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

One tap mobile
+16699009128,,3125224461#,,,,*90210# US
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Monday, July 11, 2022
9:30 AM

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

A summary list of each bill in Section B of the Agenda below may be found here. This list contains links to the full, legislative text for each bill.

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. Assembly Bill 2234 (Rivas, Robert) - Planning and zoning: housing: postentitlement phase permits
Comment: This item requests the Legislative/Lobby Liaison consider a request by the California Contract Cities Association for the City of Beverly Hills to take a position on AB 2234. This bill would establish time limits (a “shot clock”) for determinations regarding whether an application for a postentitlement phase permit is complete, whether an application contains defects or deficiencies, and whether to approve or deny an application. It will also create an unfunded state mandate by requiring cities to implement an electronic permit process.

2. **Senate Bill 897 (Wieckowski) - Accessory dwelling units: junior accessory dwelling units**
   Comment: This item requests the Legislative/Lobby Liaison consider a request by the California League of Cities for the City of Beverly Hills to take a position on SB 897. This bill makes numerous changes to the laws governing accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). This bill would require cities to (1) Allow ADU’s to be constructed with a height up to 25 feet near transit; (2) Permit constructed ADUs in violation of State building standards and in violation of local zoning requirements; and (3) Allow two ADUs to be constructed on a lot if a multifamily dwelling is proposed to be developed.

3. **Assembly Bill 2705 (Quirk-Silva) - Housing: fire safety standards**
   Comment: This bill would prohibit the legislative body of a city or county from approving a discretionary entitlement that would result in a new residential development project being located within a very high fire hazard severity zone, unless the city or county finds that the residential development project will meet specified standards intended to address wildfire risks.

4. **Senate Bill 1194 (Allen) - Public restrooms: building standards**
   Comment: This bill allows a city, county, or city and county to require public restroom facilities to be designed to serve all genders. This bill is cosponsored by Santa Monica and West Hollywood.

5. **Assembly Bill 2644 (Holden) - Custodial interrogation**
   Comment: This bill would, commencing January 1, 2024, prohibit law enforcement officers from employing threats, physical harm, deception, or psychologically manipulative interrogation tactics, as specified, during an interrogation of a person 25 years of age or younger.

6. **Senate Bill 1000 (Becker) - Law enforcement agencies: radio communications**
   Comment: This bill would require a law enforcement agency, including the California Highway Patrol, municipal police departments, county sheriff’s departments, specified local law enforcement agencies, and specified university and college police departments, to, by no later than January 1, 2024, ensure public access to the radio communications of that agency.

7. **Assembly Bill 1685 (Bryan) - Vehicles: parking violations**
   Comment: This measure would require cities and other processing agencies to forgive at least $1,500 in parking fines and fees annually for a qualified homeless person, allowing applicants to request forgiveness at least four times a year.
8. **Assembly Bill 1740 (Muratsuchi) Catalytic converters**
   Comment: This item requests the Legislative/Lobby Liaison consider a request by the California League of Cities for the City of Beverly Hills to take a position on AB 1740. This bill would require a core recycler to include additional information in the written record, including the year, make, and model of the vehicle from which the catalytic converter was removed and a copy of the title of the vehicle from which the catalytic converter was removed. The bill would prohibit a core recycler from entering into a transaction to purchase or receive a catalytic converter from a person that is not a commercial enterprise, as defined, or a verifiable owner of the vehicle from which the catalytic converter was removed, as specified, and would make other conforming changes.

9. **Assembly Bill 2407 (O'Donnell) Vehicle tampering: theft of catalytic converters**
   Comment: This item requests the Legislative/Lobby Liaison consider a request by the California League of Cities for the City of Beverly Hills to take a position on AB 2407. The purpose of this bill is to require a core recycler to report information collected to local law enforcement, as specified, and to request to receive theft alert notifications regarding the theft catalytic converters.

10. **Senate Bill 1079 (Portantino) - Vehicles: sound-activated enforcement devices**
    Comment: This bill would require the Department of the California Highway Patrol to evaluate the efficacy of sound-activated enforcement devices by evaluating devices from at least three different companies, and would require the department, on or before January 1, 2025, to prepare and submit its findings and recommendations from the evaluation in a report to the Legislature.

11. **Assembly Bill 2449 (Rubio, Blanca) - Open meetings: local agencies: teleconferences**
    Comment: This item requests the Legislative/Lobby Liaison consider a request by the California League of Cities for the City of Beverly Hills to take a position on AB 2449. This bill would authorize remote participation by members of a local agency legislative body and would provide local agencies flexibility to utilize teleconference options under certain circumstances through January 1, 2026.

12. **Assembly Bill 1751 (Daly) - Workers’ compensation: COVID-19: critical workers**
    Comment: This bill would extend the sunset date of the workers’ compensation COVID-19 presumption to January 1, 2025. Currently, there is a presumption that illness or death related to COVID-19 are an occupational injury and therefore eligible for workers’ compensation benefits.

13. **Senate Bill 1127 (Atkins) - Workers’ compensation: liability presumptions**
    Comment: This bill makes changes to workers’ compensation presumptive law for firefighters and peace officers including reducing the wait time from 90 days to 75 days for certain injuries or illnesses, including hernia, heart trouble, pneumonia, or tuberculosis, among others, sustained in the course of employment. Additionally, these personnel would have the number of compensable weeks increased to 240 week without limitation as to a time frame from the date of injury for cancer.

14. **Assembly Bill 1713 (Boerner Horvath) - Vehicles: required stops: bicycles**
    Comment: This bill permits a person, 18 years of age or older, to treat stop signs as yield signs when riding a bicycle under certain conditions.
15. Assembly Bill 1909 (Friedman) - Vehicles: bicycle omnibus bill
Comment: This bill comprehensively changes rules of the road and restrictions on bicycle operations, including eliminating a ban of class 3 electric bicycles on bicycle paths or trails, bikeway, bicycle lane, equestrian trail, or hiking trail; authorizing cities to prohibit electric bicycles on equestrian trails within that jurisdiction where they have the authority; eliminates local authority over banning class 1 and 2 electric bicycle on bike paths; and other changes.

16. Assembly Bill 2142 (Gabriel) - Income taxes: exclusion: turf replacement water conservation program
Comment: This bill reinstates an exemption for turf replacement rebates for water conservation from gross income in California. These exemptions had previously sunset in 2019.

17. Assembly Bill 1857 (Garcia, Cristina) - Solid waste
Comment: This bill repeals the provision of law that allows jurisdictions to count up to 10 percent of the waste sent to transformation toward their 50 percent diversion requirement. This bill also establishes the Zero Waste Transition Act of 2022 which will require CalRecycle, among other things, to develop a five-year investment strategy to drive local zero-waste strategies for communities seeking to reduce their reliance on transformation.

18. Senate Bill 991 (Newman) - Public contracts: progressive design-build: local agencies
Comment: This item requests the Legislative/Lobby Liaison consider a request by the Metropolitan Water District for the City of Beverly Hills to take a position on SB 991. This bill allows local agencies that provide water service to use progressive design-build for projects over $5 million.

19. Senate Bill 929 (Eggman) - Community mental health services: data collection
Comment: This measure would increase the amount of data reported to the Legislature by the Department of Health Care Services regarding the various holds provided under the Lanterman-Petris-Short Act. Data would include outcomes for individuals placed on each type of hold, services provided to individuals, waiting periods prior to receiving care, and current and future needs for treatment beds and services.

20. Senate Bill 1035 (Eggman) - Mental health services: assisted outpatient treatment
Comment: This measure would allow the court to conduct status hearings with a person subject to an assisted outpatient treatment order to evaluate progress and medication adherence.

21. Senate Bill 1154 (Eggman) - Facilities for mental health or substance use disorder crisis: database
Comment: This measure would require the California Department of Public Health, by January 1, 2024, to develop a real-time, internet-based database to collect, aggregate, and display information about available beds to treat those experiencing mental health or substance use disorders.

22. Senate Bill 1227 (Eggman) - Involuntary commitment: intensive treatment
Comment: This measure would permit a second intensive treatment period under the Lanterman-Petris-Short Act for a person who is still in need of intensive services, according to their mental health care provider. This period is intended to reduce the need for conservatorships if the patient is expected to stabilize within 30 days.

23. Senate Bill 1238 (Eggman) - Behavioral health services: existing and projected needs
Comment: This measure would require the Department of Health Care Services, beginning January 1, 2024, and at least every five years thereafter, to conduct a review of and prepare a report regarding current and projected behavioral health care infrastructure and service needs in each region of the state including barriers to meeting projected future needs and suggestions to alleviate bottlenecks in the continuum.

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

25. 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: July 7, 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
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Assembly Bill 2234 (Rivas, Robert) - Planning and zoning: housing: postentitlement phase permits
ATTACHMENT: 1. Summary Memo – AB 2234

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 2234 (Rivas, Robert) - Planning and zoning: housing: postentitlement phase permits (AB 2234) 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:

- In general, oppose any county, state or federal mandates without the direct or indirect reimbursement for the costs associated with complying with new and/or modified laws, regulations, policies, procedures, permits and/or programs.
- Oppose preemption of the City of Beverly Hills’ local authority whether by state or federal legislation or ballot propositions.

The League of California Cities has requested cities throughout the state consider taking a position to oppose AB 2234 as it creates impractical timeframes for review, especially on large projects. Additionally, it creates an unfunded technology mandate.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 2234 (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 2234, the Liaisons may recommend the following actions:

- Oppose AB 2234;
- Support AB 2234;
- Support if amended AB 2234;
- Oppose unless amended AB 2234;
- 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
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 2234 (R. Rivas) Planning and Zoning: Post-Entitlement Phase Permits

Version
As Amended in the Senate on June 23, 2022.

Summary
Establishes time limits and procedures for approval of post-entitlement permits. The bill also requires local jurisdictions to establish a process for online permitting of post-entitlement permits. Specifically, this bill:

1) Defines “post-entitlement phase permits” to include all nondiscretionary permits and reviews after the discretionary entitlement process has been completed that are require or issued by the local agency to begin construction of a development that is intended to be at least two-thirds residential, excluding planning permits, entitlements, and other permits and reviews that are covered by the Permit Streamlining Act (PSA).

2) Specifies that a post-entitlement phase permit shall include but not be limited to building permits, permits for minor or standard off-site improvements, permits for demolition, and permits for minor or standard excavation and grading. It does not include a permit required and issued by the California Coastal Commission, a special district, or a utility that is not owned by a local agency.

3) Requires a local agency, defined to include a city or county, to compile one or more lists of information that will be required from any applicant for a post-entitlement phase permit. The local agency may revise the lists, but any revised list cannot apply to any permit pending review.

4) Requires a local agency to post an example of a complete, approved application and an example of a complete set of post-entitlement phase permits for at least five types of housing development projects in the jurisdiction, including, but not limited to, accessory dwelling units, duplexed, multifamily developments, mixed-use developments, and townhomes.

5) Requires the lists and example permits in (3) and (4) to be posted on the city or county’s website by January 1, 2024.

6) Requires large jurisdictions (counties with populations of 250,000 or greater as of January 1, 2019, and all cities within those counties) to authorize for online permitting applications to occur online by January 1, 2024. The website must list the current processing status of the applicant’s permit, including whether it is being reviewed by the agency or if action is required from the applicant.
7) Requires large jurisdictions to accept applications by email until they meet the requirement for an online permitting system and requires the local agency to respond to inquiries on the status of a permit by email.

8) Requires a local agency to determine whether an application for a post-entitlement phase permit is complete and provide written notice of this determination to the applicant within fifteen business days after the local agency received the application.

9) Provides that if the local agency determines an application is incomplete, the local agency must provide the applicant with a list of incomplete items and a description of how the application can be made complete. The local agency cannot request information that was not on the original list of required information.

10) Provides that, after receiving a notice that the application was incomplete, an applicant may cure and address the items that are deemed to be incomplete by the local agency. Upon receipt of a corrected application, the local agency must notify the applicant whether the additional application has reme$63$deed all incomplete items within fifteen business days.

11) Provides that if a local agency does not meet the timelines required for determining an application complete, and the application or resubmitted application states that it is for a post-entitlement phase permit, the application is deemed complete.

12) Requires local agencies to complete review and electronically notify the applicant of its determination within:
   a. Thirty business days of the application being complete for housing development projects with twenty-five units or fewer; or
   b. Sixty business days of the application being complete for housing development projects with twenty-six units or more.

13) Provides that the time limits in (12) do not apply if the local agency makes written findings within the applicable time limit that the proposed post-entitlement phase permit might have a specific, adverse impact, as defined, on public health or safety and that additional time is necessary to process the application.

14) Provides that if a local agency finds that a complete application is defective or deficient, it shall provide the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant within the applicable time limit, but must provide the list and description when it transmits its determination to the applicant. If a local agency denies a post-entitlement phase permit application based on a defect or deficiency, the applicant may attempt to remedy the defect or deficiency, and that additional application is subject to the timelines of a new application.

15) Requires a local agency to also provide an applicant whose permit is determined to be incomplete or denied an appeals process to the governing body of the agency or planning commission, or both. If an applicant appeals, the local agency must make a final determination within:
   a. Sixty business days of the appeal for a project of twenty-five units or fewer; or
   b. Ninety business days of the appeal for a project of twenty-six units or more.
16) Provides that failure to meet the time limits in the bill constitute a violation of the HAA but allows extension of any of its time limits upon mutual agreement by the local government and the applicant. However, a local agency cannot require as a condition of submitting the application that the applicant waive the time limits in the bill, with an exception for environmental review associated with the project.

**Background and Existing Law**

According to the author, “Local governments approve new housing developments with the expectation that they will soon see the creation of much-needed housing. There is no standardized process or timeline to approve the array of post-entitlement “building” permits (for excavation, demolition, and the like). Many projects spend months or even years waiting for building permit approvals – even though the housing development has already been reviewed and approved.

Developers do not always provide all the required information to the city when applying for the permits, and cities do not always provide timely, necessary feedback to applicants. These delays of months or years increase the costs of the projects and slow overall housing production, which exacerbates California’s housing crisis. The Permit Streamlining Act does not resolve this issue because it does not apply to building permits. The author argues that AB 2234 will modernize the building permit process in several key ways, including:

- Setting firm timetables for local governments to approve, deny, or request changes to building permit applications.
- Requiring local governments to post ideal application checklists and sample applications online, to ensure developers are submitting complete applications in a form that the local government can process.
- Requiring larger local governments to accept building permit applications online.”

Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. A zoning ordinance may be subject to the California Environmental Quality Act (CEQA) if it will have a significant impact upon the environment. The adoption of ADU ordinances, however, are explicitly exempt from CEQA. There are also several statutory exemptions that provide limited environmental review for projects that are consistent with a previously adopted general plan, community plan, specific plan, or zoning ordinance.

Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially, or by-right, require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the CEQA, while projects permitted ministerially generally are not.

The scale of the proposed development, as well as the existing environmental setting determine the degree of local review that occurs. For larger developments, the local entitlement process commonly requires multiple discretionary decisions regarding the subdivision of land, environmental review per CEQA, design
review, and project review by the local agency’s legislative body (city council or county board of supervisors) or by a planning commission, the legislative body has delegated to.

The 1977 Permit Streamlining Act (PSA) requires public agencies to act fairly and promptly on applications for development proposals, including housing developments. Public agencies must develop lists of the information that applicants must provide for a development application, including an application for housing, to be complete and explain the criteria they will use to review permit applications. Public agencies have 30 days to determine whether applications for development projects are complete and request additional information; failure to act results in an application being “deemed complete.” If an application is incomplete, the PSA requires local agencies to exhaustively list all information needed to make a development application complete and prohibits local agencies from asking for additional information that was not initially required.

Once a complete application for a development has been submitted, the PSA requires local officials to act within a specific time after completing any environmental review documents required under CEQA, ranging between 60 and 180 days. If the local government fails to approve or disapprove the application in the applicable time, the application is deemed approved.

The PSA establishes timelines for agencies to determine whether a permit for an entitlement is complete and timelines for approving or denying a development proposal that is deemed complete. Once a development proposal is approved by the local agency, the developer is still required to submit a range of nondiscretionary permits to the local agency for approval to complete the work to construct the building. These permits can include building permits and other permits for: demolition; grading; excavation; electrical, plumbing, or mechanical work; encroachment in the public right-of-way; roofing; water and sewer connections or septic systems; fire sprinklers; and home occupations.

The PSA applies to the discretionary approval phase of a development review process, this is the phase where the local agency, in its discretion, decides whether it approves of the concept outlined in the development proposal. Because the local agency is exercising discretion, these approval decisions are subject to CEQA. Once the development proposal is approved by the local agency, the next phase of review involves the ministerial review of objective permits associated with the development proposal that ensure the proposal is compliant with state and local building codes and other measures that protect public health, safety, and the environment. The timelines established in the PSA do not apply to these nondiscretionary permits. This bill requires local agencies to act within certain periods on these post-entitlement projects.

This bill requires a local agency to compile one or more lists of information that will be required from any applicant for a post-entitlement phase permit. The lists must be posted on the agency’s website by January 1, 2024. The bill also requires large jurisdictions to offer post-entitlement phase permits to be applied for, completed, and retrieved by an applicant on its website by January 1, 2024. These application processes must be completed within a specified time-period depending on the size of the development.

The author agreed to accept the following amendments in the prior committee, which include the following amendments: grant a delay of 5 years, extendable by an additional 5 years if the city or county makes a finding as to the necessity of the delay, on the requirement to have an online permitting system for post-entitlement permits for cities under 75,000 and in counties of less than 1.1 million population. Retains complete exemption for the smallest of the small as currently in the bill. The author will also accept one clarifying change in the analysis (clarifying penalties).

**Arguments in Opposition**

Local governments writing in opposition are concerned about the timeframes in the bill, which may fail to consider various circumstances for an individual project. Additionally, they are concerned about additional
costs and staff time that will be required to implement the provisions of the bill. Several groups, including the League of California Cities, the State Association of Counties, and others, have adopted a position of “Oppose Unless Amended.” The amendment that they seek

These groups oppose the unfunded mandate for online permitting and urge the author to focus the bill on either technology or process improvements, but not both.

Opponents point to a recent Data Strategy Appendix to the Statewide Housing Plan, released by the State Department of Housing and Community Development (HCD), which stated that “typical costs for new permit systems or major updates range from under $100,000 for a smaller jurisdiction to over a million for the implementation of a high functionality system in a larger jurisdiction.”

HCD went on to estimate that “if all jurisdictions in the state were to pursue a project like this, costs are estimated to exceed $100 million.” Moreover, the Data Strategy identified ongoing operating costs in the tens of thousands of dollars annually, although higher in larger jurisdictions.

AB 2234 would mandate costly electronic permitting, but it would not provide any state funding to accomplish this goal, despite the significant costs identified in the Statewide Housing Plan. Instead, specified “large jurisdictions,” which includes small cities located within large counties, would be required to incur significant up-front expenses, and try to recoup their costs through fees on development applicants.

This fee-based cost recovery is most likely to be practical in larger jurisdictions with significant housing growth, and it would be at odds everywhere with recent state efforts to reduce fees on new development.

Opponents argue that AB 2234 should be amended to make the online permitting requirements contingent on an appropriation of state funding to offset costs needed to upgrade local systems, as discussed in HCD’s recent Data Strategy

**Legislative Status**

AB 2234 (R. Rivas) is currently pending in the Senate Appropriations Committee, which will schedule this measure for a hearing within the first two weeks of August 2022.

**Support**
- Housing Action Coalition (Co-Sponsor)
- Silicon Valley Leadership Group (Co-Sponsor)
- American Planning Association, California Chapter
- California Housing Consortium
- California Housing Partnership Corporation
- California YIMBY
- EAH Housing
- Non-profit Housing Association of Northern California (NPH)

**Opposition**
- City of Pleasanton
- City of San Marcos
- California Building Officials (Oppose Unless Amended)
- California State Association of Counties (Oppose Unless Amended)
- League of California Cities (Oppose Unless Amended)
- Rural County Representatives of California (Oppose Unless Amended)
- Urban Counties of California (Oppose Unless Amended)
Item B-2
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Senate Bill 897 (Wieckowski) - Accessory dwelling units: junior accessory dwelling units
ATTACHMENT: 1. Summary Memo – SB 897

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 897 (Wieckowski) - Accessory dwelling units: junior accessory dwelling units (SB 897) 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.

The League of California Cities has requested cities throughout the state consider taking a position to oppose SB 897.

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 897 (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 SB 897, the Liaisons may recommend the following actions:
- Oppose SB 897;
- Support SB 897;
- Support if amended SB 897;
- Oppose unless amended SB 897;
- 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
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: SB 897 (Weickowski) Accessory Dwelling Units; Junior Accessory Dwelling Units

Summary
Makes multiple changes to Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) law related to the local agency approval process, the total allowable height, the application of local building codes, and parking requirements that apply to these structures. Additionally this bill creates a process allowing for the permitting of previously unpermitted ADUs. Specifically:

1) Local Agency Approval Process. This bill requires local agencies to approve or deny an ADU or JADU permit application within 60 days. Currently law only requires local agencies to “act” on a permit application within 60 days.

2) Height Requirements. This bill increases the allowable height limit for ADUs in certain locations. Specifically, the bill allows ADUs as tall as 25 feet when the ADU is attached to an existing home, or when the ADU is within ½ mile of major transit or high-quality transit corridors.

3) Building Code. This bill makes several changes to the form and manner in which building codes are applied to ADUs. Specifically, this bill:
   a) Prohibits local agencies from reclassifying a structure within Group R of the state building code when an ADU is built on the parcel.
   b) Prohibits local agencies from requiring the installation of fire sprinklers on a proposed or existing primary residence when an ADU is built on the parcel.
   c) Requires local agencies to delay enforcement of building standards against the primary residence on a parcel where the owner built an ADU, provided that correcting the violation at the primary residence is not necessary to protect public health and safety and the ADU was built in a specified time period.
   d) Prohibits local agencies from denying an application to create an ADU due to the correction of nonconforming zoning conditions or unpermitted structures that are not affected by the construction of the ADU.

4) Parking Requirements. Expands restrictions on the ability of local agencies to impose parking requirements on parcels with ADUs as follows:
a) Prohibits local agencies from imposing any parking standards when a developer submits concurrent permit applications to create an ADU and a new single-family dwelling on the same lot.

b) Requires local agencies to reduce the number of parking spaces required for new multifamily dwellings by two parking spaces for each ADU that is proposed on the same lot when the applications are submitted concurrently.

