresses are available.

(j) This section shall not apply to the following transfers of residential real property:

(1) An inter vivos transfer, whether or not for consideration, between spouses, domestic partners, parent and child, siblings, or grandparent and grandchild.

(2) A transfer for consideration by a decedent’s estate to members of the decedent’s family if the consideration arising from the transfer will pass from the decedent’s estate to, or solely for
the benefit of, a charity. For purposes of this paragraph, “members of the decedent’s family” includes all of the following:

(A) A spouse, domestic partner, parent, child, grandparent, or grandchild.

(B) A trust for the primary benefit of a spouse, domestic partner, parent, child, grandparent, or grandchild.

(3) A transfer of bare legal title into a revocable trust, without actual consideration for the transfer, where the transferor is the current beneficiary of the trust.

(4) A transfer to a named beneficiary of a revocable trust by reason of the death of the grantor of the revocable trust.

(5) A transfer pursuant to court order or court-approved settlement.

(6) A transfer by eminent domain or under threat of eminent domain.

(k) An owner of residential real property shall not retaliate against or harass a tenant seeking to exercise their rights under this article or engage in conduct intended to prevent a tenant from exercising those rights.

(l) A tenant or resident organization may assign their rights under this section to any qualified entity at any time prior to expiration of the deadline to invoke the right of first refusal under paragraph (3) of subdivision (h).

1102.54. (a) A qualified entity that acquires a residential real property pursuant to Section 1102.52, as well as all successive owners, shall be subject to all of the following:

(1) (A) All existing tenancies of the residential real property shall be retained on the same terms that were in effect before the acquisition, except as permitted by state and local law. An existing tenancy shall not be terminated for failure to meet income restrictions imposed by this section.

(B) A tenant, including existing tenancies and new tenancies created after the acquisition of the residential real property pursuant to Section 1102.52, shall not be evicted except for just cause as permitted by state and local law.

(2) (A) The qualified entity shall restrict the rental rate of vacant units of the residential real property to be affordable to persons and families of low and moderate income and lower income households, with the maximum average rent of the units to be
affordable to persons and families with 80 percent of the area median income.

(B) (i) If, upon acquiring the residential real property the average rental rate of the units exceeds the maximum average rental rate required pursuant to subparagraph (A), the owner of the residential real property shall rent vacant units at a rate affordable to persons and families whose incomes do not exceed 60 percent of the area median income until the average rental rate complies with subparagraph (A).

(ii) If the average rental rate of the residential real property complies with subparagraph (A), the owner of the residential real property may rent vacant units at a rental rate affordable to persons and families of low and moderate income, provided that the average rental rate remains in compliance with subparagraph (A).

(C) For purposes of this paragraph, whether a rental rate is affordable shall be determined in the manner described in Section 50053 of the Health and Safety Code.

(3) (A) The qualified entity shall commit to provide the tenant of a single-family residential real property or current or future resident organization in a multifamily residential real property with fewer than 20 units the opportunity to purchase the entire residential real property, or, if ownership of the land will be retained by a community land trust under a 99-year ground lease, the opportunity to purchase improvements, within 18 months of taking title to the residential real property.

(B) For a multifamily residential real property with between 2 and 20 units, the qualified entity may offer this opportunity to purchase only to a current or future resident organization that would take title as a limited-equity housing cooperative, as defined in Section 817.

(C) The tenant or resident organization may assign their right to purchase the residential real property to any qualified entity at any time during the process specified in Section 1102.52.

(4) The residential real property shall not be sold for more than an affordable resale price.

(b) For purposes of this section:

(1) “Affordable resale price” means the purchase price paid by the qualified entity to acquire the residential real property pursuant to this article adjusted for both of the following:

(A) Inflation as measured by the regional Consumer Price Index.
(B) Capital improvements made by the qualified entity, but no more than 25 percent of the appreciated value as determined by the difference between the appraised value at the time of purchase by the qualified entity and the appraised value at the time of resale.

(2) “Area median income” means the same as defined in Section 50093 of the Health and Safety Code.

(3) “Lower income households” means the same as defined in Section 50079.5 of the Health and Safety Code.

(4) “Persons and families of low and moderate income” means the same as defined in Section 50093 of the Health and Safety Code.

1102.56. (a) (1) The Department of Housing and Community Development shall develop a process by which any of the organizations described in subdivision (b) may notify the department of their interest in purchasing residential real property pursuant to this article.

(b) The following types of organizations may submit a notification to the department pursuant to subdivision (a):

(1) A local public entity, as defined in Section 50079 of the Health and Safety Code.

(2) An eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable rental housing.

(3) A limited partnership in which the managing general partner is an eligible nonprofit corporation.

(4) A limited liability company in which the managing member is an eligible nonprofit corporation.

(5) A community land trust, as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(6) A corporation controlled by a majority of residents.

(7) A limited-equity housing cooperative as defined in Section 817.

(8) A resident organization formed for the purpose of acquiring a multifamily residential real property in which the residents reside, or a single-family residential real property, property in order to convert the property to resident ownership.

(c) The department shall maintain on its internet website an up-to-date listing of all qualified entities organizations that have
submitted a notification to the department pursuant to subdivision (a) on its internet website.

1102.58. (a) Each owner that sells a residential real property shall record, or cause to be recorded, a certification of compliance under penalty of perjury at the time of sale, that one of the following applies:

1. The owner has substantially complied with the requirements of this article, with a copy of the notice to tenants attached required under paragraph (1) of subdivision (b) of Section 1102.52 to tenants attached.

2. The owner or transaction is exempt from the requirements of this article pursuant to Section 1102.52.

(b) (1) Each certification of compliance shall include the address of the relevant residential real property.

(A) Failure to file the certification of compliance shall be an infraction punishable in accordance with the fine schedule established pursuant to subdivision (b) of Section 36900 of the Government Code. Willful or knowing failure to file the certification of compliance shall be punishable by a fine of one thousand dollars ($1,000) for each per unit of the residential real property and for each day of noncompliance.

(B) Fines under subparagraph (A) shall be paid as follows, following notice and an opportunity for hearing:

(i) If the property is located in a city, to that city.

(ii) If the property is located in a city and county, to that city and county.

(iii) Otherwise, to the county in which the property is located.