5) Grandfathering Unpermitted ADUs. Provides that, unless a local agency makes a finding that correcting a specified violation is necessary to protect the health and safety of the public or occupants of the structure, or the ADU is deemed substandard pursuant to existing law, a local agency cannot deny a permit for a constructed, unpermitted ADU built before January 1, 2018 for specified reasons.

**Background and Existing Law**

According to a UC Berkeley study, Yes in My Backyard: Mobilizing the Market for Secondary Units, second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. Despite state law requirements for each city in the state to have a ministerial process for approving second units, local regulations often impede development.

In response, several bills, including SB 1069 (Wieckowski, 2016), SB 13 (Wieckowski, 2019) and AB 68 (Ting, 2019), have relaxed multiple requirements for the construction and permitting of ADUs and JADUs.

According to a 2020 UCLA Working Paper, “state ADU and JADU legislation has created the market-feasible potential for nearly 1.5 million new units.”

Since 2013, the number of permitted ADUs increased from 799 to 12,813 in 2020, for a total of almost 44,000 ADUs permitted statewide. With localities across the state facing large regional housing needs allocations for the sixth housing element cycle, ADUs and JADUs represent a key tool in the housing production toolbox.

Current state funding for ADUs. Currently, only one state program, under the California Housing Finance Agency (CalHFA), provides funding for ADU construction. Under this program, ADU grants are provided up to $40,000 to reimburse pre-development and non-reoccurring closing costs associated with the construction of an ADU. Pre-development costs include site preparation, architectural designs, permits, soil tests, impact fees, property survey, and energy reports. As the program takes shape, CalHFA is looking to increase the incentive and also streamline eligibility requirements while maintaining the program’s social equity focus.

These updates reduce complexity, provide consistency with homeownership programs, and remove barriers to ADU production for low-moderate income homeowners. Given the high demand for more housing, more state funding opportunities for ADUs are necessary. This bill proposes to create the California ADU Fund to support the construction and maintenance of both ADUs and JADUs.

SB 1069 (Wieckowski), Chapter 720, Statutes of 2016, and AB 2299 (Bloom), Chapter 735 Statutes of 2016 revised ADU Law to address some of the barriers to ADU creation that had been adopted by local governments. These changes to ADU law prohibited local ordinances that entirely ban ADUs and required local agencies to, among other provisions:

a) Designate areas within the jurisdiction where ADUs may be permitted.

b) Impose standards on ADUs, including minimum lot sizes and requiring ADUs to be set back from the property line (“setbacks”).

c) Consider permit applications within 120 days.
d) Approve or disapprove an application for an ADU ministerially without discretionary review if the local government does not have an ADU ordinance when it receives a permit application.

e) Approve building permits to create an ADU ministerially if the ADU is within an existing residence, has independent exterior access, and meets certain fire safety requirements.

These bills also limited the cases when local agencies could require new utility connections for water and sewer, and limited the fees to be proportionate to the burden created by the ADU. AB 2406 (Thurmond), Chapter 755, Statutes of 2016 also allowed local agencies to adopt an ordinance regulating JADUs, which are smaller ADUs that are under 500 square feet, are contained entirely within an existing single-family residence, and may or may not have separate sanitation facilities.

2019 Changes to ADU Law. The Legislature expanded on many aspects of ADU law through a set of three bills: SB 13 (Wieckowski), Chapter 653, Statutes of 2019; AB 68 (Ting), Chapter 655, Statutes of 2019; and AB 881 (Bloom), Chapter 659, Statutes of 2019. The most significant provisions of these bills:

a) Require local governments to allow at least an 800 square foot ADU of up to 16 feet on the lot, regardless of local zoning standards.

b) Require local governments to allow one ADU and one JADU on a single-family parcel (even if the jurisdiction has not adopted an ordinance allowing JADUs).

c) Allow up to two detached ADUs on the same site as an existing multifamily dwelling and the ministerial creation of multiple ADUs within the portions of existing multifamily buildings that are not used as livable space, as long as each unit complies with state building standards for dwellings.

d) Deem approved an application for an ADU if a local government doesn’t act on it within 60 days.

e) Prohibit local governments from requiring owner occupancy, until January 1, 2025.

f) Exempt ADUs under 750 square feet from impact fees and require impact fees for larger ADUs to be proportional to the square footage of the primary unit.

g) Allows, until January 1, 2030, ADU owners to request a delay of up to five years in any enforcement actions for violations of building standards if the enforcement agency determines that the standards are not necessary to protect public health and safety.

h) Require the Department of Housing and Community Development (HCD) to notify local governments if they are in violation of ADU Law and allows HCD to refer alleged violations to the Attorney General.

Arguments in Support.
The Bay Area Council writes in support, “SB 897 will make it easier for homeowners to add Accessory Dwelling Units (ADUs) to their properties by eliminating remaining barriers to ADU construction. Since our partnership with you in 2016 on the state’s first significant ADU reform (SB 1069, Wieckowski), ADUs have proven to be an innovative solution to providing housing that is affordable by design. ADUs now constitute 13 percent of all residential building permits statewide, an 841 percent increase from 2016.”

Arguments in Opposition.
The California State Association of Counties writes in opposition, “Current law appropriately authorizes cities and counties to restrict ADU height to 16 feet, thus helping ensure that these accessory units blend into the existing neighborhood. Mandating that local jurisdictions allow essentially two-story ADUs is completely contrary to the stated belief that ADUs are a way to increase density in a modest fashion that is not disruptive to established communities. Shoehorning a 25-foot structure into a backyard of a single-story ranch style home, that is within one half mile of public transit, calls to question the idea that these are ‘accessory dwelling units.’”
The League of California Cities argues that SB 897 would significantly amend the statewide standards that apply to locally adopted ordinances concerning the construction of accessory dwelling units (ADUs), even though the law has been substantially amended nearly every year since 2016.

**Legislative Status**
SB 897 is currently scheduled for hearing in the Assembly Appropriations Committee on Wednesday, August 3, 2022.

**Support**
Bay Area Council [SPONSOR]
Abundant Housing LA
California Apartment Association
California Building Industry Association
California Community Builders
California YIMBY
Cal-RHA
Civicwell
Fieldstead & Company
Housing Action Coalition
Midpen Housing
San Francisco Bay Area Planning & Urban Research Association
Southern California Rental Housing Association
Sv@home Action Fund
The Two Hundred

**Oppose Unless Amended**
California Association of Realtors

**Opposition**
California Association of Code Enforcement Officers
California Building Officials
California Cities for Local Control
California State Association of Counties
City of Carlsbad
City of Corona
City of Cupertino
City of Los Altos
City of Paramount
City of Pleasanton
City of Rancho Palos Verdes
City of San Marcos
City of Santa Clarita
City of Torrance
League of California Cities
Marin County Council of Mayors and Council Members
New Livable California Dba Livable California
South Bay Cities Council of Governments
Rural County Representatives of California
Town of Danville
Urban Counties of California
Item B-3
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Assembly Bill 2705 (Quirk-Silva) - Housing: fire safety standards
ATTACHMENT: 1. Summary Memo – AB 2705

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 2705 (Quirk-Silva) - Housing: fire safety standards (AB 2705) 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.

However, due to the nature of the legislation implementing standards to reduce wildfire risk to homes built in high fire and very high fire hazard severity zones, the City may wish to consider another position besides oppose.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 2705 (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 2705, the Liaisons may recommend the following actions:

- Oppose AB 2705;
- Support AB 2705;
- Support if amended AB 2705;
- Oppose unless amended AB 2705;
- 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
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 2705 (Quirk-Silva) Housing: FireSeverity Standards

Version
As Amended in the Assembly on May 23, 2022.

Summary
Requires cities and counties to make specified findings regarding wildfire standards before approving discretionary entitlements for new residential developments in very high fire hazard severity zones (VHFHSZ) and requires the State Fire Marshall (SFM) to provide financial assistance to fire harden specified numbers of existing homes in VHFHSZ, upon appropriation by the Legislature.

1) Prohibits a city or county from approving a discretionary entitlement that would result in a new residential development project located within a VHFHSZ, unless the city or county finds that the residential development project will meet specified standards to reduce wildfire risk. These standards are categorized by the size of the development. Projects containing less than 10 units are required to comply with existing state law. Standards become progressively more stringent for developments of 10-99 units, and developments of one hundred or more units (See Comment 9).

2) Provides that entitlements that are subject to the bill's requirements include discretionary approvals for a new residential development project for which a new application or preliminary application is submitted after January 1, 2023, for any of the following:
   a. A general plan amendment.
   b. A zoning ordinance amendment.
   c. A development agreement.
   d. A subdivision tract or parcel map, other than a final map.
   e. A conditional use permits.

3) Requires the SFM to provide financial assistance to fire harden at least 300,000 existing vulnerable homes within the next three years in VHFHSZ, with an emphasis on disadvantaged communities and low-income communities, in the form of grants and low interest loans under the Wildfire Mitigation Program. The SFM must continue to offer financial assistance to fire harden an additional 300,000 existing vulnerable homes in VHFHSZ every three years, with a target of hardening one million existing vulnerable homes within the first 10 years. The SFM must report back to the Legislature annually on the pace of fire hardening and what constraints impair the ability to realize the targets established by this bill.

4) Specifies that the wildfire risk reduction standards outlined in this bill do not limit or prohibit a city or county from adopting more stringent standards.
5) Provides nothing in this bill affects the consideration of a residential development project pursuant to the California Environmental Quality Act (CEQA).

6) Require CALFIRE to update maps of Fire Hazard Severity Zones and designate areas within the VHFHSZ that pose extreme risk to firefighting personnel and structures and their occupants.

7) Require standards that currently only apply to 100+ units to apply to 10-99 units and create enhanced, but specific, standards for 100+ unit developments. The Forestry Board must establish these standards for categories 10-99 units and 100+ units, regularly update, and then local governments must implement them—or standards that meet or exceed them—and send any decisions to Forestry Board.

8) Require locals to integrate Forestry Board standards into land use element, and zoning codes, with approval by Forestry Board.

9) Ensure ministerial permits, charter cities, and developments with significant residential components are also covered. Retain 2705’s language about not triggering additional requirements for modifications and exclude final subdivision maps.

10) Provide that ministerial approvals under the bill are not a project under CEQA.

**Background and Existing Law**

**State Housing Crisis.** California faces a severe housing shortage. In its most recent statewide housing assessment, HCD estimated that California needs to build an additional 100,000 units per year over recent averages of 80,000 units per year to meet the projected need for housing in the state. A variety of causes contributed to the lack of housing production. Recent reports by the Legislative Analyst's Office and others point to local approval processes as a major factor. They argue that local agencies control most of the decisions about where, when, and how to build new housing, and those agencies are quick to respond to vocal community members that may not want new neighbors.

**California Wildfires.** Catastrophic and devastating wildfires have occurred repeatedly in the state in recent years. In 2021 alone, preliminary data show almost 9,000 wildland fires burned almost 2.6 million acres in the state. Slightly fewer wildland fires in 2020 burned almost 4.4 million acres—a modern record. The 2020 August Complex Fire in northern California—the largest fire in California's modern history—burned over one million acres by itself. The 2021 Dixie fire also almost reached one million acres. Two wildland fires in the last year burned over the crest of the Sierras, which had not been previously observed. Nine of the twenty largest and seven of the twenty most destructive wildland fires in state history occurred in 2020 and 2021.

Where can we build? California is currently experiencing a serious housing crisis and it is essential to expedite construction of critically needed housing units. In order to make this happen, it is important for every jurisdiction to meet its full regional housing obligation and to create an environment where housing is available to all Californians of all income levels. Toward this end, the Legislature has enacted multiple bills over the past several years to provide both funding and incentives to help increase compliance with housing element law. The state faces a difficult policy question in that it must balance the protection of its residents from wildfires, sea level rise, floods, earthquakes, and other risks, against meeting the need for more housing.

**Fire hazard severity zones.** Every five years, the Forestry Board designates the SRA. Within SRA lands, CalFIRE designates moderate, high, and very high fire hazard severity zones (VHFHSZ). After the 1991 Oakland-Berkeley fires, the Legislature required CalFIRE to also designate VHFHSZ in LRAs. Although these maps are required to be updated every five years, current maps date back to 2007. Landowners in the
SRA and in LRA designated VHFHSZ must follow specified fire prevention practices and meet standards developed by the Forestry Board. These practices and standards include maintaining defensible space of one hundred feet around structures, performing certain activities to reduce the amount of flammable material near and on structures, and meeting specific building standards developed by CalFIRE and HCD that help structures withstand ignition and reduce fire risk.

Chapter 7A standards. In 2005, the CBSC approved the SFM’s emergency regulations that amended the California Building Code to establish Chapter 7A, Materials and Construction Methods for Exterior Wildfire Exposure (Chapter 7A standards). These mandatory standards took effect on July 1, 2008, and have been updated periodically since then. Any new building constructed in any level of fire hazard severity zone within the SRA, or in any LRA designated VHFHSZ, must comply with the Chapter 7A standards. In addition, local agencies can choose to require ancillary buildings, ancillary structures, and detached accessory structures to meet the Chapter 7A standards. These standards are intended to ensure that the exterior of the structure is ignition-resistant and can resist the entry of flying embers and fire radiation during a wildfire. Requirements include measures such as fire-retardant-treated wood and shingles; wire mesh coverings on all ventilation openings; exterior glazing on all windows; and non-combustible decking material.

It is clear that the Chapter 7A standards are making a difference. A 2019 Sacramento Bee article noted that in the Camp Fire, about 51% of the single-family homes built after 2008 were undamaged; in contrast, only 18% of those built prior to 2008 were undamaged.[1] Data provided to the committee by CalFIRE indicates that of the homes affected by the seven largest 2017 and 2018 wildfires (Atlas, Camp, Curr, Nuns, Thomas, Tubbs, and Woolsey), about 46% of homes built prior to 2009 were undamaged, compared to about 62% of homes built after 2009.

CEQA and Project Approvals. CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that the project would not have a significant effect on the environment, the lead agency must prepare a negative declaration or a mitigated negative declaration. If the initial study shows that the project may have a significant effect, the lead agency must prepare an Environmental Impact Report (EIR). An EIR must accurately describe the proposed project, identify, and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Each discretionary entitlement described in this bill is generally considered a "project" under CEQA if it will have a significant impact on the environment. There are several statutory exemptions that provide limited environmental review for projects that are consistent with a previously adopted general plan, community plan, specific plan, or zoning ordinance.

**Standards to reduce wildfire risk.** The bill defines three tiers of "wildfire risk reduction standards," based on the size of the development, specifically: 1 to 9 residential units; 10 to 99 residential units; and one hundred or more residential units.

a) **Developments of any size.** A development of any size must meet existing regulations governing defensible space, vegetation management, fuel modification and building standards promulgated by the SFM, Building Standards Commission, and the Forestry Board, unless those standards provide exceptions or alternative means of compliance applicable to the project.

b) **Developments of ten or more units.** Developments of ten or more residential dwelling units must meet all the standards applicable to smaller developments and a plan reviewed by the local fire authority that implements, at a minimum, the following wildfire risk reduction strategies,
including: fire hardening off site structures, access for fire safety personnel, evacuation routes, wildfire buffers, and long-term funding and maintenance of wildfire buffer areas.

c) **Developments of one hundred or more residential units.** Developments of one hundred or more residential units must meet all the standards applicable to smaller developments and all of the following: undergrounding new power lines, adequate access for firefighting equipment, water supply to support fire suppression, and an evacuation plan approved by the local fire marshal. Developments of one hundred or more units must also have a wildfire risk reduction program, approved by the local fire authority, setting forth site-specific safety measures to ensure that the residential development project is planned and constructed to resist the encroachment of wildfire and to mitigate wildfire risks to surrounding areas.

**Home hardening funding program.** This bill, upon appropriation from the Legislature and consistent with existing law, requires the SFM to provide financial assistance to fire harden at least 300,000 existing vulnerable homes within the next three years in VHFHSZs, with an emphasis on disadvantaged communities and low-income communities, in the form of grants and low interest loans under the wildfire mitigation program. This program shall continue to offer financial assistance to fire harden an additional 300,000 existing vulnerable homes in VHFHSZs every three years thereafter, with a target of hardening one million existing vulnerable homes within the first 10 years. Report back to the Legislature annually on the pace of fire hardening and what constraints impair the ability to realize the above targets.

**Legislative Status**
AB 2705 (Quirk-Silva) is currently scheduled for hearing in the Senate Appropriations Committee on Monday, August 1, 2022.

**Support**
Building Industry Association of Southern California, INC.  
Building Owners and Managers Association of California  
California Apartment Association  
California Association of Realtors  
California Building Industry Association (CBIA)  
California Business Properties Association  
California Business Roundtable  
California Chamber of Commerce  
Commercial Real Estate Development Association, Naiop of California  
Institute of Real Estate Management (IREM)  
International Council of Shopping Centers  
Southern California Leadership Council  
United Latinos Action

**Opposition**
Brentwood Alliance of Canyons & Hillsides  
Buena Vista Audubon Society  
California Native Plant Society  
California Native Plant Society - San Diego Chapter  
Center for Biological Diversity  
Defenders of Wildlife  
Endangered Habitats League  
Environmental Center of San Diego  
Friends of Harbors, Beaches and Parks  
Hills for Everyone  
Los Angeles Audubon Society  
Los Padres Forest Watch  
Planning and Conservation League  
San Diego Audubon Society  
The Urban Wildlands Group
Item B-4
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Senate Bill 1194 (Allen) - Public restrooms: building standards
ATTACHMENT: 1. Summary Memo – SB 1194

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 1194 (Allen) - Public restrooms: building standards (SB 1194) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it allows a city, county, or city and county to require public restroom facilities to be designed to serve all genders.

The City’s state lobbyist, Shaw, Yoder, Antwih, Schmelzer & Lange, provided a summary memo for SB 1194 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 1194, the Liaisons may recommend the following actions:
1) Support SB 1194;
2) Support if amended SB 1194;
3) Oppose SB 1194;
4) Oppose unless amended SB 1194;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 1194, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: SB 1194 (Allen) Building Standards: Public Restrooms

Version
As Amended in the Assembly on June 22, 2022

Summary
Authorizes a local government to require, by ordinance or resolution, that multi-stall public toilet facilities within its jurisdiction be designed, constructed, and identified for use by all genders. Specifically, this bill:

1) Authorizes a city, county, or city and county to require, by ordinance or resolution, new or renovated public toilet facilities within its jurisdiction to be designed, constructed, and identified for use by all genders.

2) Authorizes public restroom facilities to be designed to serve all genders and to meet specified standards.

3) Authorizes a city, county, or city and county to adopt, by ordinance or resolution, additional design standards for single-use public toilet rooms identified for use by all genders.

4) Specifies that adoption of an ordinance or resolution pursuant to this bill shall not be construed as requiring or authorizing a reduction in either of the following:

   a. The total number of plumbing fixtures that are required pursuant to Title 24 of the California Code of Regulations.

   b. The number of toilet facilities accessible to persons with disabilities that are required pursuant to Title 24 Title 24 of the California Code of Regulations or the federal Americans with Disabilities Act of 1990.

5) Authorizes a city, county, or city and county to exclude certain occupancies from the requirements in this bill.
Background and Existing Law

Building Standards Commission (BSC). As noted on BSC’s website, the BSC is charged, in part, with administering California’s building code adoption process; reviewing and approving building standards proposed and adopted by state agencies; codifying and publishing approved building standards in the CBC; and resolving conflict, duplication, and overlap in building standards.

California Building Code. To protect the health and safety of people and property, the California Building Code (CBC; Cal. Code Regs., Title 24) regulates the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures in the state. The CBC is compiled of building standards adopted by state agencies without change from national model codes; building standards adopted and adapted from national model codes; and building standards, authorized by the California Legislature, that address issues and concerns specific to California. The CBC is published every three years, thought intervening code adoption cycles produce supplements 18 months into each triennial period. Amendments to California's building standards are subject to a lengthy and transparent public participation process throughout each code adoption cycle.

The California Plumbing Code is adopted and amended from the Uniform Plumbing Code, which is developed by the International Association of Plumbing and Mechanical Officials (IAPMO). The California Plumbing Code currently requires that separate toilet facilities be provided for each sex, although IAPMO is in the process of updating the Uniform Plumbing Code, which California traditionally adopts and amends for state use, to include building standards for multi-stall, gender-neutral bathrooms. BSC expects to adopt these standards during the 2024 Triennial Code Adoption Cycle, although the standards would not be effective until 2026. However, the Governor's office has instructed the Division of the State Architect and the BSC to begin developing regulations for multi-stall, gender-neutral bathrooms for the 2022 Intervening Code Adoption Cycle, although these standards would apply only to facilities within each entity's jurisdiction (e.g. K-12 public schools, California community colleges, and state-owned property, including California State University and University of California campuses).

Local government. Notwithstanding state facilities (e.g. government buildings, public universities, and prisons), local governments are required to enforce the CBC. Most local governments adopt the CBC in local ordinances, and when they do not, the CBC becomes the applicable code by default. Local governments may adopt ordinances that differ from the CBC pursuant to express findings that amendments are reasonably necessary because of local climatic, geological, topographic, or environmental conditions. To be enforceable, an amendment must be filed with the BSC.

According to the Author

According to the author, "California has led the nation in ensuring that safe, accessible, gender-neutral restroom facilities are available to visitors of most public places. However, for more proactive cities and counties, existing statutes have limited their authority to explore innovative methods of expanding access and efficiency. Senate Bill 1194 gives local governments the ability to adopt ordinances or resolutions that require the construction of multiple-stall gender-neutral restrooms in places of newly constructed or majorly renovated public accommodation within their jurisdiction. By empowering local governments to set requirements at the local level, SB 1194 will help cities and counties meaningfully build on their commitment to creating safe and accessible environments for transgender and gender non-conforming people as well as people with disabilities and personal caregivers for children and adults."

Arguments in Support

The City of West Hollywood writes as a co-sponsor of this bill:

SB 1194 promotes safety for transgender and gender non-conforming individuals as it removes the gender differentiation within bathrooms by making private stalls, all gender.
This simple action means a world of difference for members of our community who have, and continue to suffer, aggression and acts of violence just because they are transgender or do not conform to traditional heterogender stereotypes.

SB 1194 is also an important measure that provides relief for people with ambulatory restrictions who need assistance from a caretaker when using a bathroom. At times, the caretaker's gender may be the opposite of the client and entering a bathroom can become an issue. Multi-stall gender neutral bathrooms for disabled individuals eliminate this problem, and afford disabled individuals the dignity, privacy and assistance they need and deserve.

**Status of Legislation**
SB 1194 (Allen) is currently pending on the Assembly Third Reading File and will be eligible for debate and vote on the Assembly Floor when the Legislature returns from Summer Recess on August 1, 2022.

**Support**
City of Santa Monica (co-sponsor)
City of West Hollywood (co-sponsor)
Translatin@ Coalition (co-sponsor)
ACLU California Action
American Institute of Architects California
Disability Rights California
Equality California
Mayor Eric Garcetti, City of Los Angeles

**Opposition**
None received
Item B-5
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Assembly Bill 2644 (Holden) - Custodial interrogation
ATTACHMENT: 1. Summary Memo – AB 2644

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 2644 (Holden) - Custodial interrogation (AB 2644) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it would prohibit law enforcement officers from employing threats, physical harm, deception, or psychologically manipulative interrogation tactics, during an interrogation of a person 25 years of age or younger.

The City’s state lobbyist, Shaw, Yoder, Antwih, Schmelzer & Lange, provided a summary memo for AB 2644 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 2644, the Liaisons may recommend the following actions:

1) Support AB 2644;
2) Support if amended AB 2644;
3) Oppose AB 2644;
4) Oppose unless amended AB 2644;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 2644, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 2644 (Holden) Custodial Interrogation

**Version**
As Amended in the Senate on June 15, 2022

**Summary**
This measure would prohibit an officer from using threats, physical harm, deception, or psychologically manipulative interrogation tactics when questioning a person 25 years of age or younger about the commission of a felony or misdemeanor. Specifically, this bill:

1) Prohibits the use of threats, physical harm, deception, or psychologically manipulative tactics by law enforcement during an interrogation of a young person who is 25 years of age or younger.

2) States that these limitations do not apply to interrogations where the office reasonably believed the information sought was necessary to protect life or property from imminent harm and the questions were limited to those reasonably necessary to obtain information related to that imminent threat.

3) Defines the following terms for purposes of these provisions:
   a) "Deception" includes but is not limited to "the knowing communication of false facts about evidence, misrepresenting the accuracy of the fact, or false statements regarding leniency."
   b) "Psychologically manipulative interrogation tactics" include but are not limited to:

4) Maximization and minimization and other interrogation practices that rely on a presumption of guilt or deceit, as specified;
   a) ii) Making direct or indirect promises of leniency, such as indicating the person will be released if they cooperate;
   b) iii) Employing the "false" or "forced" choice strategy, where the person is encouraged to select one of two options, both incriminatory, but one is characterized as morally excusable; and,
5) States that these provisions do not prohibit the use of a lie detector test if it is voluntary and not obtained through threats, physical harm, deception, or psychologically manipulative interrogation tactics, and the officer does not suggest that the lie detector results are admissible in court or misrepresent the lie detector results to the person.

6) Prohibits the use of threats, physical harm, deception, or psychologically manipulative tactics by law enforcement during an interrogation of a young person who is 25 years of age or younger.

7) States that these limitations do not apply to interrogations where the office reasonably believed the information sought was necessary to protect life or property from imminent harm and the questions were limited to those reasonably necessary to obtain information related to that imminent threat.

8) This bill provides that the limitations on interrogation in this bill do not become operative until July 1, 2024.

9) Provides that within two hours of a minor being taken into custody at a juvenile hall or any other place of confinement, the probation officer must immediately notify the public defender.

**Background and Existing Law**

According to the author:

Current law requires that a youth 17 years of age or younger consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation and before waiving any of the above-specified rights. However, simply protecting youth under eighteen from improper interrogation methods that increase the risk of a false confession is not in line with bodies of research that indicate that a young person’s brain is not fully developed until the age of twenty-five.

California has taken steps to allow individuals at the age of twenty-five to be considered youths in the juvenile court system. In fact, in 2017, the Legislature approved, and Governor Brown signed AB 1308 (Stone), which requires the Board of Parole Hearings to conduct youth offender parole hearings for offenders that are 25 years of age or younger.

While AB 1308 took an important step in recognizing individuals that are age 25 as those eligible to participate in youth offender parole hearings, the fact is, that recognition comes only after the person is incarcerated. This proposal recognizes that since the brain is not fully developed at the age of twenty-five, these individuals should be shielded from improper interrogation methods as well.

“Miranda warnings” are a series of admonitions that are typically given by police before interrogating a suspect of a crime. The purpose of Miranda warnings is to advise people that have been arrested of their constitutional right against self-incrimination. They are the product of the landmark Supreme Court decision *Miranda v. Arizona* (1966) 384 U.S. 436. In deciding that
case, the Supreme Court imposed specific, constitutional requirements for the advice an officer must provide prior to engaging in custodial interrogation and held that statements taken without these warnings are inadmissible against the defendant in a criminal case. Specifically, the Court held that prior to any questioning, the suspect must be warned that he has a right to remain silent, that any statement made may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. (Id. at p. 444.)

For Miranda warnings to apply, an individual must be subjected to “custodial interrogation.” A suspect is “in custody” if a reasonable person in a similar situation would not feel free to end the interrogation and leave. (Miranda, supra, 384 U.S. at p. 444.) Custody does not require a person to be at the police station, or in handcuffs, or in the back of a police car, but that the police have deprived the suspect of his or her freedom of action in some significant way. (Ibid.) An “interrogation” is “any words or actions on the part of officers (other than those normally attendant to arrest and custody) that the officer should know are reasonably likely to elicit an incriminating response from the suspect.” (Rhode Island v. Innis (1980) 446 U.S. 291, 301.) Such questioning can be in the form of an officer asking the suspect direct questions, or it can be indirect in the form of comments or actions by the officer that the officer should know are likely to produce an incriminating reply. (Ibid)

A growing body of research indicates that adolescents are less capable of understanding their constitutional rights than their adult counterparts, and that they are more prone to falsely confessing to a crime they did not commit. (Luna, Juvenile False Confessions: Juvenile Psychology, Police Interrogation Tactics, And Prosecutorial Discretion (2018) 18 Nev. L.J. 291, https://scholars.law.unlv.edu/nlj/vol18/iss1/10/ [as of March 31, 2021].) Research suggests that “[b]ecause adolescents are more impulsive, are easily influenced by others (especially by figures of authority), are more sensitive to rewards (especially immediate rewards) and are less able to weigh in on the long-term consequences of their actions, they become more receptive to coercion.” (Id. at p. 297, citing various scientific journals.) The context of custodial interrogation is believed to exacerbate these risks.

The U.S. Supreme Court has recognized the susceptibility of youth as well. In J.D.B. v. North Carolina (2011) 564 U.S. 261, the Court said:

A child's age is far “more than a chronological fact.” It is a fact that “generates commonsense conclusions about behavior and perception.” Such conclusions apply broadly to children as a class. And they are self-evident to anyone who was a child once himself, including any police officer or judge.

Time and again, this Court has drawn these commonsense conclusions for itself. We have observed that children “generally are less mature and responsible than adults;” that they “often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them;” that they “are more vulnerable or susceptible to … outside pressures” than adults; and so on. Addressing the specific context of police interrogation, we have observed that events that “would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens.” Describing no one child in particular, these
observations restate what “any parent knows”—indeed, what any person knows—about children. (Id. at p. 272, citations omitted.)

Considering this susceptibility, this bill would explicitly prohibit the use of threats, physical harm, deception, or psychologically manipulative interrogation tactics when questioning a minor or a youth 25 years or younger about commission of a crime.

And while J.D.B. v. North Carolina, supra, involved the interrogation of a 13-year-old (546 U.S. at p. 265), other Supreme Court decisions have recognized that part of the brain responsible for executive functioning is not fully developed until around the age of twenty-five, causing the youth to not fully appreciate the seriousness or consequences of his or her actions. (See Miller v. Alabama (2012) 567 U.S. 460, 471-473, citing Graham v. Florida (2010) 560 U.S. 48, 68-71 and Roper v. Simmons (2005) 543 U.S. 551, 569-570; see also People v. Caballero (2012) 55 Cal.4th 262, 268-269.) Limiting these tactics to young people under the age of twenty-five is consistent with that precedent.

4. The Danger of False Confessions

In re Elias V. (2015) 237 Cal.App.4th 568, a case involving the coerced confession of a 13-year-old, extensively discussed the danger of false confessions:

The danger of false confessions is real. Studies conducted after Miranda was decided estimate that between 42 and 55 percent of suspects confess in response to a custodial interrogation. (Kassin & Gudjonsson, The Psychology of Confessions: A Review of the Literature and Issues, 5 Psych Sci. in the Public Interest 33, 44.) [fn.] Estimates of false confessions as the leading cause of error in wrongful convictions range from 14 to 25 percent, and as will be discussed . . ., a disproportionate number of false confession cases involve juveniles. Recent research has shown that more than one-third (35 percent) of proven false confessions were obtained from suspects under the age of eighteen. (Drizin & Leo, The Problem of False Confessions in the Post-DNA World (2004) 82 N.C.L.Rev. 891, 902, 944-945, fn. 5 (False Confessions.).)

This bill prohibits the use of techniques to scare or intimidate a person by repetitively asserting the person is guilty despite the denials or exaggerating the magnitude of the charges or the strength of the evidence, including suggesting the existence of evidence that does not exist. These types of behaviors can be more likely to illicit false confessions. The bill also prohibits misrepresenting lie detector results or suggesting that the results are admissible in court.

Argument in Support
The California Innocence Coalition supports this bill stating:

According to the Center on Wrongful Convictions of Youth (CWCY), false confessions are one of the leading causes of wrongful convictions, accounting for 25% of all convictions that were later overturned based on DNA evidence. Juries view a confession as a significant piece of direct evidence of one’s guilt yet
struggle with understanding how someone might falsely implicate themselves or another in criminal conduct.

The reality is that law enforcements’ use of deceptive interrogation methods, such as threats, physical harm, deception, or psychologically manipulative tactics as defined in AB 2644, create an incredibly high risk for eliciting a false confession from anyone, and particularly youth. Research indicates that a person’s brain is not fully developed until the age of twenty-five and that deceptive interrogation methods increase the risk of a false confession even for those older than eighteen.

Freed and exonerated people throughout the state of California and nationally feel the pain of this injustice. Johnny Williams, Ricky Davis, and Bob Fenenbock are just a few Californians that have been wrongfully convicted due to a false confession or statements made during an interrogation where deception was use by law enforcement. These men collectively lost nearly 60 years of their lives wrongfully convicted, which also deprived the victims and their families of justice for so long.

AB 2644 focuses on protecting youth from these techniques, recognizing the particular vulnerabilities of youth and their need for immediate protection as well as the egregious nature of deceptive interrogation tactics. AB 2644 closely follows newly enacted laws in Illinois, the first state to pass legislation that prohibits police officers from using deceptive interrogations tactics on youth, and similar law passed in Oregon. We believe that this bill protects the integrity of our justice system by ensuring that factually innocent youth are not unjustly incarcerated from deceptively coerced confessions and that the guilty are held accountable for their actions.

**Argument in Opposition**
The California Statewide Law Enforcement Association opposes this bill stating:

While we understand the author’s intention in creating safeguards around the questioning of persons taken into custody, this legislation goes too far by prohibiting the use of longstanding interrogation practices, which are only used when an investigator is certain of the suspect’s involvement in the issue under investigation. By limiting the scope of what members of law enforcement are permitted to discuss with suspects, investigations will grind to a halt.

The courts have long established that physical abuse of the suspect, threats of harm, denial of rights, and making false guarantees of leniency are unacceptable and can render a confession inadmissible. Placing further limitations on law enforcement’s means to question suspects will only interfere with timely resolutions of investigations.

**Legislative Status**
AB 2644 (Holden) has been scheduled for hearing in the Senate Appropriations Committee on Monday, August 1, 2022.
Support
California Attorneys for Criminal Justice
California Innocence Coalition
Northern California Innocence Project
California Innocence Project
Loyola Project for The Innocent
California Public Defenders Association
Ella Baker Center for Human Rights
Fresno Barrios Unidos
Friends Committee on Legislation of California Hillsides
National Association of Social Workers, California Chapter
National Center for Lesbian Rights
Pacific Juvenile Defender Center
Smart Justice California

Opposition
California Statewide Law Enforcement Association
Chief Probation Officers of California
L.A. Sheriff’s Dept.
San Diego County Chiefs’ & Sheriff's Association
Riverside County Sheriff's Office (unless amended)
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.

Senate Bill 1000 (Becker) - Law enforcement agencies: radio communications (SB 1000) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it would require a law enforcement agency, including the California Highway Patrol, municipal police departments, county sheriff's departments, specified local law enforcement agencies, and specified university and college police departments, to ensure public access to the radio communications of that agency by January 1, 2024.

The City's state lobbyist, Shaw, Yoder, Antwih, Schmelzer & Lange, provided a summary memo for SB 1000 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 1000, the Liaisons may recommend the following actions:

1) Support SB 1000;
2) Support if amended SB 1000;
3) Oppose SB 1000;
4) Oppose unless amended SB 1000;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 1000, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: SB 1000 (Becker) Law Enforcement: Radio Communications

Version
As Amended in Senate May 19, 2022

Summary
Requires law enforcement agencies (LEA) to provide public access to non-confidential radio communications, as specified. Specifically, this bill:

1) Requires LEAs to ensure that all radio communications are accessible to the public by no later than January 1, 2024, except for:

   a. Any encrypted radio channel used exclusively for the exchange or dissemination of confidential information, as specified; and

   b. Any encrypted radio channel that is used for tactical operations, undercover operations, or other communications that would unreasonably jeopardize public safety or the safety of officers if made public.

2) States that LEAs may comply in any manner that provides reasonable public access to radio communications including, without limitation, any of the following means:

   a. Use of unencrypted radio communications on a radio frequency that can be monitored by commonly available radio scanning equipment;

   b. Online streaming of radio communications accessible through the agency’s internet website; and

   c. Upon request and for a reasonable fee, providing access to encrypted communications to any interested person.

3) Requires LEAs to enact policies that prevent or minimize criminal justice information (CJI), or personally identifiable information (PII) directly obtained through the California Law Enforcement Telecommunications System (CLETS) from being broadcast in a manner that is accessible to the public.

4) Provides that LEAs may safeguard confidential CLETS information in any manner, including, without limitation, any of the following means:
a. The limited use of an encrypted channel for the exchange or dissemination of confidential information.

b. Transmission of confidential information to a mobile data tablet or other text display device; and,

c. Communication of confidential information via telephone or other private device-to-device communication.

5) Clarifies that these provisions do not limit the responsibility of any entity not covered by this section to comply with any law or regulation regarding the usage of CLETS.

6) Requires law enforcement agencies to, by no later than January 1, 2024, adopt a written policy implementing these provisions.

7) Defines “law enforcement agency” as a department or agency of the state, or any political subdivision thereof, that employs any peace officer and that has the primary function of providing uniformed patrol and general law enforcement services to the public. “Law enforcement agency” includes, without limitation, any municipal police department, county sheriff’s department, police department of the University of California (UC), California State University (CSU), or community college, airport, port, harbor, park, or transit district, and the California Highway Patrol (CHP).

8) Defines “radio communications” as verbal communications that are broadcast over a radio frequency either from a dispatch center to field personnel, from field personnel to a dispatch center, or between field personnel, and are accessible to all personnel monitoring that frequency. “Radio communications” does not include private communications between two devices, such as a cellular telephone, or the transmittal of data to or from a mobile data terminal, tablet, text messaging device, or similar device.

**EXISTING LAW:**

1) Provides that a law may not restrain or abridge liberty of speech or press. (Cal. Const., art. I, Sec. 2.)

2) Declares the people’s right to transparency in government, including the right of access to information concerning the conduct of the people’s business. (Cal. Const., art. I, Sec. 3.)

3) Provides that access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state. (Gov. Code, § 6250 et. seq.)

4) Establishes the Legislature’s intent to provide an efficient law enforcement communications network available to all public agencies of law enforcement, and that such a network be established and maintained in a condition adequate to the needs of law enforcement. (Gov. Code, §15151.)

5) Requires the Department of Justice (DOJ) to maintain a statewide telecommunications system of communication for the use of law enforcement agencies (i.e., CLETS), and provides that CLETS shall be under the direction of the Attorney General (AG) and shall be used exclusively for the official business of the state and any city, county, city and county, or other public agency. (Gov. Code, §§15152 & 15153.)

6) Requires the AG to adopt and publish the operating policies, practices and procedures, and conditions of qualification and membership of CLETS. (Gov. Code, §15160.)
7) Prohibits any person not authorized by the sender, who intercepts any public safety radio service communication, by use of a scanner or any other means, from using that communication to assist in the commission of a criminal offense or to avoid or escape arrest, trial, conviction, or punishment or who divulges to any person he or she knows to be a suspect in the commission of any criminal offense, the contents of that communication concerning the offense with the intent that that individual may avoid arrest, trial, conviction or punishment. (Pen. Code, §636.5.)

8) Defines “public safety radio service communication” as a communication authorized by the Federal Communications Commission (FCC) to be transmitted by a station in the public safety radio service. (Pen. Code, §636.5.)

EXISTING FEDERAL LAW
1) States that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press. (U.S. Const. 1st Amend.)

2) Provides that it shall not be unlawful to intercept any radio communication which is transmitted by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public. (18 U.S.C. § 2511(g)(ii)(III).)

Background
California Law Enforcement Telecommunications System (CLETS) Safeguards: CLETS is a communications network that provides public safety agencies access to databased information, such as domestic violence restraining orders, criminal history, warrants, and driver license and vehicle registration information databases within California, other states on a national level, and federal databases sponsored by the Federal Bureau of Intelligence (FBI). CLETS is extensively used by law enforcement entities, and other criminal justice agencies, such as California courts, may also apply for and receive access privileges.

On October 12, 2020, DOJ distributed an information bulletin regarding the transmission of confidential information in CLETS. The bulletin requires LEAs and criminal justice agencies authorized to access CLETS to adhere to the requirements detailed in the CLETS Policies, Practices and Procedures, and in the FBI’s Criminal Justice Information Services (CJIS) Security Policy to ensure confidentiality and integrity to data therein. DOJ’s bulletin informs LEAs that, generally, transmission of CJI and PII must be encrypted pursuant to FBI CJIS Security Policy and may only be provided to authorized individuals. (Ibid.) Though it is particularly relevant to radio transmission, the bulletin is generally applicable to all modes of transmission of protected data. (Ibid.) DOJ’s bulletin provides that compliance with this requirement can be achieved by:

a) Encrypting radio traffic; or

b) Establishing a policy to restrict dissemination of specific information that would provide for the protection of restricted information. This option will provide for the protection of CJI and PII while allowing for radio traffic with the information necessary to provide public safety. (Ibid.)

In response to DOJ’s bulletin, several LEAs have elected to adopt the first suggested approach and fully encrypt their radio communications. (Palo Alto Police Department, Report on Radio Encryption (March 24, 2021). Most notably, LEAs in San Jose, San Francisco, Palo Alto, San Diego, Mountain View, and Tracy have opted for full encryption over adopting a policy that restricts the dissemination of CJI and PII while allowing some public access to radio channels. Media outlets and community members who wish to
monitor police activity have been impacted by not having radio transmissions open for monitoring. (Ibid.) As of June 13, 2022, radio communications for roughly 120 law enforcement agencies across California are fully encrypted, allowing no public access.

Consistent with DOJ’s bulletin, the approach taken by this bill gives LEAs options to provide the public access to radio communications while safeguarding the transmission of confidential CLETS information. For instance, this bill would allow a LEA to use an encrypted radio channel for the exchange of confidential information, while using unencrypted radio channels for exchange of non-confidential information.

As encryption protects sensitive information, it is not necessarily needed to protect routine information whose potential compromise does not adversely affect operations or endanger the public. (CISA, Interoperability Continuum, supra, at pp. 8-9.) Alternatively, an LEA can use solely encrypted radio channels, if they provide non-confidential communications to any interested person upon request (however, there is no way for the public to know what is broadcasted on an encrypted radio channel).

For example, CHP does not plan to encrypt its radio channels. Instead, the agency has adopted a hybrid policy to help protect personal information that may go out over the radio, such as a person’s first and last names in combination with their driver’s license number. (Palo Alto Daily Post, CHP Won’t Encrypt Radios — Even Though Cities Like Palo Alto Have To (Aug. 11, 2021).) Nuanced approaches like this could be adopted by other LEAs rather than blanketed encryption.

**Encryption of Public Safety Radio Broadcasts:** Encryption is the process of converting information or data into a code, especially to prevent unauthorized access. Radio encryption hides communications from public airwaves by modifying voice signals with coded algorithms, preventing people from listening via radio scanners, the internet, and cellphone apps. An encryption algorithm codes the information to such a degree that it becomes extremely difficult to listen to radio transmissions without authorization, the proper decoding equipment, and the correct “key.” An encryption key is a parameter that allows the encryption algorithm to function effectively. It literally “locks” and “unlocks” protected information. Only people with encryption keys, can access the encrypted channels to listen. (Cybersecurity and Infrastructure Security Agency (CISA), Considerations for Encryption in Public Safety Radio Systems, (Sept. 2016)).

Encryption also affects interoperability of radio communication systems. (Cybersecurity and Infrastructure Security Agency (CISA), Interoperability Continuum. A Tool for Improving Emergency Response Communications and Interoperability [hereinafter “Interoperability Continuum”], (June 2021)). Interoperability is the ability of equipment to operate in conjunction with each other. Interoperability allows emergency responders, public safety, and as necessary, public services and non-governmental organizations to share vital data and voice information across disciplines and jurisdictions to successfully respond to day-to-day incidents and large-scale emergencies. With encrypted radios, first responders from different agencies without the right “keys” may not be able to communicate with each other in emergency situations. For example, emergency medical transmissions between the response vehicle and the medical facility can be hindered by encryption. (Id., at p. 9.) Thus, consideration must be given to the potential impact on interoperability when encryption is utilized in large scale events that include mutual aid agencies that do not typically respond together. (Ibid.) Encryption can add a significant level of complexity and should be considered only when the incident requirements outweigh the additional complications. (Id., at p. 7.)