(c) The affordability requirements in Section 1102.54 shall be contained in a covenant or restriction recorded against the residential real property at the time of sale, which shall run with the land and shall be enforceable, against any owner who violates a covenant or restriction and each successor in interest who continues the violation, by any of the following:

(1) A resident of a unit subject to this section.

(2) A residents’ association with members who reside in units subject to this section.

(3) A former resident of a unit subject to this section who last resided in that unit.
(4) An applicant seeking to enforce the covenants or restrictions for a particular unit that is subject to this section, if the applicant conforms to all of the following:

(A) Is of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(B) Is able and willing to occupy that particular unit.

(C) Was denied occupancy of that particular unit due to an alleged breach of a covenant or restriction implementing this section.

(D) Is on an affordable housing waiting list, is of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and is able and willing to occupy a unit subject to this section.

(5) The state or the city, county, or city and county in which the residential real property is located.

(6) An organization registered pursuant to Section 1102.56.

(d) (1) Any party listed in subdivision (c) may seek enforcement of any right or provision under this article in the superior court and, upon prevailing, shall be entitled to the following remedies:

(A) Damages in an amount sufficient to remedy the harm to the qualified entity. Actual damages. There shall be a rebuttable presumption that the amount of damages for a violation of Section 1102.52 is equal to the difference between the price of the residential real property at the time of sale in violation of this article and the price for which the qualified entity could purchase the residential real property at the time that damages are awarded.

(B) If the owner willfully or knowingly sells the residential real property without complying with this article, the court shall impose a civil penalty - additional damages in an amount proportional to the culpability of the owner and the value of the residential real property. There shall be a rebuttable presumption that the amount is equal to 10 percent of the sale price for a first violation, 20 percent for a second violation, and 30 percent for each subsequent violation.

(C) Reasonable costs and reasonable attorneys’ fees.

(2) In addition to any other remedy available under this article or any other law, the superior court may enjoin a sale or other action taken by the owner of the residential real property in violation of this article.
1 1102.60. (a) Except as provided in subdivision (b), this part
2 article shall not preempt or invalidate a local ordinance, regulation,
3 or other policy that provides a qualified entity with a right of first
4 offer, right of first refusal, or other opportunity to purchase a
5 residential real property.
6 (b) If a local ordinance, regulation, or other policy conflicts
7 with this article, the provision that provides the qualified entity
8 with a stronger right to purchase the residential real property shall
9 prevail.

1 1102.61. The provisions of this article are severable. If any
2 provision of this article or its application is held invalid, that
3 invalidity shall not affect other provisions or applications that can
4 be given effect without the invalid provision or application.

SEC. 2. Section 2923.56 is added to the Civil Code, to read:
1 2923.56. (a) With respect to a multifamily residential property, as
2 defined in Section 1102.50, a mortgagee, trustee, beneficiary, or authorized agent
3 shall do both of the following within 3 business days of
4 recording a notice of default:
5 (1) Provide the mortgagor or trustor with a list of the qualified
6 entities located within the county of the multifamily
7 residential property that have provided notice to the Department
8 of Housing and Community Development pursuant to Section
9 1102.56.
10 (2) Provide notice to each tenant of the residential real property
11 of the notice of default being filed.
12 (b) Notices required pursuant to this section shall be delivered
13 by certified mail and additionally by email if email addresses are
14 available.
15 (b) Post a copy of the notice of default in a conspicuous place
16 on the multifamily residential property, where possible and where
17 not restricted for any reason. If restricted, then the notice shall be
18 posted in a conspicuous place on the property; however, if access
19 is denied because a common entrance to the property is restricted
20 by a guard gate or similar impediment, the notice may be posted
21 at that guard gate or similar impediment.

SEC. 3. No reimbursement is required by this act pursuant to
1 Section 6 of Article XIIIB of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.
Item B-1
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: May 2, 2022
SUBJECT: Senate Bill 986 (Umberg) - Vehicles: Catalytic Converters
ATTACHMENTS: 1. Summary Memo – SB 986  
                   2. Bill Text – SB 986

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

Senate Bill 986 (Umberg) - Vehicles: Catalytic Converters ("SB 986") involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language.

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 986 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 986, the Liaisons may recommend the following actions:

- Oppose SB 986;
- Support SB 986;
- Support if amended SB 986;
- Oppose unless amended SB 986;
- Remain neutral; or
- Provide other direction to City staff.

Any position recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
Attachment 1
April 27, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: SB 986 (Umberg) Vehicles: catalytic converters.

Version
As introduced on February 14, 2022

Summary
Requires a traceable method of payment for catalytic converters; provides that the exemption for catalytic converters received pursuant to a written agreement is only valid if the written agreement also includes a regularly updated log or record describing each catalytic converter received under the agreement, as specified; prohibits a dealer or retailer from selling a new motor vehicle equipped with a catalytic converter unless the catalytic converter has been engraved or etched with the vehicle identification number of the vehicle to which it is attached, punishable by an infraction.

Background
Catalytic Converters
Catalytic converters are devices that reduce pollution-causing emissions. Since 1975, all vehicles produced in the United States must have a catalytic converter as part of the exhaust system. Some vehicles may have more than one catalytic converter. The precious metals inside act as catalysts; when hot exhaust enters the converter, a chemical reaction occurs that renders toxic gases, such as carbon monoxide and hydrocarbons, into less harmful emissions.

Metal theft generally becomes an issue on a broad scale when the price of metals themselves increase, usually coupled with hard economic times. This Committee has heard two bills in the last 15 years that follow this trend – SB 627 (Calderon, Chapter 603, Statutes of 2009) on the theft of catalytic converters following the Great Recession, and SB 1387 (Emmerson, Chapter 656, Statutes of 2012) on the topic of prohibiting junk dealers and recyclers from possessing fire hydrants, manhole covers or backflow devices without proper certification, as specified, among other items.

Current Law
Core Recyclers.
SB 627 offered a solution to the catalytic converter problem in 2009. It defined “core recyclers” as a person or business including a recycler or junk dealer, that buys used individual catalytic converters, transmissions, or other parts previously removed from a vehicle. It also specified a person or business that buys a vehicle that may contain these parts is not a core recycler. Typically in
automotive parts transactions, to ensure that as many parts get recycled as possible, a core charge may be added to the price of some parts, then the core charge is refunded to the customer when the original part is returned within an allotted timeframe. The term “core” stands for “cash on receipt of exchange.” It usually refers to the basic elements of a part that can be rebuilt or recycled. It is common for core charges to be required when buying brake shoes, or brake pads, break master cylinders, starters, alternators, transmissions, engine blocks, and other parts. At the time, “core recycler” was included in the bill because there were a number of people that had not interpreted current law as including them in the provisions which relate to junk dealers or recyclers, and so they did not follow the information collection, and payment requirements that were placed upon recyclers. Defining core recyclers sought to close a loophole in the existing system.

Catalytic Converter Theft Today.

Today, the prices of metals such as rhodium, platinum, and palladium inside of catalytic converters have increased dramatically in the last few years, both because they were in short supply prior to the COVID-19 pandemic and because of recent supply chain issues. For example, from January 1, 2020 to May 7, 2020, the price of palladium increased from $1928 per oz to $2961.5 per oz (54% increase). According to an NPR article, Rhodium now sells at roughly $28,000 per ounce, though only a small portion of that goes inside a catalytic converter. Platinum pays at about $1530 per ounce.

According to the National Insurance Crime Bureau, there has been a ten-fold increase in catalytic converter thefts since 2018, with more than 14,000 reported catalytic converters stolen in 2020, with BeenVerified estimating there were 65,398 thefts nationwide – a 353% increase from reported catalytic converter thefts in 2020. According to an NPR article, recyclers can pay $50-$200 to legally obtain a failed catalytic converter, or one from a junked vehicle. With high metal prices, though, it is possible for processors to make several hundred per unit selling contents to the refinery.

According to insurance company and industry publications, vehicles that sit higher from the ground, such as trucks, pick-ups and SUVs, are particularly vulnerable to catalytic converter theft because thieves can slide underneath without having to jack up the vehicle to gain access to the converter. With just a few cuts of a battery powered saw, the converter can often be removed in less than a minute or two. Thieves typically look for vehicles that are parked for prolonged periods of time in large lots, such as shopping centers, mass transit commuter lots or company parking lots. Today, catalytic converters are typically sold illegally on places like Craigslist, Facebook Marketplace, and eBay Motors. If a catalytic converter is stolen, consumers must generally pay $400-$3000 for a catalytic converter replacement, depending on the make and model of the vehicle.

Permanent Marking of Catalytic Converters.

Permanent marking, or etching, of catalytic converters is one method by which one could identify a stolen catalytic converter. With the increased interest in catalytic converter VIN etching services, a variety of etching products and techniques have been developed. One of the most common methods of etching a catalytic converter is to use an engraving hand tool to etch the number into the equipment. Manual engraving tools can be purchased from hardware stores or online from a wide range of retailers for $25 – $400+. Chemical etch labels and kits can also be a cost-effective technique (often less than $30) to ensure that even if the label is removed, identification information is still permanently detectable on the equipment. Automated industrial-level VIN etching machines can cost thousands, generally over $1,000 for a small and simple machine and over $5-10,000 for a larger and more complex machine, but many automotive professionals can still etch catalytic converters rapidly and effectively with manual tools.
While the etching process itself is generally simple and inexpensive, accessing the catalytic converter for etching can be difficult for many newer car models. Catalytic converters are typically located on the underside of the car, but many newer vehicle models incorporate the catalytic converter as a part of the exhaust manifold, essentially making the catalytic converter difficult to access without disassembling a significant portion of the vehicle engine. In these cases, automobile technicians require specialized equipment and additional time to access the catalytic converter for etching.

Traceable catalytic converters may disincentive theft by prohibiting establish businesses from servicing vehicles with stolen goods; however, it does not stop third party selling such as the vendors described above. Overall, this is a step in reducing theft, but it might not fully eliminate it.

**Status of Legislation**
The bill had its first hearing in the Senate Business, Professions and Economic Development April 4, 2022, and passed with a vote of 14-0. On April 26, the bill was heard in Senate Public Safety Committee, and passed 4-0 with 1 abstention. The measure is now headed to Senate Appropriations Committee for a review of the impact on state finances.

**Arguments in Support**
The Sponsor of the bill, The Los Angeles County District Attorney's Office, writes in support and states, “Catalytic converter thefts have reached epidemic levels nationally and in the State of California. Nationally, there has been a 1,171% increase in these thefts since 2019. A recent report released by State Farm Insurance showed that California leads the nation in the number of catalytic converter thefts. In Los Angeles County, the Sheriff's Department reported a 400% increase in catalytic converter thefts from 2019 to 2020. Across California, catalytic converter replacements increased more than 90% in 2020. State Farm paid over $10.8 million for 4,507 catalytic converter theft claims in California in 2020. Last year, those numbers more than doubled to $23 million paid for 9,057 theft claims.” According to the Sponsor, there are significant legal challenges to addressing catalytic converter thefts in California, including the absence of serial number identification markings on catalytic converters and a lack of obligation for core recyclers to obtain information necessary to identify the origin of a catalytic converter prior to purchase. The Sponsor also state, "SB 986 is necessary to combat the overwhelming surge in catalytic converter thefts which have placed an enormous burden on the victims of these crimes. The changes proposed by this bill aim to deter would-be thieves from engaging in these thefts in the first place and to assist law enforcement in apprehending those individuals who choose to commit these crimes.”

The California Contract Cities Association (CCCA) writes in support and notes, “Presently, catalytic converters are often not engraved with a VIN. As a result, the part is stolen more frequently than others. The bill directly responds to this issue by requiring a VIN and written record keeping, which ensures there is a paper trail outlining who purchased the part when. Another key element of this theft is imposing penalties for the crime. Presently, SB 986 states that this theft would be punishable as an infraction, and through fines that increase based on the number of convictions. Given the rampant rate of catalytic converter theft many cities are seeing across the state, CCCA encourages the legislature to consider increasing these penalties further and implementing guidelines for recycling facilities that accept the stolen materials to effectively discourage and prevent more theft in the future.”

**Arguments in Opposition**
The California New Car Dealers Association (CNCDA) states that it opposes the bill unless amended, and notes, “While we agree that catalytic converter theft is an issue, we differ in our approach regarding the etching or engraving of catalytic converters. Senator Umberg proposes to bar dealers
from selling new and used vehicles equipped with a catalytic converter unless the catalytic converter has been engraved or etched with the vehicle identification number (VIN) of the vehicle to which it is attached.