Until very recently, most police radio communications in California have been unencrypted, which means that the public can access police radio transmissions using a radio scanning device. With the development of online radio streaming, many unencrypted police radio channels have become accessible via internet websites and mobile applications that provide a livestream. For instance, Sacramento County Sheriff and City Police radio can be streamed online.
There is a growing law enforcement trend of encrypting agency communications previously available to the public, thereby altering the longstanding tradition of journalist access to these communications. (Reporters Committee for Freedom of the Press, Trend toward Local Police Radio Encryption Grows, as Does Resistance, (June 14, 2021)). Opponents of the bill contend that they have taken great lengths and considerable expense to develop encrypted radio communication systems. However, the proliferation of encrypted radio communications and the resulting lack of accountability to public is the impetus of this bill.

**Public Access to Information Transmitted over Public Safety Radio Broadcasts**: Public safety information is, at is essence, public. “When the people do not know what their government is doing, those who govern are not accountable for their actions-and accountability is basic to the democratic system. By using devices of secrecy, the government attains the power to ‘manage’ the news and through it to manipulate public opinion.” (Gravel v. United States (1972) 408 U.S. 606, 640-41 (Douglas, J., dissent.).) Thus, the right to transparency in government is a cornerstone of California’s democracy, enshrined in its constitution and implemented by various statutes and regulations. One of these statutes, the California Public Records Act (CPRA) recognizes that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” (Gov. Code, § 6250.) The California Supreme Court has reinforced that this right is especially important in the context of law enforcement officers and agencies:

> The public’s interest in the qualifications and conduct of peace officers is substantial [...] Peace officers hold one of the most powerful positions in our society; our dependence on them is high and the potential for abuse of power is far from insignificant. A police officer possesses both the authority and the ability to exercise force. Misuse of his authority can result in significant deprivation of constitutional rights and personal freedoms, not to mention bodily injury and financial loss. The public has a legitimate interest not only in the conduct of individual officers, but also in how [...] local law enforcement agencies conduct the public’s business.

(Commission on Peace Officer Standards & Training v. Superior Court (2007) 42 Cal.4th 278, 299-300.) Recent years have seen an increase in legislation requiring law enforcement agencies to collect and report specific data and disclose various records and policies to the public. In 2015, AB 953 (Weber) Chapter 466, Statutes of 2015, and AB 71 (Rodriguez) Chapter 462, Statutes of 2015 generally required law enforcement to report data on police stops and use of force incidents, respectively. In 2018, the Legislature adopted SB 1421 (Skinner) Chapter 988, Statutes of 2018, which required that certain records relating to police misconduct and serious uses of force be made publicly available under the CPRA.

Although there is no legal requirement for public safety agencies to allow journalists or the public access to public safety radio communications, federal law protects the right of the public to monitor radio broadcast, specifying that it shall not be unlawful “to intercept any radio communication which is transmitted...by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public.” (18 U.S.C. § 2511(g)(ii)(III).)

Proponents of this bill argue that more encryption would reduce officer accountability and infringe upon the public’s right to access government information. Advocates claim that access to police radio traffic is a necessary public resource that allows the public and the press to be rapidly informed for calls to service. For example, local ham radio hobbyists and reporters can inform the public with real-time information about avoiding wildfires or active shooter locations. Local media rely on the scanner radio traffic to monitor police activity and respond to crime scenes to gather information for reporting on breaking news that could be crucial to safety or otherwise would go unreported. For journalist, restricting access to police radio communications could pose a threat to public safety reporting.
Opponents of this bill contend that public access to police scanners creates a public safety risk. Sharing radio transmissions with the public could notify listeners about the location of law enforcement officers, putting them in danger, and could give criminals the opportunity to monitor law enforcement so that they can evade the police. Opponents also argue that requiring public access to radio transmissions could reveal the names, addresses and other personal information about victims. However, using a public safety radio communication to assist in the commission of a criminal offense or to avoid or escape arrest, trial, conviction, or punishment is a criminal offense. (Pen. Code, §636.5) In addition, most public safety broadcasts have historically been accessible to the public over the airwaves, and opponents have not cited a case in which public harm directly resulted from allowing the public to access police radio transmissions.

Striking a balance between government transparency and public safety, this bill would require all LEAs to ensure that non-confidential radio communications are accessible to the public. LEAs are free to choose how to comply with this requirement, as long as the manner chosen allows reasonable public access to radio communications. This bill does not require LEAs to make radio channels used for tactical operations, undercover operations, confidential information, or other communications that would jeopardize public safety or the safety of officers accessible to the public. In fact, it specifically exempts them.

**Argument in Support:** According to the California News Publishers Association (CNPA), a co-sponsor of this bill, “The public relies on news outlets to report on developing stories in their communities, including criminal activity, such as active shooter situations, and natural disasters, such as wildfires. To fulfil this duty to the public to provide accurate and timely information, journalists across California – and throughout the United States – monitor police and first responder agency scanners.

“The public has turned to their local publications for the latest updates on raging wildfires, mass shootings, and other major news events, a public service that is made possible by monitoring radio transmissions. In a recent survey of our members, CNPA found that 78 percent of our members find monitoring police radio transmissions is very valuable in reporting on breaking news or developing situations.

“There have been documented cases of agencies blocking media from accessing the encrypted systems. The Eastern Riverside County Interoperable Communications Authority (ERICA) – which includes the law enforcement agencies for the cities of Beaumont, Cathedral City, Desert Hot Springs, Indio, and Palm Springs – last year revoked media access to their scanners.

“We understand and respect privacy concerns that are laid out to access certain databases via CLETS, but we believe there are better options to balance individuals’ right to privacy with the public’s genuine need to know. The Department of Justice issued an informational bulletin in October of 2020, providing guidance on encryption and compliance with privacy requirements, which provided two options to protect personally identifiable information. The first is to only encrypt certain transmissions that contain Personally Identifiable Information. However, some law enforcement agencies have used this as a justification to encrypt all radio transmissions, cutting off necessary transparency.

“The California Highway Patrol policy on unencrypted radio transmissions is an excellent example of how to strike the appropriate balance between protecting confidential information, while ensuring access to transmissions that are critical to reporting. Moreover, there are successful examples across the country of ways to access the federal databases, without requiring full radio encryption because the terms of use only require specified information remain confidential.

“Further, SB 1000 provides for an exception so as not to interfere with specified police activity such as undercover or tactical operations, ensuring safety of officers engaged in these activities. Again, striking an appropriate balance between protecting privacy and the public’s right to know.”
Argument in Opposition: According to the California Statewide Law Enforcement Association (CSLEA), “While we certainly understand the author’s intention to promote transparency between law enforcement agencies and the public, the infrastructure necessary to create the changes this bill requires will prove to be costly and complicated for the law enforcement agencies tasked with implementing them. To make these radio communications available to the public, law enforcement agencies would be forced to replace the technology they currently use for encrypted radio communications. As the systems are replaced, operators would require additional training in the use of these new technologies. This transition in technology would be burdensome to agencies who have gone to great lengths and considerable expense to develop these encrypted radio communication systems to be what they are today.”

Status of Legislation
SB 1000 (Becker) is currently scheduled for hearing in the Assembly Appropriations Committee on Wednesday, August 3, 2022.

Support
California News Publishers Association (CNPA) (Co-Sponsor)
California Broadcasters Association (CBA) (Co-Sponsor)
Asian American Journalists Association, Los Angeles
Cal Aware
California Black Media
California Public Defenders Association
Electronic Frontier Foundation
Ella Baker Center for Human Rights
Ethnic Media Services
Fair Chance Project
First Amendment Coalition
Los Angeles Press Club
Media Alliance
Media Guild of The West, Newsguild-cwa Local 39213
National Association of Black Journalists of Los Angeles
National Press Photographers Association
National Writers Union
Oakland Privacy
Online News Association Local Los Angeles
Orange County Press Club
Palo Alto; City of
Radio Television Digital News Association
San Diego Pro Chapter of the Society of Professional Journalists
Society of Professional Journalists, Greater Los Angeles Chapter
1 Private Individual

Opposition
California Chapter National Emergency Number Association (CALNENA)
California Police Chiefs Association
California State Sheriffs' Association
California Statewide Law Enforcement Association
City of Sunnyvale
League of California Cities
Riverside County Sheriff's Office
Item B-7
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Assembly Bill 1685 (Bryan) - Vehicles: parking violations
ATTACHMENT: 1. Summary Memo – AB 1685

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 1685 (Bryan) - Vehicles: parking violations (AB 1685) involves a policy matter which may have a nexus to the City’s adopted Legislative Platform language. Specifically, the following statement may apply to this bill:

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

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1685 (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 1685, the Liaisons may recommend the following actions:

- Oppose AB 1685;
- Support AB 1685;
- Support if amended AB 1685;
- Oppose unless amended AB 1685;
- 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
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB-1685 (Bryan) Vehicles: Waiver of Back Parking Fines

Version
As Amended in the Assembly on April 6, 2022

Summary
Requires processing agencies to forgive at least $1,500 in parking tickets for individuals who are verified to be homeless. Specifically, this bill:

1) Requires processing agencies to forgive at least $1,500 in parking tickets once per calendar year for individuals who have been verified to be homeless.

2) Allows an applicant to ask for forgiveness at least four times a year.

3) Authorizes a processing agency to verify an applicant’s status through a continuum of care or a homeless services provider, including, but not limited to, a health care provider, legal services provider, or other entity that services people experiencing homelessness and makes referrals to other homeless services providers, which is connected to the coordinated entry system and is contracting with a continuum of care. A legal services provider or health care provider may require an applicant to be a client to make the verification.

4) Provides that an area in which the availability of homeless services providers is sparse, as determined by the continuum of care, CICH shall develop an alternative low-barrier process to determine an applicant’s status as homeless.

5) Prohibits a processing agency from establishing or imposing any additional qualifications for citation forgiveness under this program, including mandatory participation in any service or program, or mandatory community service.

6) Uses federal definitions for the definitions of continuum of care, coordinated entry system, homeless, and homeless services provider.

Background
Current law provides several options for processing agencies to collect unpaid penalties from parking violations, including filing an itemization of the unpaid fines and service fees with the Department of Motor Vehicles (DMV) for collection during vehicle registration, so long as the processing agency takes several steps:
• Provides a payment plan option for indigent persons, which allows unpaid parking fines and fees to be paid off in monthly installments of no more than $25 for total amounts due that are $500 or less, in a period within 24 months. No prepayment penalty for paying off the balance prior to the payment period may be accessed.

• Waives all late fees and penalty assessments, exclusive of any state surcharges, if an indigent person enrolls in the payment plan. Late fees and penalty assessments that have been waived may be reinstated if the person falls out of compliance with the payment plan.

• Limits the processing fee as part of a payment plan to $5 or less for indigent persons and $25 or less for all other persons. The processing fee may be added to the payment plan amount at the discretion of the payee; and,

• Allows the application for indigency determination for a period of 120 calendar days from the issuance of a notice of parking violation, or 10 days after the administrative hearing determination, whichever is later.

• Allows a registered owner or lessee who falls out of compliance with a payment plan to provide a one-time extension of forty-five calendar days from the date the plan becomes delinquent to resume payments before the processing agency files an itemization of unpaid parking penalties and service fees with DMV.

• Includes information regarding payment plan options the agency’s public website, and a link and telephone number to more information on the program.

The sponsors of AB 1685 (Bryan) issued a report entitled “Towed into Debt: How Towing Practices in California Punish Poor People,” which notes that the average tow fee in California is $189, with a $53 storage fee per day and a $150 administrative fee. After three days of storage, a towing fee could come out to $499. The cost of five unpaid parking tickets in Sacramento would result in a total cost of $520 with late fees. The cost of a three-day tow plus the costs of the five unpaid parking tickets ($1,019) would amount to all but $400 of an indigent person's monthly income if they made the maximum amount to make them eligible for Medi-Cal.

In 2017, the Legislature enacted AB 503 (Lackey), Chapter 741, to stop the spiral of debt for an indigent person. Assemblymember Lackey introduced two follow-up bills to further implementation of the original statute:

• AB 2544 (Lackey), Chapter 494, Statutes of 2018, clarified that parking agencies had to offer payment plans for tickets issued prior to July 1, 2018, because processing agencies refused to consider older tickets when implementing the law; and

• AB 833 (Lackey), Chapter 495, Statutes of 2019, clarified that the $300 maximum cap for which a parking agency had to offer a payment plan only applied to the base fines, not to late penalties, because the City of Sacramento was refusing to offer payment plans to individuals who had more than two tickets with a late fee.

In 2020, the Legislature passed AB 3277 (Jones-Sawyer) Chapter 55, which increased the maximum cap from $300 to $500.

**Arguments in Support**

The author and proponents argue that AB 1685 builds on existing law by permitting individuals experiencing homelessness to have their parking ticket balances, up to $1,500, waived. Hence, reducing the likelihood of their vehicle being towed and further exacerbating their indigence.
According to the author, "parking enforcement can exacerbate poverty and the cost of enforcement for local
governments are often greater than the fines and fees that end up being collected. AB 1685 will waive many
parking fees for people who are unhoused. Instead of continuing to penalize poverty, we should set policies
that save money with good policy to get people more of the housing and services they really need. Lose
your financial stability, lose your house. Lose your house, live in your car. Lose your car, set up an
encampment. This cycle of poverty is vicious, and AB 1685 creates the policy solution that allows us to do
better."

Arguments in Opposition
Opponents argue that AB 1685 would not impact processes for the Department of Motor Vehicles but would
impact cities. The bill would add administrative challenges to local processing entities responsible for
verifying an applicant’s status through a continuum of care (CoC) or a homeless services provider. This
may require multiple attempts to contact health care providers, legal services providers, or other entities
that service people experiencing homelessness and makes referrals to other homeless services providers.
Cities would face these additional costs without a state allocation to financially assist those eligible who
violate local parking ordinances and receive a parking citation.

Local parking enforcement helps communities maintain clean streets and water systems (street sweeping),
perform essential public works (i.e., tree trimming, sidewalk repair), ensure access to business and
government services by promoting turnover, and promoting alternative modes of transportation in heavily
congested areas. Without appropriate levels of fines, drivers will simply ignore these rules, making it
incredibly challenging to meet these multi-faceted goals.

Status of Legislation
AB 1685 (Bryan) is scheduled for a hearing in the Senate Appropriations Committee on Monday, August
1, 2022.

Support
Abundant Housing LA
Asian Americans Advancing Justice - California
Bend the Arc: Jewish Action, Southern California
Brilliant Corners
California Federation of Teachers AFL-CIO
California Housing Partnership Corporation
Corporation for Supportive Housing (CSH)
Culver City Democratic Club
Downtown Women’s Center
East Bay Housing Organizations
Housing California
Inner City Law Center
John Burton Advocates for Youth
Law & Poverty, INC.

LA Family Housing
Los Angeles Homeless Services Authority
National Alliance to End Homelessness
National Association of Social Workers, California Chapter
North Westwood Neighborhood Council
Community Health & Homelessness Committee
Orange County United Way
Path
Root & Rebound
Streets for All
Sycamores
The People Concern
Western Center on Law & Poverty, INC.

Opposition
California Public Parking Association
League of California Cities (Oppose Unless Amended)
Item B-8
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee

FROM: Cynthia Owens, Policy and Management Analyst

DATE: July 11, 2022

SUBJECT: Assembly Bill 1740 (Muratsuchi) Catalytic converters

ATTACHMENT: 1. Summary Memo – AB 1740

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 1740 (Muratsuchi) Catalytic converters (AB 1740) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language. The California League of Cities is requesting cities throughout the state to take a position on AB 1740 as it would require a core recycler to include additional information in the written record, including the year, make, and model of the vehicle from which the catalytic converter was removed and a copy of the title of the vehicle from which the catalytic converter was removed.

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1740 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1740, the Liaisons may recommend the following actions:

- Oppose AB 1740;
- Support AB 1740;
- Support if amended AB 1740;
- Oppose unless amended AB 1740;
- 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
July 1, 2022

To: Cindy Owens, City of Beverly Hills
From: Andrew K. Antwih, Partner, Shaw Yoder Antwih Schmelzer & Lange
Priscilla Quiroz, Legislative Advocate, Shaw Yoder Antwih Schmelzer & Lange

Re: AB 1740 (Muratsuchi) Catalytic Converters:

Version
As Amended in the Senate on June 21, 2022

Summary
Requires a core recycler who accepts a catalytic converter to include specified information in a written record, in addition to existing record retention requirements; prohibits a core recycler from entering into a transaction to purchase or receive a catalytic converter from a person who is not a commercial enterprise, as defined; and requires core recyclers to verify specified information when purchasing or receiving a catalytic converter from a vehicle owner, who is not a commercial enterprise. Specifically, this bill:

1) Requires a core recycler who accepts a catalytic converter for recycling to maintain a written record of the additional following information:
   a) The year, make, and model of the vehicle from which the catalytic converter was removed.
   b) If the seller of a catalytic converter is a commercial enterprise, the physical business address, business telephone number, and the business license number or tax identification number.
   c) If applicable, a copy of the title of the vehicle from which the catalytic converter accepted was removed that shows the vehicle identification number (VIN) permanently marked on the catalytic converter.

2) Revises requirements for core recyclers providing payment for a catalytic converter as follows:
   a) For a seller that is a commercial enterprise, payment is made by check and mailed to the seller’s business address. Authorizes commercial enterprises to receive immediate payment for a catalytic converter by check or by debit or credit card.
   b) If applicable, the photograph or video of the catalytic converter being sold captures the permanent marking of the VIN.

3) Provides that a core recycler does not have to follow specified requirements in providing payment to a seller if the recycler and seller have a written agreement for the transaction, which includes a log or other regularly updated record of all catalytic converters received pursuant to the agreement that describes each catalytic converter with sufficient particularity so that each catalytic converter in the recycler’s inventory can be reasonably matched to its description in the agreement.
4) Requires core recyclers accepting catalytic converters from commercial enterprises who also hold a written agreement with a business that sells catalytic converters to collect the additional following information:

   a) The seller’s physical business address and business telephone number.
   b) The seller’s business license number or tax identification number.
   c) A copy of the written agreement.

5) Prohibits a core recycler from entering into a transaction to purchase or receive a catalytic converter from a person that is not a commercial enterprise or the verifiable owner of the vehicle from which the catalytic converter was removed.

6) Requires a core recycler to verify the following when purchasing or receiving a catalytic converter from the owner, who is not a commercial enterprise, of a vehicle from which the catalytic converter was removed:

   a) The catalytic converter is permanently marked with a VIN prior to the owner presenting the catalytic converter for sale. Prohibits a core recycler from permanently marking a catalytic converter to satisfy this requirement.
   b) The owner of the vehicle holds title to the vehicle with a VIN matching the number permanently marked on the catalytic converter in the transaction.

7) Exempts core recyclers from specified requirements if the recycler holds a written agreement with a commercial enterprise regarding the transactions, provided the written agreement includes a log or other regularly updated record of all catalytic converters received pursuant to the agreement that describes each catalytic converter with sufficient particularity so that each catalytic converter in the recycler’s inventory can be reasonably matched to its description in the agreement.

8) Defines “commercial enterprise” to include specified licensed automobile dismantlers, core recyclers, motor vehicle manufacturers, dealers, or lessor-retailers, licensed automotive repair dealers, and any other licensed businesses that may reasonably generate, possess, or sell used catalytic converters.

9) Make technical and conforming changes.

**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 defined “a core recycler” 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.

**Legislative Status**

AB 1740 (Muratsuchi) has been placed on the suspense file and is currently pending further action in the Senate Appropriations committee.

**Support**
Alliance for Automotive Innovation
Auto Club of Southern California
California District Attorneys Association
California New Car Dealers Association
City of Oakland
City of Torrance
National Insurance Crime Bureau

**Opposition**
None received
Item B-9
The City Council has historically taken positions on proposed federal and state legislation of interest to Beverly Hills because of the City’s location, economy, programs, and policies through the adoption of a Legislative Platform.

Assembly Bill 2407 (O’Donnell) Vehicle tampering: theft of catalytic converters (AB 2407) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language. The California League of Cities is requesting cities throughout the state to take a position on AB 2407 as it would require a core recycler to report information collected to local law enforcement, and to request to receive theft alert notifications regarding the theft catalytic converters.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 2407 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 2407, the Liaisons may recommend the following actions:

- Oppose AB 2407;
- Support AB 2407;
- Support if amended AB 2407;
- Oppose unless amended AB 2407;
- 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
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 2407 (O’Donnell) Vehicle tampering: theft of catalytic converters.

Version
As Amended in the Senate on June 8, 2022

Summary
Requires core recyclers to report information collected to local law enforcement and authorizes these entities to request theft alert notifications regarding the theft of catalytic converters. Specifically, this bill:

1) Requires a core recycler to report the information collected to the chief of police or the sheriff, as prescribed, and to request to receive theft alert notifications regarding the theft of catalytic converters from a specified theft alert system.

2) Requires a core recycler to obtain the thumbprint of a seller of a catalytic converter and to preserve the thumbprint in hardcopy or electronically for a period of 2 years.

3) Requires inspection or seizure of the thumbprint to only be performed by a peace officer acting within the scope of the peace officer’s authority in response to a criminal search warrant signed by a magistrate and served on the core recycler by the peace officer. Requires probable cause for the issuance of that warrant to be based upon a theft specifically involving the transaction for which the thumbprint was given.

4) Exempts from the thumbprint requirements listed in 2) above the following sellers:
   a. An automobile dismantler, as defined in Section 220 of the Vehicle Code (VC).
   b. A core recycler, as defined, that maintains a fixed place of business and has obtained the catalytic converter pursuant to that section.
   c. A licensed motor vehicle manufacturer, dealer, or lessor, as specified.
   d. A licensed automotive repair dealer, as specified
   e. Any other licensed business that may reasonably generate, possess, or sell used catalytic converters.
5) Requires a core recycler to request to receive theft alert notifications regarding the theft of catalytic converters in the core recycler’s geographic region from the theft alert system maintained by the Institute of Scrap Recycling Industries, Inc., or its successor. Specifies this does not apply to if the Institute of Scrap Recycling Industries, Inc., or its successor, requires payment for use of the theft alert system.

**Background and Existing Law**

*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, Statues 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 defined “a core recycler” 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.

Supporters argue that existing law makes it extremely difficult for local law enforcement officers to apprehend catalytic converter thieves despite the significant increase in catalytic converter thefts. AB 2407 seeks to address the dramatic rise in catalytic converter thefts in California's communities by establishing a more robust reporting system for the sale and transfer of these auto parts.