While older model year vehicles may have catalytic converters that are relatively easy to access, many newer vehicles do not. For example, many vehicle models incorporate the catalytic converter as a part of the exhaust manifold, essentially making the catalytic converter almost impossible to access without taking apart half of the vehicle’s engine. In many cases, permanent marking of the catalytic converter will take hours of vehicle technician time and cost multiple hundreds of dollars to complete.

While new car dealers do sell used vehicles, the vehicles usually targeted for catalytic converter theft are “aged out” of most new car dealer lots simply due to mileage, age, and condition and are instead sold via private party on platforms like Craigslist, eBay Motors, and Facebook Marketplace, where there would be no mandate to permanently mark the catalytic converter before sale. Additionally, given that newer vehicles have catalytic converters that are often much more difficult to access than on older vehicles, we are unsure that this sales ban would have a meaningful impact on the problem at hand.

All of that being said, CNCDA wants to be part of the solution and very much appreciates Senator Umberg and his staff’s willingness to work with us. If this committee does decide to move forward with the sales prohibition in place, we would ask that dealers be reasonably compensated for the work being performed.”

**Support**
Los Angeles County District Attorney’s Office (Sponsor)
California Contract Cities Association
California District Attorneys Association
City of Buena Park
City of Huntington Beach
City of Lakewood
Consumers for Auto Reliability & Safety
Fountain Valley Police Department
Los Angeles County Sheriff’s Department
Orange County Sheriff’s Department
Prosecutor’s Alliance of California

**Opposition**
California New Car Dealers Association
Attachment 2
An act to amend Section 21610 of the Business and Professions Code, and to add Section 24020 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL’S DIGEST

SB 986, as introduced, Umberg. Vehicles: catalytic converters.
Existing law requires a core recycler that accepts, ships, or sells used catalytic converters to maintain specified information regarding the purchase and sale of the catalytic converters. Existing law prohibits a core recycler from providing payment for a catalytic converter unless the payment is made by check, the check is mailed or provided no earlier than 3 days after the date of sale, unless the seller is a business, and the core recycler obtains a photograph or video of the seller, a written statement regarding the origin of the catalytic converter, and certain other identifying information, as specified. Existing law exempts from this requirement a core recycler that buys used catalytic converters, transmissions, or other parts removed from a vehicle if the core recycler and the seller have a written agreement for the transaction. Existing law requires a core recycler to provide this information for inspection by local law enforcement upon demand. A violation of these provisions is punishable as a misdemeanor.

This bill would instead of payment by check, require payment by any traceable method, other than cash. The bill would also provide that the exemption for catalytic converters received pursuant to a written agreement is only valid if the written agreement also includes a regularly updated log or record describing each catalytic converter received under the agreement, as specified.
Existing law licenses and regulates motor vehicle dealers and retailers. Existing law prohibits a motor vehicle dealer or retailer from selling any motor vehicle that is not in compliance with the requirements enumerated in the Vehicle Code.

This bill would prohibit a dealer or retailer from selling a new motor vehicle equipped with a catalytic converter unless the catalytic converter has been engraved or etched with the vehicle identification number of the vehicle to which it is attached. A violation of this provision would be punishable as an infraction.

By creating a new infraction and expanding the application of an existing misdemeanor, this bill would impose a state-mandated local program.

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

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


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

SECTION 1. Section 21610 of the Business and Professions Code is amended to read:

(a) For the purposes of this section, the term “core recycler” means a person or business, including a recycler or junk dealer, that buys used individual catalytic converters, transmissions, or other parts previously removed from a vehicle. A person or business that buys a vehicle that may contain these parts is not a core recycler.

(b) A core recycler who accepts a catalytic converter for recycling shall maintain a written record that contains all of the following:

(1) The place and date of each sale or purchase of a catalytic converter made in the conduct of his or her core recycler.

(2) The name, valid driver’s license number, and state of issue, or California-issued identification number, of the seller of the catalytic converter and the vehicle license number, including state of issue of a motor vehicle used in transporting the catalytic converter.
converter to the core recycler’s place of business. If the seller is a
business, the written record shall include the name, address, and
telephone number of the business.

(3) A description of the catalytic converters purchased or sold,
including the item type and quantity, amount paid for the catalytic
converter, and any unique identification number, if any, and the
vehicle identification number, or any other identifying
information etched or engraved on the catalytic converter.

(4) A statement indicating either that the seller of the catalytic
converter is the owner of the catalytic converter, or the name of
the person from whom he or she has obtained the catalytic
converter, including the business, if applicable, as shown
on a signed transfer document.

(c) A core recycler engaged in the selling or shipping of used
catalytic converters to other recyclers or smelters shall retain
information on the sale that includes all of the following:
(1) The name and address of each person to whom the catalytic
converter is sold or disposed of.
(2) The quantity of catalytic converters being sold or shipped.
(3) The amount that was paid for the catalytic converters sold
in the transaction.
(4) The date of the transaction.
(5) A description of the catalytic converters including any unique
identification number, the vehicle identification number, or any
other identifying information etched or engraved on the catalytic
converter.

(d) A core recycler shall not provide payment for a catalytic
converter unless all of the following requirements are met:
(1) The payment is made by check any traceable form of
payment other than cash and provided to the seller by either of the
following:
(A) (i) Except as provided in clause (ii), mailed to the seller at
the address provided pursuant to paragraph (3).
(ii) For a seller that is a business, mailed to the seller’s business
address.
(B) (i) Except as provided in clause (ii), collected by the seller
from the recycler on the third business day after the date of sale.
(ii) A seller that is a business may receive immediate payment.
A seller that is a business that has a contract with a core recycler
or a seller that is a licensed auto dismantler may receive immediate
payment by check or by debit card or credit card.

(2) At the time of sale, the core recycler obtains a clear
photograph or video of the seller.

(3) (A) Except as provided in subparagraph (B), the core
recycler obtains a copy of the valid driver’s license of the seller
or the seller’s agent containing a photograph and an address of the
seller or the seller’s agent, or a copy of a state or federal
government issued identification card containing a photograph
and an address of the seller or the seller’s agent.

(B) If the seller prefers to have the check payment for the
catalytic converter mailed to an alternative address, other than a
post office box, the core recycler shall obtain a copy of a driver’s
license or identification card described in subparagraph (A) and a
gas or electric utility bill addressed to the seller at the alternative
address with a payment due date no more than two months prior
to the date of sale. For the purpose of this subparagraph,
“alternative address” means an address that is different from the
address appearing on the seller’s driver’s license or identification
card.

(4) The core recycler obtains a clear photograph or video of the
catalytic converter being sold.

(5) At the time of sale, the core recycler obtains a written
statement from the seller indicating how the seller obtained the
catalytic converter.

(e) The requirements of subdivision (d) shall not apply to a core
recycler that buys used catalytic converters, transmissions, or other
parts removed from a vehicle if the core recycler and the seller
have a written agreement for the transaction, provided
that any such written agreement also includes a log or other
regularly updated record of each individual catalytic converter
received pursuant to the agreement that describes each catalytic
converter with sufficient particularity, including any identification
numbers or markings, to reasonably be able to match any catalytic
converter in the core recycler’s inventory to the written agreement
under which it was received.

(f) Core recyclers accepting catalytic converters from licensed
auto dismantlers or from recyclers who hold a written agreement
with a business that sells catalytic converters for recycling purposes
are required to collect only the following information:
(1) Name of seller or agent acting on behalf of the seller.
(2) Date of transaction.
(3) Number of catalytic converters received in the course of the transaction.
(4) Amount of money that was paid for catalytic converters in the course of the transaction.
(5) A description of the catalytic converters including any unique identification number, the vehicle identification number, or any other identifying information etched or engraved on the catalytic converter.
(g) A core recycler shall keep and maintain the information required pursuant to this section for not less than two years.
(h) A core recycler shall make the information required pursuant to this section available for inspection by local law enforcement upon demand.
(i) A person who makes, or causes to be made, a false or fictitious statement regarding any information required pursuant to this section is guilty of a misdemeanor.
(j) A person who violates the requirements of this section is guilty of a misdemeanor.
(k) Upon conviction, a person who knowingly and willfully violates the requirements of this section shall be punished as follows:
(1) For a first conviction, by a fine of one thousand dollars ($1,000).
(2) (A) For a second conviction, by a fine of not less than two thousand dollars ($2,000).
(B) In addition to the fine imposed pursuant to subparagraph (A), the court may order the defendant to cease engaging in the business of a core recycler for a period not to exceed 30 days.
(3) (A) For a third and subsequent conviction, by a fine of not less than four thousand dollars ($4,000).
(B) In addition to the fine imposed pursuant to subparagraph (A), the court shall order the defendant to cease engaging in the business of a core recycler for a period not less than one year.
(l) The provisions of this section apply to core recyclers and do not apply to a subsequent purchaser of a catalytic converter who is not a core recycler. Other than subdivision (f), the provisions of this section do not apply to a core recycler who holds a written agreement with a business or recycler regarding the transactions.
transactions, provided that any such written agreement also includes a log or other regularly updated record of each individual catalytic converter received pursuant to the agreement that describes each catalytic converter with sufficient particularity, including any identification numbers or markings, to reasonably be able to match any catalytic converter in the core recycler’s inventory to the written agreement under which it was received.

SEC. 2. Section 24020 is added to the Vehicle Code, to read:

24020. (a) No dealer or person holding a retail seller’s permit shall sell a new or used vehicle equipped with a catalytic converter unless the catalytic converter has been engraved or etched with the vehicle identification number (VIN) of the vehicle to which it is attached.

(b) This section does not apply to a collector motor vehicle.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
Item B-1
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City's location, economy, programs, and policies through the adoption of a Legislative Platform.

Councilmember John Mirisch has requested this item be considered by the Legislative/Lobby Liaisons. Senate Bill 1456 (Stern) - Property Taxation: Welfare Exemption: Low-Income Housing ("SB 1456") involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for SB 1456 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 1456, the Liaisons may recommend the following actions:

1) Support SB 1456;
2) Support if amended SB 1456;
3) Oppose SB 1456;
4) Oppose unless amended SB 1456;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 1456, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
April 26, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: SB 1456 (Stern) Property Taxes: Welfare Exemption: Low Income Housing

Version
As Amended in the Senate on March 31, 2022

Summary
Eliminates the current $20 million statewide cap on the value of property that would qualify for a property tax exemption known as a welfare exemption. This type of property tax exemption applies to property that is utilized exclusively for non-publicly financed affordable housing. The measure applies to lien dates on or after the effective date of this bill.

Existing Law
The California Constitution provides that all property is taxable unless explicitly exempted by the Constitution or federal law, but also allows the Legislature to exempt property used exclusively for charitable purposes so long as non-profit entities own the property and those entities are organized and operated for charitable purposes, such as universities, hospitals, and libraries. The Legislature enacted this exemption, commonly known as the “welfare exemption.” The welfare exemption has a similar policy genesis as tax-exempt status for charitable groups: revenues paid in tax to the government divert needed resources away from the organizations’ good works.

The welfare exemption includes property used for rental housing, if:

- Tax-exempt mortgage revenue bonds; general obligation bonds; federal, state, or local grants; or federal low-income housing tax credits finance the housing,
- The property is restricted for low-income housing, and rents do not exceed those prescribed through deed restrictions, and
- The property owner certifies that funds that would have been used to pay property taxes are used to maintain the affordability of the units or reduce rents.

For projects with both low-income and market rate units, the owner can claim a partial exemption, equal to that percentage of the value of the property equal to the percentage that the number of units serving lower income households represents of the total number of residential units.

Prior to 1999, rental housing owners could claim a welfare exemption from property tax for low-income housing if 20% of the property’s residents were low-income. After the Los Angeles Housing Project investigated poorly managed housing projects, they discovered that tax-exempt property owners were not providing basic maintenance to housing that qualified them for the exemption from
property tax. Responding to the investigation, the Legislature enacted AB 1559 (Wiggins, 1999), which repealed the occupancy test, instead requiring all owners to receive public financing in the forms listed above for the project to claim the welfare exemption, in addition to the above requirements. However, AB 1559 revoked the exemption for many worthy properties owned by charities that were not publicly financed, so the Legislature subsequently enacted AB 659 (Wiggins, 2000), which again allowed an exemption for non-publicly financed rental housing property, subject to several requirements:

- Ninety percent of the households occupying the housing must be low-income persons, whose rent does not exceed specified limits for low-income persons;
- The property is subject to a recorded deed restriction, regulatory agreement, or other legal document restricting the property's use to low-income housing.
- A cap in the exemption amount of $20,000 in tax for all properties the taxpayer owns in the state; and
- A requirement that the property be managed solely by a charitable non-profit organization (specifically, excluding limited partnerships) to be eligible for the exemption.