**Legislative Status**
AB 2407 (O'Donnell) is currently pending in the Senate Appropriations Committee. The committee has scheduled this measure for hearing on Monday, August 1, 2022.

**Support**
Alliance for Automotive Innovation
City of Clovis
City of Downey
City of El Segundo
City of Elk Grove
City of La Mirada
City of Lakewood
City of Menifee
City of Paramount
City of Signal Hill
City of Torrance
City of Visalia
City of Wasco
City of Whittier
League of California Cities
Los Angeles Professional Peace Officers Association

**Opposition**
None received
Item B-10
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Senate Bill 1079 (Portantino) - Vehicles: sound-activated enforcement devices
ATTACHMENT: 1. Summary Memo – SB 1079

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 1079 (Portantino) - Vehicles: sound-activated enforcement devices (SB 1079) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill.

The City's state lobbyist, Shaw, Yoder, Antwih, Schmelzer & Lange, provided a summary memo for SB 1079 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 1079, the Liaisons may recommend the following actions:
1) Support SB 1079;
2) Support if amended SB 1079;
3) Oppose SB 1079;
4) Oppose unless amended SB 1079;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 1079, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: SB 1079 (Portantino) Vehicles: sound-activated enforcement devices.

Version
As Amended in the Assembly on June 29, 2022

Summary
Requires the California Highway Patrol (CHP) to conduct a study to evaluate the efficacy of sound-activated enforcement devices that are designed to measure vehicle noise levels; and makes information collected and maintained by the CHP for the study largely confidential. Specifically, this bill:

1) Requires the Department of the California Highway Patrol (CHP) to evaluate the efficacy of sound-activated enforcement devices by evaluating devices from at least three different companies.

2) Requires the CHP, on or before January 1, 2025, to prepare and submit its findings and recommendations from the evaluation in a report to the Legislature, which shall include all the following information:

   a. How effective the devices are at determining that a vehicle was not equipped with an adequate muffler in constant operation and properly maintained in accordance with the requirements of Article 2.5 (commencing with Section 27200).

   b. How often the device identified a potential violation that was not related to a violation of Section 27150, and the types of sounds other than a loud muffler that triggered the device.

   c. What percentage of time an officer was unable to determine the source of the sound that activated the device.

   d. How often the device was required to be serviced.

   e. What, if any, technology does the sound-activated enforcement system use to determine the direction or source of the sound that violated the sound limits provided for in Article 2.5 (commencing with Section 27200).

   f. Where the devices were located, and whether the location had any consequences to the effectiveness of the device.

   g. The number of devices the department evaluated and from which companies were the devices that were evaluated.
f. Recommendations on all of the following:

i) Which, if any, device, or devices would the department recommend be used for the purposes of enforcing Sections 27150 and 27151, and the reasons for that determination. If the department determines that it does not recommend any of the devices evaluated, the report shall include the standards and parameters that shall be met by future technology.

ii) What, if any, restrictions should be placed on the use of sound-activated enforcement devices in enforcing Sections 27150 and 27151, including, but not limited to, the decibel level setting for triggering a potential violation for the purposes of enforcement.

iii) Where the devices should be optimally located to reduce the chances of a false violation.

iv) Descriptions and explanation of any necessary and associated training that an individual reviewing these violations would need to go through to operate the device, including recommendations for what is necessary for a robust human review process.

v) Any other recommendations the department believes would be necessary for authorizing the use of sound-activated enforcement devices.

vi) video demonstrating the device. The video shall be edited to remove any personally identifying information, including the blurring of persons recorded in the video, street addresses, and license plates.

3) Requires the report required by this subdivision to be submitted in compliance with Section 9795 of the Government Code.

4) Requires the CHP to delete all videos recorded on a highway by a device within five days of the video being recorded. However, the department shall keep fifteen videos from the devices of each company evaluated for the purposes of preparing the report required by this section and documenting the issues related to each device that helped the department make its recommendations. The department shall not keep any recording that picked up audio of a person speaking, if recorded on a highway.

5) Provides that notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, or any other law, information collected and maintained by the department using a sound-activated enforcement device shall be confidential and only be used for purposes of this section, and shall not be disclosed to any other persons, including, but not limited to, any other state or federal government agency or official for any other purpose, except as required by the reporting requirements in this section, state or federal law, court order, or in response to a subpoena in an individual case or proceeding.

6) Defines “sound-activated enforcement device” or “device” to mean an electronic device that utilizes automated equipment that activates when the noise levels have exceeded the legal sound limit established in Section 27151 and is designed to obtain clear video of a vehicle and its license plate and requires a sound-activated enforcement device to do all of the following:

a) Record audio, precision accuracy noise levels, and high-definition video in two directions.

b) Utilize an automated system that triggers when excessive vehicle noise over the limit is detected and save the data for review.
c) Automatically delete any evidence not related to a violation.

d) Permit the department to manually review evidence to ensure a violation has occurred.

e) Conform to the class 1 accuracy standards in the International Electrotechnical Commission’s (IEC) standard IEC 61672:2013, or any other accuracy standard determined to be appropriate by the department.

Background and Existing Law

In its original form, this bill would have authorized six unnamed cities to conduct a pilot program to evaluate the use of sound-activated enforcement devices to capture vehicle noise levels that exceed the legal sound limit; and required information collected and maintained by a city using a sound-activated enforcement device to be confidential. Stakeholders and policy committees raised a number of legitimate and serious concerns about the pilot program, including about the fact that it would have authorized issuance of citations (and fines), even though the technology used as the basis for issuance of citations is untested and unproven, at least on a large scale.

Based upon those concerns, the bill was recently rewritten and recast as one to require the CHP to conduct a study evaluating the efficacy of sound-activated enforcement devices that are designed to measure vehicle noise levels and report back to the Legislature about its findings. Of jurisdictional interest to this Committee, the bill would also make information collected for the study and maintained by the CHP largely confidential. According to the author:

This bill will have CHP evaluate the use of automated noise cameras to detect illegal vehicle exhaust noise. Noise pollution in cities is getting demonstrably worse. Law enforcement officers are currently the only mechanism in which illegal exhaust noise can be ticketed and enforcement action taken. Nevertheless, the problem is that these violations can occur anywhere, at any time, in multiple places at once, and typically while moving at high speeds, making the reality of consistent enforcement much more difficult. When CHP completes its evaluation, California can look to implement these systems.

Most of the content of the bill is within the subject matter jurisdiction and expertise of the Assembly Transportation Committee, which discussed in detail the pragmatic issues regarding sound-activated enforcement devices designed to capture vehicle noise levels that exceed the legal sound limit in its analysis of the bill. The Transportation Committee also recommended extensive amendments that are now in the bill in print. Those amendments have resolved virtually all concerns of stakeholders and policy committees that previously reviewed the bill. Therefore, this analysis focuses on the only issues raised by the bill in print that are within the Committee’s jurisdiction: (1) confidentiality of government records, and (2) general concerns regarding equity, fairness, and basic due process of sound-activated enforcement devices.

The California Public Records Act. The California Public Records Act (CPRA) was enacted in 1968 (Chapter 1473, Statutes of 1968) and codified as Sections 6250 through 6276.48. Similar to the federal Freedom of Information Act, the CPRA requires that the documents and "writings" of a public agency be open and available for public inspection, unless they are exempt from disclosure. (Sections 6250-6270.) The CPRA is premised on the principle that "access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state." It defines a “public record” to mean “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” (Section 6252 (e).)

However, the CPRA acknowledges the need to shield certain records, or at least specific information within records, from public disclosure. In enacting the CPRA, the Legislature was “mindful of the right of
individuals to privacy,” but also found and declared that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” Courts interpreting the CPRA have held that given the fact that the principle of open records are enshrined in the state constitution, any exemptions from compelled disclosure must be narrowly construed. (See Cal. Const., art. I, § 3, subd. (b)(2); Marken v. Santa Monica-Malibu Unified School Dist. (2012) 202 Cal.App.4th 1250, 1262; City of Hemet v. Superior Court (1995) 37 Cal.App.4th 1411, 1425.) For example, Section 6254 (c) exempts from disclosure personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. While this exemption is routinely invoked by agencies to withhold information pertaining to identifiable public officials or employees that is private, sensitive, or controversial, this provision only allows an agency to withhold information if its disclosure “would constitute an unwarranted invasion of personal privacy.” (Ibid.) That provision is meant to and should be a high threshold. In addition to this catch-all exemption, the CPRA has many specific exemptions for information that is deemed inappropriate to be disclosed to the public. In order to achieve both constitutional mandates for openness and statutory requirements of the CPRA, such specific exemptions should be codified only when necessary; and they should be as limited and specific as possible in order to protect sensitive information from public disclosure.

The bill’s confidentiality provisions and its exception to the CPRA. This bill seeks to enact a specific exemption to the CPRA, by providing that all “information collected and maintained by the department using a sound-activated enforcement device” and allowing it to “only be used for purposes of this section.” In addition, the bill prohibits the information from being “disclosed to any other persons, including, but not limited to, any other state or federal government agency or official for any other purpose, except as required by the reporting requirements in this section, state or federal law, court order, or in response to a subpoena in an individual case or proceeding.”

Given the public interest in learning about the CHP study and efficacy of sound-activated enforcement devices to capture vehicle noise levels that exceed the legal sound limit, it is possible that this language may be more broad than necessary to protect the privacy of individuals depicted in recordings. Therefore, the author proposes the following clarifying and limiting amendment:

(d) Notwithstanding Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code, or any other law, information collected and maintained by the department using a sound-activated enforcement device that could be used to identify the identity or location of any individual shall be confidential and only be used for purposes of this section, and shall not be disclosed to any other persons, including, but not limited to, any other state or federal government agency or official for any other purpose, except as required by the reporting requirements in this section, state or federal law, court order, or in response to a subpoena in an individual case or proceeding.

Regarding ultimate disposition of recordings, the bill would require the CHP to delete all videos recorded on a highway by a device within five days of the video being recorded. However, the bill would require the CHP to keep fifteen videos from the devices of each company evaluated for the purposes of preparing the report required by this section and documenting the issues related to each device that helped the department make its recommendations. Furthermore, the CHP would be specifically prohibited from maintaining videos (as one of the fifteen video exemplars) that contains audio of a person speaking, if recorded on a highway.

Privacy and transparency concerns of stakeholders appear to have been addressed by the bill’s most recent amendments. Regarding the prior version of the bill, Safer Streets LA asserted that “the bill makes all information captured by the systems confidential, even administrative data such as how many people
are being ticketed and at what sound levels etc. This bill ensures there will be zero government transparency and accountability.”

Similarly, the Electronic Frontier Foundation wrote:

[W]hile SB 1079 purports to limit the use of this technology in various ways, we see no obvious way in which misuse or abuse of the technology would be detectable or enforced. Not only is there no enforcement of these limits in SB 1079, but we also worry that the confidentiality requirement of proposed Vehicle C. § 27150.4 (c) would make it very easy for government to withhold its knowledge of such abuses from the public.

The prior version of the bill also raised serious concerns about due process, given that it would have authorized issuance of citations and accompanying fines to drivers determined to have violated legal noise levels as detected by a sound-activated enforcement device even though significant questions have been raised about the efficacy of such devices.

The need to be vigilant about issues of equity, fairness, and basic due process as this study progresses (and future legislation is considered). Despite the recent amendments to the bill, the subject of sound-activated enforcement devices and their ability to capture vehicle noise levels that exceed the legal sound limit should be carefully monitored and considered by the Legislature and stakeholders should legislation on this topic be introduced in the future.

First, sound-activated enforcement devices should be distributed equally across a participating city and not disproportionately placed in a single area or just in similar areas to avoid exacerbating the issue of overly policed and punished communities. Writing about the prior version of the bill, Oakland Privacy argued that while such provisions are critical, they need to be bolstered to ensure they are effectuated in practice:

This is an important measure for economic equity, but without a public use policy, how will we know what a local jurisdiction’s interpretation of “equally” works out to in practice? It is likely not every street in a jurisdiction will be equipped, and the choices about where to place this equipment and when should be explained, justified and be subject to public feedback. We point to last year’s AB 550 as a similar measure that included use policy creation by the jurisdiction and believe the requirement for a public use policy should be a part of this proposal. The use policy should provide the jurisdiction’s plan for compliance with all the requirements listed in AB 1079, along with customary information about data retention, storage, and security, including vendor policies.

Relatedly, the Legislature should be mindful of the impact of these systems could disproportionately have in lower income communities. While the prior version of the bill sought to account for this issue – through the requirement that a city consider a person’s ability to pay the assessed penalty and allow payment of the penalty in installments or deferred payment if the person provides satisfactory evidence of an inability to pay the penalty in full—the fact remains vehicles driven by low-income individuals likely would be more likely to trigger detection and ensuing fines as a result of this technology because they are more likely to be older and louder.

Also, as pointed out by the Senate Judiciary Committee, automated enforcement needs to have a high level of certainty in its determination that the relevant noise law has been broken; financial penalties must be reasonable; there must be a clear and effective process for appealing such determinations; and the public must have sufficient notice that they could be subject to financial penalties for sounds detected by a monitoring device. On these last points, focus must be on promoting roadway safety, rather than creation of a new stream for revenue generation for local governments, especially considering how administration of the program could affect fairness and equity.
**Status of Legislation**
SB 1079 (Portantino) is scheduled for hearing in the Assembly Appropriations Committee on Wednesday, August 3, 2022.

**Support**
California YIMBY
City of Rancho Palos Verdes

**Opposition**
None on file
Item B-11
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Assembly Bill 2449 (Rubio, Blanca) - Open meetings: local agencies: teleconferences
ATTACHMENT: 1. Summary Memo – AB 2449

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 2449 (Rubio, Blanca) - Open meetings: local agencies: teleconferences (AB 2449) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the City may wish to consider taking a position on this bill as it would authorize remote participation by members of a local agency legislative body and would provide local agencies flexibility to utilize teleconference options under certain circumstances through January 1, 2026.

The City’s state lobbyist, Shaw, Yoder, Antwih, Schmelzer & Lange, provided a summary memo for AB 2449 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 2449, the Liaisons may recommend the following actions:
1) Support AB 2449;
2) Support if amended AB 2449;
3) Oppose AB 2449;
4) Oppose unless amended AB 2449;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 2449, then staff will place the item on a future City Council Agenda for concurrence.
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 2449 (Blanca Rubio) Open meetings: local agencies: teleconferences

Version
As amended In Assembly June 23, 2022

Summary
This bill revises existing law to instead allows, until January 1, 2026, a local agency to use teleconferencing without complying with the requirement that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public under specified circumstances and only if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency’s jurisdiction.

The bill limits the length of time a member can participate remotely, and prescribes requirements for this exception regarding notice, agendas, access for the public, and procedures for disruptions. The bill also requires a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the Americans with Disabilities Act of 1990, to be implemented.

Background and Existing Law
Existing law:
1. Affirms that the people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny. (Cal. Const., art. I, § 3(b)(1).)
   a. Requires a statute that limits the public’s right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
2. Establishes the Brown Act, which secures public access to the meetings of public commissions, boards, councils, and agencies in the state. (Gov. Code, tit. 5, div. 2, pt. 1, Ch. nine, §§ 54950 et seq.)
3. Requires all meetings of the legislative body of a local agency to be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in the Brown Act. (Gov. Code, § 54953.)
4. Authorizes the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law, provided that the teleconferenced meeting complies with all the following conditions and all otherwise applicable laws:
a. Teleconferencing, as authorized, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall. (Gov. Code, § 54953(b)(2).)

b. If the legislative body elects to use teleconferencing, it must post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or in the public appearing before the legislative body of the local agency. (Gov. Code, § 54953(b)(3).)

c. Each teleconferencing location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. (Gov. Code, § 54953(b)(3).)

d. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercised jurisdiction, except as provided in 6). (Gov. Code, § 54953(b)(3).)

e. The agenda shall provide an opportunity for members of the public to address the legislative body directly, as the Brown Act requires for in-person meetings, at each teleconference location. (Gov. Code, § 54953(b)(3).)

f. For purposes of these requirements, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. (Gov. Code, § 54953(b)(4).)

5. Provides an exception to the teleconferencing quorum requirements in 4) as follows:

a. If a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

b. This exception may not be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. (Gov. Code, § 54953(d).)

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

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

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

c. The legislative body holds a meeting during a proclaimed state of emergency and has determined by majority vote pursuant to b) above that, because of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

7. Defines “state of emergency” as a state of emergency proclaimed pursuant to Government Code section 8625.

8. Provides that a legislative body holding a teleconferenced meeting pursuant to the Brown Act exception provided in 6) is subject to the requirements in a) through g).

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

b. The legislative body must allow members of the public to access the meeting, and the agenda must provide an opportunity for members of the public to address the legislative body directly pursuant to Brown Act requirements. In each instance where notice of the time of the
teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body must also give notice of how members of the public may access the meeting and offer public comment. The agenda must identify and include an opportunity for all persons to attend via call-in option or an internet-based service option. The legislative body need not provide a physical location from which the public may attend or comment.

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

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

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

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

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

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

a. the legislative body has reconsidered the circumstances of the state of emergency; and b) either (1) the state of emergency continues to directly impact the ability of the members to meet safely in person; or (2) state or local officials continue to impose or recommend measures to promote social distancing.

10. Provides that the provisions relating to the Brown Act in 6) through 9) above will remain in effect only until January 1, 2024, and as of that date be repealed.

11. Authorizes the district attorney or interested person to challenge an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of specified provisions of the Brown Act is null and void. (Gov. Code § 54960.1.)

**Status of Legislation**

This bill has passed Assembly Judiciary Committee with amendments and was re-referred to Committee on Appropriations.

**Arguments in Support**

The expiration of the Executive Orders immediately gave way to AB 361, allowing for the teleconference provisions detailed in the Executive Orders to continue during a period of emergency declaration. However, once an emergency declaration has ended, local agencies will again be required to comply with antiquated provisions of existing law, making it potentially more difficult to hold meetings of the legislative body by teleconference. While current
law does allow for “teleconference locations” under normal circumstances, it requires various actions to be taken at the teleconference locations and fails to recognize in the digital age that a teleconference location is wherever there is a person with a computer, a tablet, or even a mobile phone.

AB 2449 will modernize the previously existing concept of teleconference locations and will revise notice requirements to allow for greater public participation in teleconference meetings of local agencies. The bill does not require teleconferencing. Rather, it modernizes existing law to ensure greater public participation in meetings of the legislative bodies of local agencies who choose to utilize teleconferencing. Similarly, in acknowledgement of the critical importance of maintaining transparency and accountability, the bill requires that a quorum of the governing body be physically present at a clearly identified meeting location for all public meetings.

Arguments in Opposition
Concerns with subdivision (h) – requirement that a legislative body conduct meetings subject to the Brown Act consistent with applicable state and federal civil rights, language access, and other nondiscrimination laws.

The League of California Cities, Urban Counties of California, Association of California School Administrators, Association of California Healthcare Districts, Rural County Representatives of California, and City Clerks Association of California write in opposition to the language in the bill in subdivision (h) that requires a legislative body to conduct meetings subject to the Brown Act consistent with applicable state and federal civil rights, language access, and other nondiscrimination laws. Specifically, they state that “there is no generally applicable ‘language access’ laws for Brown Act meetings, and this reference is likely to generate confusion and potential litigations.”

They further state that they “appreciate the author’s efforts to assist local agencies continue to participate in public meetings remotely, we are concerned that the provisions of subdivision (h) along with other requirements of the bill undermine the overall utility of the measure. [They] suggest that a more comprehensive conversation about the future of remote participation in local public meetings is necessary before moving forward with this measure.

The ACLU, Californians Aware, First Amendment Coalition, and Leadership Council write stating that this bill would “fundamentally alter the Brown Act by providing express authorization to members of legislative bodies to teleconference into public meetings from private locations not identified or accessible to the public at any time, without a compelling reason.” They further write that: We are also very glad to see that a quorum must be in the same physical location with the public in this bill, but it is essential to narrow the circumstances in which members outside of the quorum can participate remotely, so that the same members cannot avoid physically appearing without circumstances that justifies limiting the public’s access to the member who is supposed to be serving their interests. […] When the state had to conduct business under stay-at-home orders during the pandemic, participation from home was essential as there was no other option. That is no longer the case and has not been for quite some time.

The public’s right to meaningful access should not be curtailed to accommodate public officials who can physically attend a meeting but simply choose not to. Appropriate exceptions can be made as needed for members who have a disability, are immunocompromised, or have children or other household members requiring certain consideration. We do not object to teleconferencing allowances for such individuals.

Support
Three Valleys Municipal Water District (sponsor)  Calleguas Municipal Water District
Association of California Water Agencies  California Municipal Utilities Association
Opposition listed on the next page
**Opposition**
ACLU California Action
Association of California School Administrators (ACSA)
Association of California Healthcare Districts (ACHD)
Californians Aware: the Center for Public Forum Rights City Clerks Association of California (CCAC)
County of Santa Barbara First Amendment Coalition Leadership Counsel for Justice and Accountability
League of California Cities Rural County Representatives of California Urban Counties of California
Item B-12
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Assembly Bill 1751 (Daly) - Workers' compensation: COVID-19: critical workers
ATTACHMENT: 1. Summary Memo – AB 1751

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 1751 (Daly) - Workers’ compensation: COVID-19: critical workers (AB 1751) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the AB 1751 may have an impact to the City as well as the businesses located in Beverly Hills.

The City has previously supported workers' compensation legislation which made COVID-19 a rebuttable presumption for workers' compensation claims for public safety employees and healthcare workers. This bill would extend the sunset date of the workers' compensation COVID-19 presumption to January 1, 2025.

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1751 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1751, the Liaisons may recommend the following actions:
1) Support AB 1751;
2) Support if amended AB 1751;
3) Oppose AB 1751;
4) Oppose unless amended AB 1751;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1751, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 30, 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


Version
Introduced in Assembly February 01, 2022

Summary
Extends the January 1, 2023, sunset date for the existing COVID-19 workers' compensation presumptions until January 1, 2025.

Major Provisions
- Continues the disputable presumption that an employee's illness or death resulting from COVID-19 arose out of and in the course of employment. The employee must have tested positive for COVID-19 within 14 days after performing labor or services.
- Continues to make a claim relating to a COVID-19 illness presumptively compensable after 30 days (or 45 days for non-frontline workers whose COVID-19 injury stems from a workplace outbreak), rather than 90 days.
- Continues to subject an employer, who intentionally submits false or misleading information regarding a COVID-19 workplace outbreak to their workers' compensation claims administrator, to a civil penalty of up to $10,000 assessed by the Labor Commissioner.