Since 2000, the value of housing has increased, compelling some non-profits to pay taxes on amounts that exceeded the cap, and discouraging other groups from acquiring rental housing in the hopes of preserving existing affordable units in their areas. In response, the Legislature enacted SB 996 (Hill, 2016), which:

- Quintupled the cap, and revised it to instead apply to the property's value, not the tax paid, with the new threshold at $10 million of assessed value;
- Created a process for taxpayers to file a claim to cancel any outstanding taxes or escape assessments due on values that exceeded the previous cap; and
- Required property owners claiming the welfare exemption to provide specified information regarding the household income of and the rent charged to an occupant of an exempt unit.

In 2018, the Legislature again increased the cap to $20 million in value (SB 1115, Hill), and created a process for taxpayers to file a claim to have any outstanding taxes or escape assessments cancelled.

Charitable organizations that own and operate rental housing projects can claim the exemption up to the cap, but must pay tax on value above that amount, which deters them from purchasing more. The author wants to eliminate the cap to increase the supply of affordable housing.

**Background**

According to the author, “There is an overwhelming need for more housing in California. According to the latest Regional Housing Needs Assessment (RHNA), the state will need 2.5 million new homes over the next 8 years to meet housing goals, with at least one million of that total to meet the needs for low-income housing. The National Low Income Housing Coalition estimates that the state is short more than 962,000 affordable homes for extremely low-income renters.

The author argues that the lack of affordable housing has contributed to our homeless crisis, with more than 160,000 Californians living on the streets and millions more living one paycheck away from homelessness. Despite strong efforts by the Legislature and the Governor to meet our housing needs, we are still failing to achieve our housing goals.
The author points out that current law does not treat all developers the same. Nonprofit developers that use public funds such as tax credits or state or federal grants and loans are eligible for a 100% property tax exemption. A nonprofit developer that privately finances low-income housing and uses no public funds is eligible for a property tax exemption up to a maximum of $20 million in aggregate valuation. The author argues that there is irony in the fact that projects with no direct state costs for development are subject to the current $20 million limit in assessed value while a project that can cost the state millions of dollars receives a property tax exemption up to 100% on an unlimited number of projects.

The author’s stated goal for SB 1456 is to level the playing field so that all nonprofit developers who are contributing to affordable housing stock are treated the same.

**Status of Legislation**
This measure is scheduled for hearing in the Senate Committee on Appropriations on May 2, 2022.

**Support**
Aids Healthcare Foundation  
California Business Roundtable  
California Catholic Conference  
Coalition for Economic Survival (CES)  
UNITE HERE! Local 11

**Opposition**
An act to amend Section 214 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL’S DIGEST


The California Constitution authorizes the Legislature to exempt from taxation, in whole or in part, property that is used exclusively for religious, hospital, or charitable purposes, and is owned or held in trust by a nonprofit entity. Pursuant to this constitutional authority, existing law partially exempts from property taxation property used exclusively for rental housing and related facilities, if specified criteria are met, including, except in the case of a limited partnership in which the managing general partner is a nonprofit corporation eligible for the exemption, that 90% or more of the occupants of the property are lower income households whose rents do not exceed the rent limits prescribed by a specified law. Existing law limits the total exemption amount allowed to a taxpayer, with respect to a single property or multiple properties for any fiscal year on the sole basis of the application of this criterion, to $20,000,000 of assessed value.

This bill would remove the above-described limit on the total exemption amount with respect to property tax lien dates occurring on
and after the effective date of the bill. By adding to the duties of local tax officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Existing law requires the state to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation. This bill would provide that, notwithstanding those provisions, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.


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

SECTION 1. Section 214 of the Revenue and Taxation Code is amended to read:

214. (a) Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations, limited liability companies, or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation, including ad valorem taxes to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978, or any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition, if:

1. The owner is not organized or operated for profit. However, in the case of hospitals, the organization shall not be deemed to be organized or operated for profit if, during the immediately preceding fiscal year, operating revenues, exclusive of gifts, endowments, and grants-in-aid, did not exceed operating expenses by an amount equivalent to 10 percent of those operating expenses.

As used herein, operating expenses include depreciation based on
cost of replacement and amortization of, and interest on, indebtedness.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(A) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to use of the property for either or both of the following described activities if that use is occasional:

(i) The owner conducts fundraising activities on the property and the proceeds derived from those activities are not unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, of the owner and are used to further the exempt activity of the owner.

(ii) The owner permits any other organization that meets all of the requirements of this subdivision, other than ownership of the property, to conduct fundraising activities on the property and the proceeds derived from those activities are not unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, of the organization, are not subject to the tax on unrelated business taxable income that is imposed by Section 511 of the Internal Revenue Code, and are used to further the exempt activity of the organization.

(B) For purposes of subparagraph (A):

(i) “Occasional use” means use of the property on an irregular or intermittent basis by the qualifying owner or any other qualifying organization described in clause (ii) of subparagraph (A) that is incidental to the primary activities of the owner or the other organization.

(ii) “Fundraising activities” means both activities involving the direct solicitation of money or other property and the anticipated exchange of goods or services for money between the soliciting organization and the organization or person solicited.

(C) Subparagraph (A) shall have no application in determining whether paragraph (3) has been satisfied unless the owner of the property and any other organization using the property as provided in subparagraph (A) have filed with the assessor a valid
organizational clearance certificate issued pursuant to Section 254.6.

(D) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to the use of the property for meetings conducted by any other organization if the meetings are incidental to the other organization’s primary activities, are not fundraising meetings or activities as defined in subparagraph (B), are held no more than once per week, and the other organization and its use of the property meet all other requirements of paragraphs (1) to (5), inclusive, of this subdivision. The owner or the other organization also shall file with the assessor a copy of a valid, unrevoked letter or ruling from the Internal Revenue Service or the Franchise Tax Board stating that the other organization, or the national organization of which it is a local chapter or affiliate, qualifies as an exempt organization under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code or Section 23701d, 23701f, or 23701w.