Background and Existing Law
Senate Bill 1159 (Hill) Chapter 85, Statutes of 2020: created a rebuttable presumption for critical workers that illness or death related to COVID-19 (novel coronavirus) are an occupational injury and therefore eligible for workers’ compensation benefits.

Existing Law:
1. Provides a rebuttable presumption that a peace officer, firefighter, specified frontline employees, and certain health care employees, as defined, who contract COVID-19 were infected with the virus via a workplace exposure. (Labor Code §3212.87)
2. Provides that all the normal workers' compensation benefits are available to these employees who become presumptively eligible for workers' compensation benefits. (Labor Code §3212.87-3212.88)
3. Provides that the presumptions established by the bill continue for 14 days after the last day of employment with an employer. (Labor Code §3212.86-3212.88) Establishes a presumption of compensability for employees who contract COVID-19 from any employer that experiences an "outbreak" of COVID-19 cases at a particular work location. (Labor Code §3212.88)
4. Defines an "outbreak" as follows:
a. For employers with 5-100 employees, five or more employees who worked at a specific work location contracted the disease within a 14-day period;  
b. For employers with more than one hundred employees, 5% or more of the employees who worked at a specific work location contracted the disease within a 14-day period. (Labor Code §3212.88)

5. Specifies that this presumption is rebuttable, and the evidence to rebut the presumption includes, but is not limited to, evidence of measures in place to prevent transmission of COVID-19 and evidence of an employee’s nonoccupational exposure to COVID-19.

6. Provides that the presumptions established under Labor Code §3212.86, 3212.87, and 3212.88 sunset on January 1, 2023.

**Status of Legislation**
This bill is set for hearing August 1, 2022, in Senate Appropriations.

**Arguments in Support**
“As of June 3, 2022, local health departments have reported 163,894 confirmed positive COVID-19 cases in health care workers and 581 deaths statewide.

COVID-19 is a global health crisis, but it is also a personal tragedy for healthcare workers and their families. Nurses enter this vocation because they wish to care for the sick and vulnerable among us. We have not done enough as a state to protect our frontline workers, who run toward this danger every day, rather than away from it. While most of the world has been able to shelter in place, nurses, healthcare workers, and first responders courageously enter the front lines putting themselves in harm’s way to continue to care for the sick.

Frontline healthcare workers deserve continued protection and security, so they can continue to care for your constituents during this pandemic and beyond. Nurses and health care workers are meeting the daily challenges of this global pandemic, but they cannot do it alone. Now more than ever it is up to lawmakers to ensure they are safe as they perform their duties.”

**Arguments in Opposition**
The California Chamber of Commerce writes in opposition:

“California, early in the pandemic, chose to implement a COVID-19 presumption to ensure that employees would have access to the workers’ compensation system in the event of an infection. Employers opposed the imposition of a presumption because, we argued, COVID19 was a community spread virus, and there was no reason to believe that the employment posed a heightened risk or that a presumption was needed. However, employers worked in good faith with the legislature to develop a temporary policy that would help meet the needs of our employees in the face of a new and unpredictable virus.

According to an ongoing analysis from the California Workers’ Compensation Institute, California employers have received over 250,000 workers’ compensation claims for COVID-19 since the start of the pandemic. Health care providers and taxpayer-funded public agencies have been especially hard hit, accounting for over 50% of all claims and over 60% of the accepted claims. And the data suggests that employers have accepted most of these claims and provided benefits.

Our coalition believes that the COVID-19 presumption should be allowed to sunset as agreed upon in SB 1159. California is no longer sheltering in place and the workplace does not represent a unique risk in most situations. California has implemented an Emergency Temporary Standard for COVID-19 and for most Californians their place of employment is the safest environment in which they spend time. There are also
multiple free vaccines available for Californians who want to protect themselves from the most severe consequence of COVID-19.”

**Support**
Cal Fire Local 2881
California Association of Highway Patrolmen
California Nurses Association
California Professional Firefighters
California School Employees Association
California Statewide Law Enforcement Association
California Teachers Association Peace Officers Research Association of California (PORAC)

**Opposition**
Acclamation Insurance Management Services
Allied Managed Care
American Property Casualty Insurance Association
Association of California Healthcare Districts (ACHD)
Association of Claims Professionals
Breckpoint
California Association for Health Services At Home
California Association of Joint Powers Authorities (CAJPA)
California Association of Winegrape Growers
California Beer and Beverage Distributors
California Business Properties Association
California Chamber of Commerce
California Coalition on Workers Compensation
California Farm Bureau California Grocers Association
California Hospital Association
California League of Food Producers
California New Car Dealers Association California Restaurant Association California Special Districts Association California State Association of Counties (CSAC)
Coalition of Small and Disabled Veteran Businesses
Flasher Barricade Association Independent Insurance Agents & Brokers of California, INC.
League of California Cities
National Federation of Independent Business
National Federation of Independent Business (NFIB)
Public Risk Innovation, Solutions, and Management (PRISM)
The Protected Insurance Program for Schools &community Colleges Joint Powers Authority
Urban Counties of California Wine Institute
Item B-13
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Senate Bill 1127 (Atkins) - Workers’ compensation: liability presumptions
ATTACHMENT: 1. Summary Memo – SB 1127

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 1127 (Atkins) - Workers’ compensation: liability presumptions (SB 1127) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language; however, the SB 1127 may have an impact to the City due to the liability presumptions for worker’s compensation for public safety workers related to certain injuries or illnesses.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 1127 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 1127, the Liaisons may recommend the following actions:

1) Support SB 1127;
2) Support if amended SB 1127;
3) Oppose SB 1127;
4) Oppose unless amended SB 1127;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on SB 1127, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
June 30, 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 1127 (Atkins): Workers’ compensation: liability presumptions

Version
As amended In Assembly June 13, 2022

Summary
This bill increases the maximum time specified firefighters can access wage replacement disability benefits for cancer work-related injuries from 104 weeks within five years to 240 weeks with no time limit. This bill also reduces the time period an employer has to deny liability for a workers’ compensation claim from 90 to 60 days, or 30 days for a workers’ compensation claim for specified presumptive injuries.

Background and Existing Law

Establishes a workers’ compensation system that provides benefits to an employee who suffers from an injury or illness that arises out of and in the course of employment, irrespective of fault.

This system requires all employers to secure payment of benefits by either securing the consent of the Department of Industrial Relations (DIR) to self-insure or by securing insurance against liability from an insurance company duly authorized by the state. (Labor Code §3600)

1. Creates a series of disputable presumptions of an occupational injury for peace and safety officers for the purposes of the workers’ compensation system. These presumptions include:
   a) Heart disease
   b) Hernias
   c) Pneumonia
   d) Cancer
   e) Meningitis
   f) Tuberculosis
   g) Bio-chemical illness

2. The compensation awarded for these injuries must include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by workers compensation law. These presumptions tend to run for 5 to 10 years commencing on their last day of employment, depending on the injury and the peace officer classification involved.
3. Peace officers whose principal duties are clerical, such as stenographers, telephone operators, and other office workers are excluded. (Labor Code §§3212 to 3213.2)

4. Provides that the presumptions listed above are disputable and may be controverted by evidence. However, unless controverted, the Workers’ Compensation Appeals Board must find in accordance with the presumption. (Labor Code §§3212 to 3213.2)

5. Requires that notice be served to an employer in writing within 30 days of the date of an injury that is claimed to have caused disability or death. This notice must be signed by the injured employee or in the case of death, by a dependent of the deceased employee. (Labor Code §5400)

6. Establishes that knowledge of an injury, obtained from any source, on the part of the employer or their managing agent is equivalent to service of notice required by Labor Code Section 5400. If liability is not rejected within 90 days after a claim form is filed, the injury is considered compensable, unless rebutted by evidence discovered subsequent to the 90-day period. (Labor Code §5402)

7. Whenever a specified peace officer, who is employed on a regular, full-time basis, is disabled by injury or illness arising out of and in the course of their duties, they are entitled, regardless of their period of service with the city, county, or district, to a leave of absence.

8. While disabled the disabled officer will receive, in lieu of normal temporary disability benefits, benefits such that there is no loss of salary for the period of the disability, up to a maximum of one year, or until the officer is retired on permanent disability pension and is actually receiving disability pension payments. (Labor Code §4850)

9. Establishes a presumption that an employee who contracts COVID-19 and performed labor or services at an employer’s place of employment within 14 days of a positive COVID-19 test has an injury that arose out of and in the course of employment, with further specifications and limitations enumerated. This section only applies to injuries between March 19, 2020 and July 5, 2020. (Labor Code §3212.86)

10. Requires that if liability for a claim of COVID-19-related illness is not rejected within 45 days after the date the claim form is filed, the illness shall be presumed compensable. The presumption is rebuttable only by evidence discovered subsequent to the 45 day period. (Labor Code §3212.88 (f))

11. Requires an insurer who is securing an employer’s liability to notify the employer within 15 days of each claim for indemnity filed against the employer directly with the insurer if the employer has not provided to the insurer a report of occupational injury or occupational illness. The insurer must allow an employer who has not filed this report to provide to the insurer, prior to the expiration of the 90-day period specified in Section 5402, all relevant information available to the employer concerning the claim. (Labor Code §3761)

12. Requires that when payment of compensation has been unreasonably delayed or refused, either prior to or subsequent to the issuance of an award, the amount of the unreasonably delayed or refused payment be increased up to 25% or up to $10,000, whichever is less. Existing law requires the appeals board to use its discretion to accomplish a fair, balanced, and substantial justice between the parties. (Labor Code §5814)

13. Prohibits aggregate disability payments for a single injury occurring on or after January 1, 2008, causing temporary disability from extending for more than 104 compensable weeks within a period of
5 years from the date of injury, except if an employee suffers from certain injuries or conditions. (Labor Code §4656)

Status of Legislation
This bill passed Assembly Insurance [Ayes: 10; Noes: 2; Abstain: 2] and has been re-referred to 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
A coalition of employers, including the California Coalition on workers’ Compensation, oppose this bill arguing, in part, that the bill “fundamentally alters longstanding rules and timeframes for determining eligibility for workers’ compensation claims and as drafted, would dramatically increase systemic friction and litigation.”

Support
California Professional Firefighters (co-founder)
Cal Fire Local 2881 (co-founder)
AFSCME
Alameda City Firefighters Local 689
Alameda County Firefighters IAFF Local 55
Anaheim Firefighters Association Local 2899
Barstow Professional Firefighters Association
Local 2325
California Association of Highway Patrolmen
California Statewide Law Enforcement Association
Chula Vista Firefighters Local 2180
Contra Costa County Professional Firefighters Local 1230
Corona Firefighters Association Local 3757
Costa Mesa Firefighters Local 1465
Fremont Firefighters Local 1689
Fresno Firefighters Local 202
Hayward Firefighters Local 1909
Kern County Firefighters Local 1301 Union
Lathrop-Manteca Firefighters Local 4317
Long Beach Firefighters Local 372
Los Angeles County Firefighters Local 1014
Marin Professional Firefighters Local 1775
Modesto City Firefighters Local 1289
Monrovia Firefighters Local 2415
Monterey Firefighters Association Local 3707
Oakland Firefighters Local 5

Orange County Professional Firefighters Association, Local 3631
Peace Officers Research Association of California (PORAC)
Rancho Cucamonga Firefighters Association
Local 2274
Redlands Professional Firefighters Association
Local 1354
Sacramento Area Firefighters Local 522
Salinas Fire Fighters Local 1270
San Bernardino County Firefighters Local 965
San Francisco Fire Fighters Local 798
San Francisco Firefighters Cancer Prevention Foundation
San Jose Fire Fighters Local 230
Santa Clara City Firefighters Local 1171
Santa Clara County Firefighters Local 1162
Santa Fe Springs Firefighters Local 3507
Stockton Firefighters Local 456
United Fire Service Women
Vandenberg Professional Firefighters Local F-116
Ventura County Professional Firefighters Association Local 1364
Vista Firefighters Association Local 4107
Opposition
American Property Casualty Insurance Association
Association of California Healthcare Districts (ACHD)
Association of California School Administrators
Association of Claims Professionals
Auto Care Association
Beta Healthcare Group
California Assisted Living Association
California Association of Joint Powers Authorities (CAJPA)
California Association of Winegrape Growers
California Attractions and Parks Association
California Chamber of Commerce
California Coalition on Workers Compensation
California Farm Bureau Federation
California Farm Labor Contractor Association
California Grocers Association
California Hospital Association
California Joint Powers Insurance Authority
California League of Food Producers
California Manufacturers and Technology Association
California Manufactures & Technology Association
California Pool & Spa Association
California Retailers Association
California Schools JPA
California Special Districts Association
California State Association of Counties (CSAC)
California Trucking Association
CAWA - Representing the Automotive Parts Industry
Civil Justice Association of California
County of Los Angeles Board of Supervisors
County of Monterey
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Family Business Association of California
Folsom Chamber of Commerce
Housing Contractors of California
Independent Insurance Agents & Brokers of California, INC.
League of California Cities
National Association of Mutual Insurance Companies
National Federation of Independent Business (NFIB)
Public Risk Innovation, Solutions, and Management (PRISM)
Rancho Cordova Chamber of Commerce
Roseville Area Chamber of Commerce
Rural County Representatives of California (RCRC)
Special District Risk Management Authority
The Protected Insurance Program for Schools & community Colleges Joint Powers Authority
The Western Insurance Agents Association (WIAA)
United Chamber Advocacy Network
Urban Counties of California
Western Electrical Contractors Association
Western Growers Association
Western Insurance Agents Association
Yuba Sutter Chamber of Commerce
Item B-14
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 1713 (Boerner Horvath) - Vehicles: required stops: bicycles (AB 1713) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language. This bill is similar to Assembly Bill 122 - (Boerner Horvath) - Vehicles: required stops: bicycles from 2021 (AB 122, 2021).

In 2021, the Legislative / Lobby Liaison Committee requested the state lobbyist and staff to work with the author to have AB 122, 2021 apply only to those bicycle riders who are not legally required to wear a helmet. The City’s official position was support seek amendments; however the bill passed both houses before the City’s position could be communicated to the state legislature. AB 122, 2021 was ultimately vetoed by Governor as he felt is should not apply to children.

Assemblymember Boerner-Horvath addresses these issues in AB 1713. Staff also believes AB 1713 may address the concerns expressed by the Legislative / Lobby Liaison Committee.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 1713 to the City (Attachment 1) and will provide a verbal update to the Liaison/Legislative/Lobby Committee.

After discussion of AB 1713, the Liaisons may recommend the following actions:

1) Support AB 1713;
2) Support if amended AB 1713;
3) Oppose AB 1713;
4) Oppose unless amended AB 1713;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend the City take a position on AB 1713, then staff will place the item on a future City Council Agenda for concurrence.
Attachment 1
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1713 (Boerner Horvath) Vehicles: required stops: bicycles

Version
As Amended in the Assembly on March 21, 2022

Summary
Permits a person, 18 years of age or older, to treat stop signs as yield signs when riding a bicycle under certain conditions. Specifically, this bill:

1) Requires a person who is 18 years of age or older riding a bicycle upon a two-lane highway when approaching a stop sign at the entrance of an intersection, with another roadway with two or fewer lanes, where stop signs are erected upon all approaches, to yield the right-of-way to any vehicles that have either stopped at or entered the intersection, or that are approaching on the intersecting highway close enough to constitute an immediate hazard, and to pedestrians, as specified, and continue to yield the right-of-way to those vehicles and pedestrians until reasonably safe to proceed.

2) Requires other vehicles to yield the right-of-way to a bicycle that, having yielded as prescribed, has entered the intersection.

3) Provides that the changes made by this bill shall not affect the liability of a driver of a motor vehicle because of the driver's negligent or wrongful act or omission in the operation of a motor vehicle.

4) Provides that a bicyclist under eighteen that failed to stop at a stop sign shall receive a warning ticket for their first violation.

5) Requires California Highway Patrol (CHP) report to the Legislature on January 1, 2028, on the safety effects of this bill.

6) Repeals the provisions of this bill on January 1, 2029.

Background and Existing Law
According to the author, “we must do a better job in improving a cyclist's safety at stop signs. The pandemic has resulted in a significant increase of residents opting for bicycling whether for recreation, commuting to work, or getting their shopping done. As ridership continues to increase, it is imperative we make stops at intersections safer for bicyclists.

AB 1713 uses this collective understanding of a yield sign to allow bicyclists, 18 year of age or older, approaching an intersection with a stop sign to slow down, evaluate the traffic flow, and yield to any cars and pedestrians already at the intersection. If it is safe to do so, bicyclists can then proceed through the intersection without making a complete stop. Rolling through a stop sign is illegal now and would continue to be illegal under AB 1713. Rolling through a stop sign is not yielding.”
In the state of Idaho, a bicyclist who approaches a stop sign is permitted to treat the stop sign as a yield sign, to treat a traffic signal as a stop sign when no other traffic is present, and to treat the traffic signal as a yield sign when making a right turn. Idaho codified this rule of the road back in 1982 and it has lived infamously as the “Idaho stop.” Other states have followed Idaho’s example and codified ideations of the “Idaho stop.”

In 2017, Delaware changed its laws to allow a bicyclist travelling on a one-lane or two-lane road to treat a stop sign as a yield sign, known colloquially as the “Delaware yield.” More recently, Arkansas, Oregon and Washington have adopted rules like the “Idaho stop” or the “Delaware yield.”

After Idaho adopted the law, bicyclist injuries from traffic crashes declined by 14.5% the following year. In Delaware, traffic crashes involving bicyclists at stop sign intersections fell by 23% in the 30 months after the law’s passage, compared to the previous 30 months.

However, in California, existing law requires any vehicle, including a bicycle that approaches an intersection with a stop sign, to make a complete stop before entering the intersection. In California, bicyclists are required to abide by all vehicle rules of the road. AB 1713 attempts to increase bicyclist safety in intersections by allowing them to treat the stop sign as a yield sign, aligning the state with Idaho and Delaware.

In 2021, AB 122 (Boerner Horvath), which was substantially similar to AB 1713, was vetoed by Governor Newsom. The veto message stated in part, “while I share the author’s intent to increase bicyclist safety, I am concerned this bill will have the opposite effect. The approach in AB 122 may be especially concerning for children, who may not know how to judge vehicle speeds or exercise the necessary caution to yield to traffic when appropriate.”

To address concerns raised by the Governor, AB 1713 only authorizes cyclists over eighteen to treat stop signs as a yield sign. Consequently, those under the age of eighteen who treat a stop sign as a yield sign will potentially face a $238 ticket from law enforcement. Law enforcement will be required to distinguish the age of a cyclist when enforcing the law. Additionally, AB 1713 is narrower than AB 122 as a cyclist may only yield at a stop sign if they are on a two-lane road approaching an intersection with stop signs at every intersection. Delaware’s law only applied to two lane roads but applied at any stop sign regardless of whether there was a stop sign at every intersection.

**Legislative Status**
AB 1713 (Boerner Horvath) is currently scheduled for hearing in the Senate Appropriations Committee on Monday, August 1, 2022.

**Support**
Berkeley; City of California Association of Bicycling Organizations Civicwell (formally the Local Government Commission) Lake Tahoe Bicycle Coalition North Westwood Neighborhood Council Sacramento Trailnet Streets for All

**Transportation Agency for Monterey County (TAMC)**
California Bicycle Coalition (support if amended)

**Opposition**
California Association of Highway Patrolmen California Coalition for Children's Safety and Health
Item B-15
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 1909 (Friedman) - Vehicles: bicycle omnibus bill (AB 1909) involves a policy matter which may have a nexus to the City’s adopted Legislative Platform language. Specifically, the following statement may apply to this bill:

- Oppose preemption of the City of Beverly Hills’ local authority whether by state or federal legislation or ballot propositions

The City’s state lobbyist, Shaw, Yoder, Antwih, Schmelzer & Lange, provided a summary memo for AB 1909 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1909, the Liaisons may recommend the following actions:

1) Support AB 1909;
2) Support if amended AB 1909;
3) Oppose AB 1909;
4) Oppose unless amended AB 1909;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend a position of oppose, then staff will prepare a letter for the Mayor to sign as the legislation appears to be consistent with the City’s Legislative Platform. Any other positions recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1909 (Friedman) Bicycle Transportation

Version
As Amended in the Senate on June 30, 2022

Summary
Makes comprehensive changes to provisions of current law regarding rules of the road and restrictions on bicycle operations. Specifically, this bill:

1) Removes provisions from current law which ban class 3 electric bicycles on a bicycle path or trail, bikeway, bicycle lane, equestrian trail, or hiking or recreational trail.

2) Authorizes a local authority having jurisdiction over an equestrian trail or hiking or recreational trail to prohibit the operation of an electric bicycle of any class on that trail.

3) Eliminates local authority to ban class 1 and 2 electric bicycles on bike paths.

4) Allows bicyclists to follow leading pedestrian intervals at intersections.

5) Requires motor vehicle operators, when overtaking or passing a bicycle in the same direction, to move over a lane of traffic when possible.

6) Eliminates local authority to require bicycle registration.

Background and Existing Law
Existing law defines an electric bicycle as a bicycle equipped with fully operable pedals and an electric motor of less than 750 watts. Class 1 electric bicycles are pedal assist only, with no throttle, and have a maximum assisted speed of twenty mph. Class 2 electric bicycles also have a maximum speed of 20 mph but are throttle-assisted. Class 3 electric bicycles are pedal-assist and may include a throttle, and can reach a maximum assisted speed of twenty-eight mph.

Classes of bike paths. The California Department of Transportation provides the following guidance regarding Class I Bikeway (Bike Path) as defined in Chapter 100 of the Highway Design Handbook. Class I Bikeways are also defined in Section 890.4 of the Streets and Highways Code. Class I bike paths should serve corridors not served by streets and highways or where wide right of way exists, permitting such facilities to be constructed away from the influence of parallel streets. Bike paths should offer opportunities not provided by the road system. They can either provide a recreational opportunity, or in some instances, can serve as direct high-speed commute routes if cross flow by motor vehicles and pedestrian conflicts can be minimized. The most common applications are along rivers, ocean fronts, canals, utility right of way,
and abandoned railroad right of way, within school campuses, or within and between parks. There may also be situations where such facilities can be provided as part of planned developments.

Class II bike lanes are established along streets in corridors where there is significant bicycle demand, and where there are distinct needs that can be served. The purpose should be to improve conditions for bicyclists in the corridors. Bike lanes are intended to delineate the right of way assigned to bicyclists and motorists and to provide for more predictable movements by each. However, a more important reason for constructing bike lanes is to better accommodate bicyclists through corridors where insufficient room exists for side-by-side sharing of existing streets by motorists and bicyclists.

AB 1909 amends current law that restricts the use of class 3 electric bicycles on Class I Bikeways. Additionally, it removes local control from regulating class 1 and 2 electric bicycle operation on a Class I Bikeway. Cyclists riding conventional bicycles can operate them at speeds similar to, or faster than class 1 or 2 electric bicycles (20 miles per hour). Class I Bikeways often have speed limit signs, indicating the speed for the bike path.

Leading pedestrian intervals. A leading pedestrian interval (LPI) is an official traffic control signal that advances the "WALK" signal for three to seven seconds while the red signal halting traffic continues to be displayed on parallel and through or turning traffic. This tool has gained in popularity to protect the safety of pedestrians. It allows for increased visibility of pedestrians as well as the opportunity to cross the street without being confronted by a vehicle. New York City conducted a pilot project where cyclists were able to take advantage of the LPI, increasing their visibility, allowing them to get out ahead of traffic and allowing them to avoid confrontation with vehicles making right-hand turns. The results of the study indicated that when cyclists used the LPI, injuries to cyclists decreased by over 26%.

AB 2264 (Bloom, 2022) is currently moving through the legislative process. The bill requires upon the first placement or replacement of a traffic control signal that the city or county include a leading pedestrian interval. The City of Beverly Hills currently has a Support If Amended position on AB 2264 (Bloom). The city would like the bill to be amended to provide flexibility for the city to choose the intersections where leading pedestrian intervals would be installed.

AB 1909 (Friedman) permits bicyclists to follow leading pedestrian intervals at intersections, which has the potential to increase bicyclist safety.

Three Feet for Safety Act. The California Legislature passed the Three Feet for Safety Act as part of AB 1371 (Bradford, Chapter 331, Statutes of 2013). This act specifies that a driver of a motor vehicle shall not overtake or pass a bicycle proceeding in the same direction on a highway at less than three feet between any part of the motor vehicle and any part of the bicycle or its operator. If the vehicle operator is not able to provide three feet of clearance when passing a cyclist, they must slow to a reasonable and prudent speed.

Law enforcement officials find this rule difficult to implement as officers must make a judgement call of the distance between the vehicle and the bicycle.

As written, AB 1909 amends the Three Feet for Safety Act by requiring motor vehicle operators to make a lane change into another available lane before overtaking or passing the bicycle. Thus, if a bicyclist were riding in a bike lane, all vehicles in the right lane would need to move to the left lane to comply with this bill. This change has the potential to increase last minute lane changes, which can be unsafe. Similarly, changing lanes has the potential to slow the flow of traffic in the lane closest to the bike lane which, in turn, could increase congestion.

California created a statewide bicycle registration program in 1974 (AB 3329-Bedham), where cities and local jurisdictions are authorized to collect registration fees from cyclists to officially license bicycles.
Many local jurisdictions have found that revenue from registration fees have been insufficient to cover the cost of these local programs. Over time, fewer jurisdictions have established, and many have abandoned their local bicycle licensing programs.

AB 1909 removes local authorities from requiring bicycle registration, however, they may continue to operate bicycle registration programs on a volunteer basis.

**Legislative Status**
AB 1909 (Friedman) is currently pending on the Senate Floor and will be eligible to be taken up when the Legislature returns from Summer Recess on August 1, 2022.

**Support**
Active San Gabriel Valley
Alameda County Transportation Commission
California Association of Bicycling Organizations
California Bicycle Coalition
City of Thousand Oaks
Los Angeles County Bicycle Coalition
Motional
Move LA
National Resources Defense Council
Natural Resources Defense Council
Sierra Club
Streets for All

**Opposition**
Backcountry Horseman of California
Item B-16
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Assembly Bill 2142 (Gabriel) - Income taxes: exclusion: turf replacement water conservation program
ATTACHMENT: 1. Summary Memo – AB 2142

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 2142 (Gabriel) - Income taxes: exclusion: turf replacement water conservation program (AB 2142) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language; however, given the current drought conditions in the state of California, the City may wish to consider taking a position on this legislation.

The City's state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for AB 2142 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 2142, the Liaisons may recommend the following actions:

- Oppose AB 2142;
- Support AB 2142;
- Support if amended AB 2142;
- Oppose unless amended AB 2142;
- 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
June 30, 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 2142 (Gabriel) Income taxes: exclusion: turf replacement water conservation program

Version
As Amended on April 6, 2022.

Summary
AB 2142 would exclude from taxable income any rebate, voucher, or other financial incentive received in connection with a turf replacement water conservation program. Specifically, this bill:

1. Excludes from gross income any amount received as a rebate, voucher, or other financial incentive issued by a public water system, local government or state agency for participation in a turf replacement water conservation program.
   a. This income is excluded for both Personal Income and Corporation taxpayers and the exclusion is allowed for the 2022 through 2027 taxable years.
2. Defines a “public water system” as a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.
3. Requires Department of Finance to include an analysis of the tax expenditure created by this bill.

Background and Existing Law
Tax expenditure programs (TEPs) are special tax provisions that reduce the amount of revenues the “basic” tax system would otherwise generate in order to provide (1) benefits to certain groups of taxpayers, and/or (2) incentives to encourage certain types of behavior and activities, such as charitable giving. Specifically, current law provides for, among other things, various income and corporation tax credits and deductions, as well as exemptions from the sales and use tax. The Department of Finance is required to publish a list of TEPs (currently totaling several hundred), which currently exceed $81 billion annually.

Current federal and state tax law provides that gross income includes all income from any source, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded. Rebates or other financial incentives received by individuals and businesses for certain behavior, such as turf removal, are generally taxable.

The Department of Water Resources (DWR) reports that “Water Year 2021 (October 1, 2020 to September 30, 2021) was an extreme year in terms of temperature and precipitation, and it followed a Water Year 2020 that was likewise warm and dry. Water Year 2020 was California’s fifth driest year based on statewide runoff; Water Year 2021 has ended up as second driest.” The report also notes that the reservoirs and ground water in the State are at historically low levels. Due to the dire conditions, 50 counties are being covered under emergency proclamations. These impacts can be mitigated to the extent that the State’s residents reduce their consumption of water.
One way to accomplish this objective is to encourage consumers to eliminate their grass lawns. Grass reportedly uses twice the amount of water as more water-wise plants.

**Status of Legislation**

AB 2142 (Gabriel) was approved on the Senate Governance and Finance Committee on June 15, 2022, with a vote of 5-0. This measure is now on the Senate Appropriations suspense file. The suspense file hearing will likely take place on August 11.

**Support**

- Association of California Water Agencies (ACWA) (SPONSOR)
- California Water Efficiency Partnership (SPONSOR)
- Waternow Alliance (SPONSOR)
- Barbara Halliday - Hayward Mayor
- Judy Ritter - City of Vista Mayor
- Patrick Furey - City of Torrence Mayor
- Robert Mcconnell - Vallejo Mayor
- Steve Young - City of Benicia Mayor
- Tom Butt - Richmond Mayor
- Sara Lamin, Mayor Pro Tem City of Hayward
- Eduardo Martinez - Richmond Vice Mayor
- Bob Blumenfield - City of Los Angeles Councilmember
- D'lynda Fischer - Petaluma Council Member
- Donna Colson - Burlingame Councilmember
- Julie a Testa - Pleasanton Council Member
- Mikke Pierson - Malibu City Councilmember
- Patricia Showalter - Mountain View Councilmember
- Tony Madrigal - Modesto Councilmember
- Jim Schutz - City Manager San Rafael
- Alameda County Water District
- California Association of Sanitation Agencies
- California Coastkeeper Alliance
- California Contract Cities Association
- California Municipal Utilities Association (CMUA)
- California Special Districts Association
- California Water Association
- California Water Service
- California-nevada Section, American Water Works Association
- Calleguas Municipal Water District
- Carpinteria Valley Water District
- City of Roseville
- City of Sacramento Department of Utilities
- City of Santa Barbara
- City of Santa Rosa
- City of Shasta Lake

- Coachella Valley Water District
- Coachella Valley Waterkeeper
- Contra Costa Water District
- Cucamonga Valley Water District
- Dan Madden, Interim Municipal Services Director, City of Modesto
- Desert Water Agency
- Diablo Water District
- Dickinson Associates
- East Valley Water District
- Eastern Municipal Water District
- Elisa De Bord, Government Relations and Legislative Analyst, Sacramento County Water Agency
- Elsinore Valley Municipal Water District
- Foothill Municipal Water District
- Fresno Metropolitan Flood Control District
- Helix Water District
- Indian Wells Valley Water District
- Inland Empire Utilities Agency
- Inland Empire Waterkeeper
- Irvine Ranch Water District
- LA Cumbre Water Company
- Las Virgenes Municipal Water District
- League of California Cities
- Marin Municipal Water District
- Mesa Water District
- Municipal Water District of Orange County
- Northern California Water Association
- Olivenhain Municipal Water District
- Orange County Coastkeeper
- Orange County Water District
- Padre Dam Municipal Water District
- Rancho California Water District
- Regional Water Authority
- San Francisco Baykeeper
- San Juan Water District
- Santa Barbara Channelkeeper
- Santa Barbara County Water Agency
- Santa Clara Valley Water District
- Santa Clarita Valley Water Agency
Sonoma County Water Agency
Soquel Creek Water District
Southern California Water Coalition
The Metropolitan Water District of Southern California
Three Valleys Municipal Water District
Tri-county Water Authority
Upper San Gabriel Valley Municipal Water District

**Opposition**
California Teachers Association
Item B-17
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Assembly Bill 1857 (Garcia, Cristina) - Solid waste
ATTACHMENT: 1. Summary Memo – AB 1857

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 1857 (Garcia, Cristina) - Solid waste (AB 1857) involves a policy matter that is not specifically addressed within the adopted Legislative Platform language.

The City’s state lobbyist, Shaw, Yoder, Antwh, Schmelzer & Lange, provided a summary memo for AB 1857 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of AB 1857, the Liaisons may recommend the following actions:

1) Support AB 1857;
2) Support if amended AB 1857;
3) Oppose AB 1857;
4) Oppose unless amended AB 1857;
5) Remain neutral; or
6) Provide other direction to City staff.

Should the Liaisons recommend a position of oppose, then staff will prepare a letter for the Mayor to sign as the legislation appears to be consistent with the City’s Legislative Platform. Any other positions recommended by the Liaisons will require the concurrence of the City Council and staff will place this item on a future City Council agenda.
Attachment 1
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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

Re: AB 1857 (C. Garcia) Solid Waste

Version
As Amended on June 23, 2022.

Summary
This repeals the provision of law that allows jurisdictions to count up to 10 percent of the waste sent to transformation toward their 50 percent diversion requirement. Specifically, this bill:

1. Repeals the provision of law that allows jurisdictions to count waste sent to transformation for up to 10 percent of their 50 percent diversion requirement and makes other conforming changes.
2. Requires the Department of Resources Reduction and Recycling (CalRecycle), upon appropriation, to administer the Zero-Waste Equity Grant Program as a competitive grant program for local public agencies, cities, counties, and nonprofit organizations to support targeted strategies and investments in communities transitioning to a zero-waste circular economy. Requires CalRecycle, on or before July 1, 2023, to conduct at least two public workshops, as specified, including an online virtual option for participation, and to prepare and adopt guidelines and procedures for evaluating competitive grant applications.
   a. In evaluating and selecting eligible zero-waste projects, requires CalRecycle to make investments in communities seeking to reduce their reliance on transformation. Requires CalRecycle, when selecting projects, to prioritize projects in communities where a transformation facility is located as of January 1, 2022.
   b. Makes the following zero-waste projects eligible for grants in the following priority:
      i. Infrastructure or programs that result in the reuse, repair, and sharing of goods and materials, including, but not limited to, projects that promote the recovery and exchange of household goods, food, clothing, and building materials; projects that repair and extend the life of projects, such as electronics, textiles, and furniture; projects that facilitate the use and sharing of infrequently used items, such as tools, equipment, books, and other household items; and projects that promote reusable containers and package-free products and stores.
      ii. Infrastructure to support the recycling of source-separated products and materials, including, but not limited to, material recovery facilities that sort and process materials, glass beneficiation facilities, and dropoff programs.
   c. Prohibits grants from being provided for a project that will result in combustion, the production of fuels or energy, or for any other disposal activities.
   d. Requires CalRecycle to post on its website and submit to the Legislature a report on all eligible zero-waste projects funded, as specified.
3. Requires, on or before January 4, 2024, CalRecycle, in consultation with the California Workforce Development Board and the Division of Occupational Safety and Health, to submit...
policy recommendations to the Legislature on how to increase job opportunities and improve labor standards and worker pay related to the zero-waste job sector.

**Background and Existing Law**

**California’s recycling goals.** An estimated 35 million tons of waste are disposed of in California’s landfills annually. CalRecycle is tasked with diverting at least 75% of solid waste from landfills statewide by 2020. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro, Chapter 476, Statutes of 2011), requires commercial waste generators, including multifamily dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro, Chapter 727, Statutes of 2014), requires generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep the material out of the landfill. California’s recent recycling rate, which reached 50% in 2014, dropped to 42% in 2020.

**Transformation.** Transformation includes the incineration of solid waste to produce heat or electricity. Under the Act, transformation also includes pyrolysis, distillation, or biological conversion other than composting; however, it excludes biomass conversion. Transformation facility operators are required to report tonnages and origins of waste transformed and report the information to CalRecycle’s Disposal Reporting System, maintain compliance with all applicable laws and permit requirements, and test ash quarterly for hazardous materials and manage it appropriately. There are two transformation facilities, both incinerators, in California: Covanta Stanislaus Inc. in Stanislaus County and Southeast Resource Recovery in Long Beach.

**Status of Legislation**

AB 1857 (C. Garcia) passed out of the Senate Environmental Quality Committee, 5-2. This measure is now pending in the Senate Appropriations Committee.

**Arguments in Support**

According to the San Fernando Valley Climate Reality Project, “We must acknowledge that a 10% “waste diversion credit” is not actual diversion if solid waste is simply sent from landfills to incinerators. It is also important to note that the Integrated Waste Management Act (1989) requires CalRecycle to “maximize” source reduction, recycling, composting and other options to reduce solid waste, but does not provide certification for the term “maximize”.

“We know that there are long-standing practices of siting waste facilities in low-income communities. As such, it becomes even more essential that we stop playing a numbers game with “diversion” and “maximization”, and actually reduce our waste. We cannot expect to achieve true waste reduction or lower greenhouse gas emissions unless we have accountability and real progress toward zero waste.

“Achieving zero waste should be the truest definition of waste management. We strongly encourage the passage of this bill to eliminate Diversion Credits … .”

**Arguments in Opposition**

According to the League of California Cities, Los Angeles County Division, “Approximately 65 jurisdictions in Los Angeles County and the immediate sounding area utilize the SERFF to responsibly dispose of solid waste without having to transport it to landfills throughout California or other states. By undermining waste-to-energy as a viable alternative to landfilling, AB 1857 would negatively impact air quality in Southern California and the Los Angeles Basin.
Support
350 Silicon Valley
350 Southland Legislative Alliance
350 Ventura County Climate Hub
5 Gyres Institute, the
Active San Gabriel Valley
Ban Sup (single Use Plastic)
Biofuelwatch
Breast Cancer Prevention Partners
Bringit for A Better Planet
California Environmental Justice Coalition
California Environmental Voters
California Health Collaborative
California Interfaith Power & Light
Californians Against Waste
Calpirg, California Public Interest Research Group
Center for Biological Diversity
Central California Asthma Collaborative
Central Valley Air Quality Coalition
Climate Reality Project, San Fernando Valley Coalition for Clean Air
Conejo Climate Coalition
Del Amo Action Committee
Don't Waste Arizona
Earthjustice
East Yard Communities for Environmental Justice
Ecology Center
Energy Justice Network
Environmental Justice Coalition for Water
Environmental Working Group
Food Empowerment Project
Friends Committee on Legislation of California
Friends of The Earth
Gaia
Grayson Neighborhood Council
Green Latinos
Greenaction for Health and Environmental Justice
Greenpeace USA
Heal the Bay
Indivisible California Green Team
Institute for Local Self-reliance
Long Beach Alliance for Clean Energy
Long Beach Gray Panthers
Mi Familia Vota
Moore Institute for Plastic Pollution Research
Natural Resources Defense Council (NRDC)
Northern California Recycling Association
Pacific Environment
Plastic Oceans International
Plastic Pollution Coalition
San Diego 350
Save Our Shores
Save the Albatross Coalition
Seventh Generation Advisors
Sierra Club California
Socal 350 Climate Action
Surfrider Foundation
The Center for Oceanic Awareness, Research, and Education
The Climate Center
The Last Beach Cleanup
The Last Plastic Straw
The Story of Stuff Project
Tri-valley Communities Against a Radioactive Environment (tri-valley Cares)
Upstream
Valley Improvement Projects (VIP)
West Berkeley Alliance for Clean Air and Safe Jobs
West Oakland Environmental Indicators Project
Wishtoyo Chumash Foundation
Yokuts Group of The Sierra Club
Zero Waste British Columbia
Zero Waste USA

Opposition
City of Bellflower
City of Industry
City of Long Beach
City of Paramount
Covanta Energy Corporation
IBEW Local 11
Los Angeles County Division, League of California Cities
Los Angeles County Solid Waste Management Committee/integrated Waste Management Task Force
Item B-18
TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Senate Bill 991 (Newman) - Public contracts: progressive design-build: local agencies
ATTACHMENT: 1. Summary Memo – SB 991

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 991 (Newman) - Public contracts: progressive design-build: local agencies (SB 991) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language. The Metropolitan Water District is requesting the City take a position on SB 991 as it allows local agencies that provide water service to use progressive design-build for projects over $5 million.

The City's state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for SB 991 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 991, the Liaisons may recommend the following actions:

- Oppose SB 991;
- Support SB 991;
- Support if amended SB 991;
- Oppose unless amended SB 991;
- 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
July 1, 2022

To: Cindy Owens, City of Beverly Hills

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


Version
As amended in the Senate on June 20, 2022

Summary
Authorizes, until January 1, 2029, local water agencies to use the progressive design-build method of project delivery for specified projects.

Specifically, this bill:

1. Allows a city, county, city and county, or special district authorized by law to provide for the production, storage, supply, treatment, or distribution of any water from any source (local agency) to procure progressive design-build contracts and use the progressive design-build contracting process described in this bill for up to 15 public works projects in excess of $5 million for each project.
2. Allows local agencies to use progressive design-build for any project that treats, pumps, stores, or conveys water, wastewater, recycled water, advanced treated water, or supporting facilities.
3. Requires a local agency entering into progressive design-build contracts authorized under this bill 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 the local agency relating to the solicitation of a design-build project, to submit a proposal as a design-build entity, or to join a design-build team.
4. Requires the procurement process for progressive design-build projects to progress as follows:
   a. The local agency 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 is not 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 the local agency’s needs, including the expected cost range, the methodology that will be used by the local agency 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 local agency to inform interested parties of the contracting opportunity.
ii. Significant factors that the local agency reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, and all other non-price-related factors. The local agency may require that a preliminary cost estimate be included in the design-build entities’ responses and consider those costs in evaluating the statements of qualifications.

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

iv. A standard template request for statements of qualifications prepared by the local agency. In preparing the standard template, the local agency may consult with the construction industry, the building trades and surety industry, and other local agencies interested in using the authorization provided by this bill. The template shall require the following information:

1. 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.

2. 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 key 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.

3. 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.

4. 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.

5. Information concerning workers’ compensation experience history and a worker safety program.

6. 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.

7. An acceptable safety record, as specified.

v. Provides that the information required pursuant to the request for qualifications process shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.

b. Prohibits a design-build entity from being evaluated for selection unless the entity provides an enforceable commitment to the local agency that the entity 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 provision shall not apply if one or more of the following requirements are met:

i. The local agency has entered into a project labor agreement, as defined pursuant to specified existing law, that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.
ii. The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the local agency before January 1, 2023.

iii. The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.

c. Requires, at the close of the solicitation period, the local agency to review the submissions. The local agency may evaluate submissions based solely upon the information provided in each design-build entity’s statement of qualifications. The local agency may also interview some or all of the design-build entities to further evaluate their qualifications for the project.

d. Requires, upon issuance of a contract award, the local agency to 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 local agency’s contract award and the contract file shall provide sufficient information to satisfy an external audit.

5. Requires the design-build entity to provide payment and performance bonds for the project in the form and in the amount required by the local agency, and issued by a California admitted surety. The amount of the payment bond shall not be less than the amount of the performance bond.

6. Requires the design-build contract to require errors and omissions insurance coverage for the design elements of the project.

7. Requires the local agency to develop a standard form of payment and performance bond for its design-build projects.

8. Allows, after selecting a design-build entity based upon qualifications, the local agency to 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.

9. Allows, upon agreement of the guaranteed maximum price for the project, the local agency, at its sole and absolute discretion, to amend its contract with the design-build entity to contract for the remaining design, preconstruction, and construction activities sufficient to complete and close out the project, consistent with the guaranteed maximum price. In the event that there are unforeseen site conditions, the local agency shall amend its contract with the design-build entity accordingly and consistent with the guaranteed maximum price, to enable the entity to complete the remaining design, preconstruction, and construction activities sufficient to complete and close out the project.

10. Provides that, if the cost 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 cost for these activities are less than the guaranteed maximum price, the design-build entity shall not be entitled to the difference between the cost and the guaranteed maximum price unless there is a prior written agreement concerning the sharing of these funds. For purposes of this provision, cost shall include the design-build entity’s direct costs, general conditions, overhead, and fee.

11. Allows, if the local agency and the design-build entity do not reach agreement on a guaranteed maximum price, or the local agency otherwise elects not to amend the design-build entity’s contract to complete the remaining work, the local agency to solicit proposals to complete the project from firms that submitted statements of qualifications pursuant to the provisions of this bill. The local agency may also, upon written determination that it is in the best interest of the city, county, city and county, or special district, as applicable, to do so, formally solicit proposals from other design-build entities, and contract award shall be made on a best value basis.