(E) Subparagraph (A), (B), (C), or (D) shall not be construed to either enlarge or restrict the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations, or the more advantageous pursuit of their business or profession.

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where that use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose.

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution, or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation, or corporation organized and operated for religious, hospital, scientific, or charitable purposes.

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution that, in addition to complying with the foregoing requirements for the exemption of charitable

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organizations in general, has been chartered by the Congress of
the United States (except that this requirement shall not apply
when the scientific purposes are medical research), and whose
objects are the encouragement or conduct of scientific
investigation, research, and discovery for the benefit of the
community at large.

The exemption provided for herein shall be known as the
“welfare exemption.” This exemption is in addition to any other
exemption now provided by law, and the existence of the
exemption provision in paragraph (2) of subdivision (a) of Section
202 does not preclude the exemption under this section for museum
or library property. Except as provided in subdivision (e), this
section shall not be construed to enlarge the college exemption.

(b) Property used exclusively for school purposes of less than
collegiate grade and owned and operated by religious, hospital, or
charitable funds, foundations, limited liability companies, or
corporations, which property and funds, foundations, limited
liability companies, or corporations meet all of the requirements
of subdivision (a), shall be deemed to be within the exemption
provided for in subdivision (b) of Section 4 and Section 5 of Article
XIII of the California Constitution and this section.

(c) Property used exclusively for nursery school purposes and
owned and operated by religious, hospital, or charitable funds,
foundations, limited liability companies, or corporations, which
property and funds, foundations, limited liability companies, or
corporations meet all the requirements of subdivision (a), shall be
deemed to be within the exemption provided for in subdivision
(b) of Section 4 and Section 5 of Article XIII of the California
Constitution and this section.

(d) Property used exclusively for a noncommercial educational
FM broadcast station or an educational television station, and
owned and operated by religious, hospital, scientific, or charitable
funds, foundations, limited liability companies, or corporations
meeting all of the requirements of subdivision (a), shall be deemed
to be within the exemption provided for in subdivision (b) of
Section 4 and Section 5 of Article XIII of the California
Constitution and this section.

(e) Property used exclusively for religious, charitable, scientific,
or hospital purposes and owned and operated by religious, hospital,
scientific, or charitable funds, foundations, limited liability
companies, or corporations or educational institutions of collegiate
grade, as defined in Section 203, which property and funds,
foundations, limited liability companies, corporations, or
educational institutions meet all of the requirements of subdivision
(a), shall be deemed to be within the exemption provided for in
subdivision (b) of Section 4 and Section 5 of Article XIII of the
California Constitution and this section. As to educational
institutions of collegiate grade, as defined in Section 203, the
requirements of paragraph (6) of subdivision (a) shall be deemed
to be met if both of the following are met:

1. The property of the educational institution is irrevocably
dedicated in its articles of incorporation to charitable and
educational purposes, to religious and educational purposes, or to
educational purposes.

2. The articles of incorporation of the educational institution
provide for distribution of its property upon its liquidation,
dissolution, or abandonment to a fund, foundation, or corporation
organized and operated for religious, hospital, scientific, charitable,
or educational purposes meeting the requirements for exemption
provided by Section 203 or this section.

(f) Property used exclusively for housing and related facilities
for elderly or handicapped families and financed by, including,
but not limited to, the federal government pursuant to Section 202
of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section
231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of
Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of
Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and
operated by religious, hospital, scientific, or charitable funds,
foundations, limited liability companies, or corporations meeting
all of the requirements of this section shall be deemed to be within
the exemption provided for in subdivision (b) of Section 4 and
Section 5 of Article XIII of the California Constitution and this
section.

The amendment of this paragraph made by Chapter 1102 of the
Statutes of 1984 does not constitute a change in, but is declaratory
of, existing law. However, no refund of property taxes shall be
required as a result of this amendment for any fiscal year prior to
the fiscal year in which the amendment takes effect.

Property used exclusively for housing and related facilities for
elderly or handicapped families at which supplemental care or
services designed to meet the special needs of elderly or
handicapped residents are not provided, or that is not financed by
the federal government pursuant to Section 202 of Public Law
86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public
Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law
90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law
101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption
pursuant to this subdivision unless the property is used for housing
and related facilities for low- and moderate-income elderly or
handicapped families. Property that would otherwise be exempt
pursuant to this subdivision, except that it includes some housing
and related facilities for other than low- or moderate-income elderly
or handicapped families, shall be entitled to a partial exemption.
The partial exemption shall be equal to that percentage of the value
of the property that is equal to the percentage that the number of
low- and moderate-income elderly and handicapped families
represents of the total number of families occupying the property.
As used in this subdivision, “low and moderate income” has the
same meaning as the term “persons and families of low or moderate
income” as defined by Section 50093 of the Health and Safety
Code.
(g) (1) Property used exclusively for rental housing and related
facilities and owned and operated by religious, hospital, scientific,
or charitable funds, foundations, limited liability companies, or
corporations, including limited partnerships in which the managing
general partner is an eligible nonprofit corporation or eligible
limited liability company, meeting all of the requirements of this
section, or by veterans’ organizations, as described in Section
215.1, meeting all the requirements of paragraphs (1) to (7),
inclusive, of subdivision (a), shall be deemed to be within the
exemption provided for in subdivision (b) of Section 4 and Section
5 of Article XIII of the California Constitution and this section
and shall be entitled to a partial exemption equal to that percentage
of the value of the property that is equal to the percentage that the
number of units serving lower income households represents of
the total number of residential units in any year in which any of
the following criteria applies:
(A) The acquisition, rehabilitation, development, or operation
of the property, or any combination of these factors, is financed
with tax-exempt mortgage revenue bonds or general obligation
bonds, or is financed by local, state, or federal loans or grants and the rents of the occupants who are lower income households do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(B) The owner of the property is eligible for and receives low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, as added by Public Law 99-514.

(C) In the case of a claim, other than a claim with respect to property owned by a limited partnership in which the managing general partner is an eligible nonprofit corporation, that is filed for the 2000–01 fiscal year or any fiscal year thereafter, 90 percent or more of the occupants of the property are lower income households whose rent does not exceed the rent prescribed by Section 50053 of the Health and Safety Code.

(D) (i) The property was previously purchased and owned by the Department of Transportation pursuant to a consent decree requiring housing mitigation measures relating to the construction of a freeway and is now solely owned by an organization that qualifies as an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

(ii) This subparagraph does not apply to property owned by a limited partnership in which the managing partner is an eligible nonprofit corporation.

(2) In order to be eligible for the exemption provided by this subdivision, the owner of the property shall do both of the following:

(A) (i) For any claim filed for the 2000–01 fiscal year or any fiscal year thereafter, certify and ensure, subject to the limitation in clause (ii), that there is an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document that restricts the project’s usage and that provides that the units designated for use by lower income households are continuously available to or occupied by lower income households, subject to the exception in clause (iii), at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or financial assistance conflicts with Section 50053 of the Health and Safety Code, rents that do not exceed those prescribed by the terms of the financing or financial assistance.
(ii) In the case of a limited partnership in which the managing
general partner is an eligible nonprofit corporation, the restriction
and provision specified in clause (i) shall be contained in an
enforceable and verifiable agreement with a public agency, or in
a recorded deed restriction to which the limited partnership
certifies.
(iii) (I) In the case of an owner of property that is eligible for
and receives a low-income housing tax credit pursuant to Section
42 of the Internal Revenue Code, relating to low-income housing
credit, a unit shall continue to be treated as occupied by a lower
income household if the occupants were lower income households
on the lien date in the fiscal year in which their occupancy of the
unit commenced and the unit continues to be rent restricted,
notwithstanding an increase in the income of the occupants of the
unit to 140 percent of area median income, adjusted for family
size. However, the unit shall cease to be treated as a lower income
unit if the income of the occupants of the unit increases above 140
percent of area median income, adjusted for family size.
(II) This clause shall only be operative from the 2018–19 fiscal
year through the 2027–28 fiscal year.
(B) Certify that the funds that would have been necessary to
pay property taxes are used to maintain the affordability of, or
reduce rents otherwise necessary for, the units occupied by lower
income households.
(3) As used in this subdivision:
(A) “Lower income households” has the same meaning as the
term “lower income households” as defined by Section 50079.5
(B) “Related facilities” means any manager’s units and any and
all common area spaces that are included within the physical
boundaries of the rental housing development, including, but not
limited to, common area space, walkways, balconies, patios,
clubhouse space, meeting rooms, laundry facilities, and parking
areas, except any portions of the overall development that are
nonexempt commercial space.
(C) (i) “Units serving lower income households” shall mean
units that are occupied by lower income households at an affordable
rent, as defined in Section 50053 of the Health and Safety Code
or, to the extent that the terms of federal, state, or local financing
or financial assistance conflicts with Section 50053 of the Health
and Safety Code, rents that do not exceed those prescribed by the
terms of the financing or financial assistance. Units reserved for
lower income households at an affordable rent that are temporarily
vacant due to tenant turnover or repairs shall be counted as
occupied.
(ii) (I) “Units serving lower income households” shall also
mean units specified in clause (iii) of subparagraph (A) of
paragraph (2).
(II) This clause shall only be operative from the 2018–19 fiscal
year through the 2027–28 fiscal year.
(h) Property used exclusively for an emergency or temporary
shelter and related facilities for homeless persons and families and
owned and operated by religious, hospital, scientific, or charitable
funds, foundations, limited liability companies, or corporations
meeting all of the requirements of this section shall be deemed to
be within the exemption provided for in subdivision (b) of Section
4 and Section 5 of Article XIII of the California Constitution and
this section. Property that otherwise would be exempt pursuant to
this subdivision, except that it includes housing and related
facilities for other than an emergency or temporary shelter, shall
be entitled to a partial exemption.
As used in this subdivision, “emergency or temporary shelter”
means a facility that would be eligible for funding pursuant to
Chapter 11 (commencing with Section 50800) of Part 2 of Division
(i) Property used exclusively for housing and related facilities
for employees of religious, charitable, scientific, or hospital
organizations that meet all the requirements of subdivision (a) and
owned and operated by funds, foundations, limited liability
companies, or corporations that meet all the requirements of
subdivision (a) shall be deemed to be within the exemption
provided for in subdivision (b) of Section 4 and Section 5 of Article
XIII of the California Constitution and this section to the extent
the residential use of the property is institutionally necessary for
the operation of the organization.
(j) For purposes of this section, charitable purposes include
educational purposes. For purposes of this subdivision,
“educational purposes” means those educational purposes and
activities for the benefit of the community as a whole or an
unascertainable and indefinite portion thereof, and do not include
those educational purposes and activities that are primarily for the
benefit of an organization’s shareholders. Educational activities
include the study of relevant information, the dissemination of that
information to interested members of the general public, and the
participation of interested members of the general public.

(k) In the case of property used exclusively for the exempt
purposes specified in this section, owned and operated by limited
liability companies that are organized and operated for those
purposes, the State Board of Equalization shall adopt regulations
to specify the ownership, organizational, and operational
requirements for those companies to qualify for the exemption
provided by this section.

(l) The amendments made by Chapter 354 of the Statutes of
2004 apply with respect to lien dates occurring on and after January
1, 2005.

(m) The amendments made by Chapter 836 of the Statutes of
2016 apply with respect to lien dates occurring on and after January
1, 2017.

(n) The amendments made by Chapter 694 of the Statutes of
2018 apply with respect to lien dates occurring on and after January
1, 2019.

(o) The amendments made by the act adding this subdivision
shall apply with respect to lien dates occurring on and after the
effective date of the act.

(p) Notwithstanding Section 20 or any other law, the State Board
of Equalization is responsible for administering the welfare
exemption provided by this section, except where the law places
responsibility for administering that exemption with the county
assessor.

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

SEC. 3. Notwithstanding Section 2229 of the Revenue and
Taxation Code, no appropriation is made by this act and the state
shall not reimburse any local agency for any property tax revenues
lost by it pursuant to this act.
SEC. 4. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.
Item B-12
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: May 2, 2022
SUBJECT: State and Federal Legislative Updates
ATTACHMENTS: None

Verbal updates on legislative issues will be presented by the City’s state and federal lobbyists.
Item B-13
The Legislative/Lobby Liaison Committee may request items related to the purview of the Committee be placed on the next agenda.