12. Requires the design professionals responsible for performing design services on behalf of a design-build entity that has been replaced pursuant to the provisions of this bill to have sole liability for
their design errors and omissions, provided the local agency elects to use their complete and stamped designs with subsequent design build entities or licensed contractors.

13. Allows the local agency, in each design-build request for qualifications, to 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 the Subletting and Subcontracting Fair Practices Act.

14. Requires, following award of the design-build contract, except for those construction subcontractors listed in the statement of qualifications, the design-build entity to proceed as listed below in awarding construction subcontracts with a value exceeding one-half of 1 percent of the contract price allocable to construction work for projects with a contract value of greater than or equal to $10 million:
   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 local agency, 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 on a best value basis. The process may include prequalification or short-listing.

15. Requires subcontractors awarded construction subcontracts under this bill to be afforded all the protections of the Subletting and Subcontracting Fair Practices Act.

16. Provides that a construction subcontractor licensed pursuant to the Contractors State License Law that provides design services used on a project authorized by this chapter shall not be subject to any liability arising from their design if the construction subcontract for that design is not performed by that subcontractor.

17. Provides that, if the local agency elects to award a project pursuant to this bill, retention proceeds withheld by the local agency from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation. Work performed to establish the guaranteed maximum price shall not be subject to retention.

18. Provides that, in a contract between the design-build entity and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld shall not exceed the percentage specified in the contract between the local agency and the design-build entity. If the design-build entity provides written notice to any subcontractor that is not a member of the design-build entity, before or at the time the bid is requested, that a bond may be required, and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the local agency and the design-build entity from any payment made by the design-build entity to the subcontractor.

19. Requires, no later than January 1, 2028, a local agency that uses the progressive design-build process pursuant to this bill to submit to the appropriate policy and fiscal committees of the Legislature, in compliance with specified existing law, a report on the use of the progressive design-build process. The report shall include, but is not limited to, the following information:
   a. A description of the project or projects awarded using the progressive design-build process.
   b. The contract award amounts.
   c. The design-build entities awarded the project or projects.
   d. A description of any written protests concerning any aspect of the solicitation, bid, or award of the contracts, including the resolution of the protests.
   e. A description of the prequalification process.
   f. The number of specialty subcontractors listed by construction trade type, on each project, that provided design services, but did not meet the target price for their scope of work, and therefore did not perform construction services on that project.
g. 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 local agency.

h. The number of specialty subcontractors listed by construction trade type, on each project, that meet the definition of a small business, as specified.

i. The number of specialty subcontractors listed by construction trade type, on each project, that meet the definition of a microbusiness, as specified.

j. If a project awarded under this chapter has been completed, an assessment of the project performance, including, but not limited to, a summary of any delays or cost increases.

20. Provides that nothing in this bill affects, expands, alters, or limits any rights or remedies otherwise available at law. 21) Provides the following definitions for the purposes of this bill:

a. “Best value” means a value determined by evaluation of objective criteria that may include, but are not limited to, price, features, function, 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 local agency and the objectives of the project.

b. “Construction subcontract” means each subcontract awarded by the design-build entity to a subcontractor that will perform work or labor or render service to the design-build entity in or about the construction of the work or improvement, or a subcontractor licensed by the State of California that, under subcontract to the design-build entity, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications produced by the design-build team.

c. “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.

d. “Design-build project” means any project that treats, pumps, stores, or conveys water, wastewater, recycled water, advanced treated water, or supporting facilities using the progressive design-build construction procurement process described in this chapter.

e. “Design-build team” means the design-build entity itself, the individuals, and other entities identified by the design-build entity as members of its team. Members shall include the general contractor and, if utilized in the design of the project, all electrical, mechanical, and plumbing contractors.

f. “Guaranteed maximum price” means the maximum payment amount agreed upon by the local agency and the design-build entity for the design-build entity to finish all remaining design, preconstruction, and construction activities sufficient to complete and close out the project.

g. “Local agency” means a city, county, city and county, or special district authorized by law to provide for the production, storage, supply, treatment, or distribution of any water from any source.

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

i. “Qualifications-based selection” means the process by which the local agency solicits for services from the design-build entities and that price is not the sole factor as the basis of award.

22. Provides that this bill shall remain in effect only until January 1, 2029, and as of that date is repealed.

23. 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 bill 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
**Background**

*Design-Build in California Law.* California’s 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. Over the years, this resulted in a number of statutes in a variety of code sections, which created confusion for public agencies and contractors alike.

In an effort to consolidate these statutes, SB 785 (Wolk), Chapter 931, Statutes of 2014, repealed existing law authorizing the DGS, the Department of Corrections and Rehabilitation (CDCR), and local agencies to use the design-build procurement process, and enacted uniform provisions authorizing DGS, CDCR, and specified local agencies to utilize the design-build procurement process for specified public works projects (with some exceptions, notably design-build authority for CalTrans). SB 785 created one set of codes for DGS and CDCR, and a separate set for specified local agencies, but with similar parameters.

Since SB 785 was enacted, the Legislature has authorized numerous additional local agencies or types of local agencies to use SB 785 design-build authority for additional projects or types of projects.

*Design-Build for Local Agencies.* The LAPC Act generally requires local officials to invite bids for construction projects and then award contracts to the lowest responsible bidder. This design-bid-build method is the traditional approach to public works construction. However, California law also allows local agencies to use the design-build method, in which 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.

Existing law generally limits the use of design-build by counties and cities to the following types of projects:

a. The construction of a building or buildings and improvements directly related to the construction of a building or buildings, county sanitation wastewater treatment facilities, and park and recreational facilities.

b. Local and regional wastewater facilities, solid waste management facilities, or water recycling facilities (for cities and counties that operate such facilities).

Existing law expressly prohibits cities and counties from using design-build for the construction of other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructure (with some limited exceptions).

*Limits on Design-Build for Special Districts and Other Specified Agencies.* Existing law also generally limits the use of design-build for special districts and a handful of other specified agencies by both type of district or agency and type of project. The agencies include: special districts that operate wastewater facilities, solid waste management facilities, water recycling facilities, or fire protection facilities; specified transit and transportation agencies; the San Diego Association of Governments (SANDAG); a few water agencies; and, healthcare districts.

**Status of Legislation**

The bill passed out of the Assembly Local Government Committee on June 15, 8-0. The measure is now headed to the Assembly Appropriations Committee.

**Support**

Water Collaborative Delivery Association [SPONSOR]
Association of California Water Agencies
California Municipal Utilities Association
California Special Districts Association
Elsinore Valley Municipal Water District
Inland Empire Utilities Agency
Los Angeles County Sanitation Districts
Metropolitan Water District of Southern California
Santa Clara Valley Water District
Silicon Valley Leadership Group
State Building & Construction Trades Council of California
Upper San Gabriel Valley Municipal Water District
Water Replenishment District of Southern California
Wateruse Association

**Opposition**
None on file.
Item B-19
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 929 (Eggman) - Community mental health services: data collection (SB 929) 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 929 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 929, the Liaisons may recommend the following actions:
- Oppose SB 929;
- Support SB 929;
- Support if amended SB 929;
- Oppose unless amended SB 929;
- 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
June 30, 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 929 (Eggman) Community mental health services: data collection

Version
June 6, 2022

Introduction
On April 4, State Senator Susan Talamantes Eggman (D-Stockton), the Big City Mayors coalition, the California State Association of Psychiatrists, and the Psychiatric Physicians’ Alliance of California announced the introduction of legislation to overhaul the state’s behavioral health care system.

According to the Senator Eggman’s press release, this bill package is intended to improve the behavioral health system across the continuum; from prevention and early intervention, community supports and services, intersystem collaboration, improving access to assisted outpatient treatment, providing increased accountability through outcome tracking, preventing avoidable conservatorships, and improving the effectiveness of our conservatorship process for those that need them. SB 929 is part of this bill package.

Summary
SB 929 expands the Department of Health Care Services’ (DHCS) existing responsibility to collect and publish information about involuntary detentions under the Lanterman-Petris-Short (LPS) Act to include additional information, such as clinical outcomes, services provided, and availability of treatment beds.

Specifically, this bill:
1. Requires DHCS to report to the Legislature on or before May 1, of each year, information concerning the operation of the LPS system. Requires the report to include an evaluation of the effectiveness of achieving the legislative intent of this bill.
2. Requires the report to include all of the following:
   a. Number of persons admitted or detained for 72-hour (Section 5150) evaluation and treatment, admitted for 14-day and 30-day (Sections 5250 and 5270) periods of intensive treatment and admitted for 180-day (Section 5350) post-certification intensive treatment in each county;
   b. Number of persons transferred to mental health facilities under the Penal Code in each county;
   c. Number of persons for whom temporary conservatorships are established in each county;
   d. Number of persons for whom conservatorships are established in each county;
   e. Clinical outcomes for individuals placed in each type of hold;
   f. Services provided to individuals in each category;
g. Waiting periods for individuals prior to receiving an evaluation under Section 5150 or 5151 of the LPS Act and waiting periods for individuals prior to receiving care, including the reasons for waiting periods;

h. If the source of admission is an emergency department, the date and time of services and release from emergency care;

i. Demographic data of those receiving care. Requires demographic data to include age, sex, gender identity, race, ethnicity, primary language, and sexual orientation;

j. An assessment of all contracted beds; and,

k. Prohibits DHCS from reporting any demographic data that would permit identification of individuals.

3. Requires each local mental health director, each facility providing services to persons in the LPS system, and every other entity involved in implementing Section 5150 to provide the DHCS with any information, records, and reports they deem necessary for the purposes of this bill. Prohibits DHCS from having access to any patient name identifiers.

4. Prohibits information published under this bill to contain patient name identifiers and to contain statistical data only.

5. Requires DHCS to make the report publicly available on its internet website.

6. Requires DHCS, on or before July 1, 2023, to convene a stakeholder group to make recommendations on the methods to be used for efficiently providing DHCS with information required under this bill. Requires the stakeholder group to include the County Behavioral Health Directors Association of California (CBHDA), the California Hospital Association, representatives of Medi-Cal managed care plans, representatives of private insurance plans, other organizations representing the various facilities where individuals could be detained under temporary holds or a conservatorship, and other appropriate entities or agencies as determined by DHCS.

7. Allows the stakeholder group to consider options that include, but are not limited to, all of the following:

a. Creation of a web portal similar to the Office of the Attorney General’s Mental Health Reporting System;

b. Modifications to the existing Patient Discharge Data Set used by hospitals for reporting to the Department of Health Care Access and Information;

c. Opportunities available through California’s Health Care Data Exchange Framework Initiative; and,

d. Requiring uniform and centralized reporting directly from providers to the county and the state.

Background and Existing Law

*LPS Act.* The LPS Act was signed into law in 1967 and provides for involuntary commitment for varying lengths of time for the purpose of treatment and evaluation, provided certain requirements are met. Additionally, the LPS Act provides for LPS conservatorships, resulting in involuntary commitment for the purposes of treatment if an individual is found to meet the criteria of being a danger to themselves or others or is gravely disabled as defined. The LPS Act provides for a conservator of the person, of the estate, or of both the person and the estate for a person who is gravely disabled because of a mental health disorder or impairment by chronic alcoholism or use of controlled substances. The person for whom such a conservatorship is sought has the right to demand a court or jury trial on the issue of whether they meet the gravely disabled requirement. The purpose of an LPS conservatorship is to provide individualized treatment, supervision, and placement for the gravely disabled person. Current law also deems a person as not being gravely disabled for purposes of a conservatorship if they can survive safely without involuntary detention with the help of responsible family, friends, or others who indicate they are both willing and able to help. The LPS Act, along with the court ordered outpatient services available through Laura’s Law provides a robust system for mandating intensive inpatient and outpatient care, along with general oversight, for those who may not be able to care for themselves.
**Status of Legislation**
The bill passed out of Assembly Health Committee on June 28, 15-0. The bill is now headed to Assembly Appropriations Committee.

**Arguments in Support**
The Psychiatric Physicians Alliance of California (PPAC), sponsor of this bill, states that this bill is intended to address a data shortfall that exists for services provided to those under various LPS Act holds by quantifying outcomes and quality measures. Current law limits reporting to raw numbers of individuals placed on each type of involuntary hold. The purposes of transparency and oversight for these services, as well as identifying barriers in access to and quality of care, require more than the raw data currently reported. PPAC concludes that more comprehensive data would tell us what is working well and help us identify best practices. It would also identify what is not working well.

The Depression and Bipolar Support Alliance (DBSA) states in a support position, that the state clearly lack crucial and appropriate data about how the LPS Act has worked and some additional ways that services provided under involuntary treatment orders can be improved to ensure the best outcomes. DBSA states that DHCS is currently required to collect and publish data on the numbers of holds under the LPS Act, but there are numerous challenges to getting a complete picture of what is provided and how it impacts outcomes.

**Support**
Big City Mayors (cosponsor)
California State Association of Psychiatrists (cosponsor)
Psychiatric Physicians Alliance of California (cosponsor)
Alameda County Families Advocating for the Seriously Mentally Ill
City of Oakland
City of Riverside
Depression and Bipolar Support Alliance - California
Govern for California
League of California Cities
San Diego Regional Chamber of Commerce

**Opposition**
None on file.
Item B-20
MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Senate Bill 1035 (Eggman) - Mental health services: assisted outpatient treatment
ATTACHMENT: 1. Summary Memo – SB 1035

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 1035 (Eggman) - Mental health services: assisted outpatient treatment (SB 1035) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language. The California League of Cities is requesting cities throughout the state to take a position on SB 1035 as this measure would allow the courts to conduct status hearings with a person subject to an assisted outpatient treatment order to evaluate progress and medication adherence.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 1035 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 1035, the Liaisons may recommend the following actions:
- Oppose SB 1035;
- Support SB 1035;
- Support if amended SB 1035;
- Oppose unless amended SB 1035;
- 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
June 30, 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 1035 (Eggman) Mental health services: assisted outpatient treatment.

Version
April 27, 2022

Introduction
On April 4, State Senator Susan Talamantes Eggman (D-Stockton), the Big City Mayors coalition, the California State Association of Psychiatrists, and the Psychiatric Physicians’ Alliance of California announced the introduction of legislation to overhaul the state’s behavioral health care system.

According to the Senator Eggman’s press release, this bill package is intended to improve the behavioral health system across the continuum; from prevention and early intervention, community supports and services, intersystem collaboration, improving access to assisted outpatient treatment, providing increased accountability through outcome tracking, preventing avoidable conservatorships, and improving the effectiveness of our conservatorship process for those that need them. SB 1035 is part of this bill package.

Summary
SB 1035 allows the court to conduct status hearings with a person who is subject to an assisted outpatient treatment (AOT) order and their treatment team to receive information regarding treatment progress and medication adherence. Requires the AOT program director to include specified information when filing an affidavit affirming the person continues to meet the criteria for AOT.

Specifically, this bill:
1. Allows the court to conduct status hearings with the person who is subject to an AOT treatment plan and their treatment team to allow the court to receive information regarding treatment progress and medication adherence.
2. Requires the director of the AOT program to report to the court on adherence to prescribed medication when filing an affidavit affirming the person continues to meet the criteria for AOT.

Background and Existing Law

LPS Act. The LPS Act was signed into law in 1967 and provides for involuntary commitment for varying lengths of time for the purpose of treatment and evaluation, provided certain requirements are met. Additionally, the LPS Act provides for LPS conservatorships, resulting in involuntary commitment for the purposes of treatment if an individual is found to meet the criteria of being a danger to themselves or others or is gravely disabled as defined. The LPS Act provides for a conservator of the person, of the estate, or of both the person and the estate for a person who is gravely disabled because of a mental health disorder or impairment by chronic alcoholism or use of controlled substances. The person for whom such a conservatorship is sought has the right to demand a court or jury trial on the issue of whether they meet the
gravely disabled requirement. The purpose of an LPS conservatorship is to provide individualized treatment, supervision, and placement for the gravely disabled person. Current law also deems a person as not being gravely disabled for purposes of a conservatorship if they can survive safely without involuntary detention with the help of responsible family, friends, or others who indicate they are both willing and able to help. The LPS Act, along with the court ordered outpatient services available through Laura’s Law provides a robust system for mandating intensive inpatient and outpatient care, along with general oversight, for those who may not be able to care for themselves.

AOT. As an alternative to an LPS conservatorship, current law provides for courtordered outpatient treatment through Laura’s Law, or the Assisted Outpatient Mental Health Treatment Program Demonstration Project, established by AB 1421 (Thomson), Chapter 1017, Statutes of 2002, and made permanent with the passage of AB 1976 (Eggman), Chapter 140, Statutes of 2020. In participating counties, the court may order a person into an AOT program if the court finds that the person either meets existing involuntary commitment requirements under the LPS Act or the person meets noninvoluntary commitment requirements, including that the person has refused treatment, their mental health condition is substantially deteriorating, and AOT would be the least restrictive level of care necessary to ensure the person’s recovery and stability in the community. AOT is available only in those counties in which the county board of supervisors, by resolution, authorizes its application and makes a finding that no voluntary mental health program serving adults and no children’s mental health program may be reduced in order to implement the law. Laura’s Law is designed to provide counties with tools for early intervention. It allows for family members, relatives, cohabitants, treatment providers, or peace officers to initiate the AOT process with a petition to the county behavioral health director or designee. The health director must then determine how to proceed. If the individual is found to meet the AOT eligibility requirements, an individual preliminary care plan is developed to meet that person’s needs. If this process results in the person voluntarily engaging with treatment, then the patient is deemed to no longer meet the criteria and the petition is no longer available. However, if the client declines their preliminary plan, then a public defender is assigned and the petition proceeds. It is then up to the judge to either grant or reject the AOT petition. If an AOT petition is approved by the court, treatment ordered is valid for up to 180 days. The law allows for a county to opt out of the requirements of Laura’s Law if by resolution adopted by the county’s governing body stating the reasons for opting out and any facts or circumstances relied upon in making that decision.

Status of Legislation
The bill passed out of Assembly Judiciary Committee on June 28, 11-0. The bill is now headed to Assembly Floor.

Arguments in Support
The Big City Mayors Coalition, the California State Association of Psychiatrists, and the Psychiatric and Physicians Alliance of California, co-sponsors of this bill, state now more than ever, communities are struggling to provide timely and appropriate care to those experiencing SMI. The level of crisis that we are facing is a top priority that we must all be dedicated to solving. Supporters conclude by stating that while this bill can be characterized as a clarification, it ensures that there is no ambiguity on the ability to include self-administered medication in a court-ordered treatment plan.

Arguments in Opposition
The California Association of Social Rehabilitation Agencies states in opposition that although they appreciate the amendment removing the mandate that the court order include self-administered medication when included in the treatment plan, they are concerned that the singling out of medication adherence in the program director’s affidavit places importance on medication above other components of care that are equally if not more vital to a person’s recovery. The opposition concludes that the reasons for non-compliance with a medication regimen are complex and not limited to those who are diagnosed with a mental illness.
Support
Big City Mayors
CA Council of Community Behavioral Health Agencies
California State Association of Psychiatrists (CSAP)
California State Sheriffs' Association
Oakland; City of
Psychiatric Physicians Alliance of California (PPAC)
Steinberg Institute

Opposition
Cal Voices (formerly Norcal MHA)
California Association of Social Rehabilitation Agencies
DBSA California
Item B-21
CITY OF BEVERLY HILLS
POLICY AND MANAGEMENT

MEMORANDUM

TO: City Council Liaison/Legislative/Lobby Committee
FROM: Cynthia Owens, Policy and Management Analyst
DATE: July 11, 2022
SUBJECT: Senate Bill 1154 (Eggman) - Facilities for mental health or substance use disorder crisis: database

ATTACHMENT: 1. Summary Memo – SB 1154

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 1154 (Eggman) - Facilities for mental health or substance use disorder crisis: database treatment (SB 1154) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language. The California League of Cities is requesting cities throughout the state to take a position on SB 1154 as this measure would require the California Department of Public Health to develop a real-time, internet-based database to collect, aggregate, and display information about available beds to treat those experiencing mental health or substance use disorders.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 1154 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 1154, the Liaisons may recommend the following actions:
- Oppose SB 1154;
- Support SB 1154;
- Support if amended SB 1154;
- Oppose unless amended SB 1154;
- 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
June 30, 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 1154 (Eggman) Facilities for mental health or substance use disorder crisis: database.

Version
May 19, 2022

Introduction
On April 4, State Senator Susan Talamantes Eggman (D-Stockton), the Big City Mayors coalition, the California State Association of Psychiatrists, and the Psychiatric Physicians’ Alliance of California announced the introduction of legislation to overhaul the state’s behavioral health care system.

According to the Senator Eggman’s press release, this bill package is intended to improve the behavioral health system across the continuum; from prevention and early intervention, community supports and services, intersystem collaboration, improving access to assisted outpatient treatment, providing increased accountability through outcome tracking, preventing avoidable conservatorships, and improving the effectiveness of our conservatorship process for those that need them. SB 1154 is part of this bill package.

Summary
SB 1154 requires the California Department of Public Health (DPH), by January 1, 2024, to develop a real-time, internet-based database to collect, aggregate, and display information about available beds to treat those in mental health or substance use disorder (SUD) crisis, as specified.

Specifically, this bill:
1. Requires DPH, in consultation with the Department of Health Care Services (DHCS) and the Department of Social Services (DSS), to develop a real-time, Internet-based database to collect, aggregate, and display information about beds in inpatient psychiatric facilities, crisis stabilization units (CSUs), residential community mental health facilities, and licensed residential alcoholism or drug abuse recovery treatment facilities (RTFs) in order to facilitate the identification and designation of facilities for the temporary treatment of individuals in mental health or SUD crisis. Requires the database to be operational by January 1, 2024.
2. Requires the database to include, at a minimum, all of the following:
   a. The contact information for the facility’s designated employee;
   b. The facility’s license type;
   c. Whether the facility provides SUD, mental health, or medical treatment;
   d. Whether the bed is secure for the treatment of a person placed on a 5150 hold; e) The types of diagnoses for which the bed is appropriate;
   e. The age ranges for which the bed is appropriate; and,
   f. Whether the bed is available.
3. Prohibits the database from including information relating to hospitals under the jurisdiction of the Department of State Hospitals.

4. Requires the database to have the capacity to both collect data and enable searches to identify beds that are appropriate for those in mental health or SUD crisis.

5. Requires DPH to confer with stakeholders to inform the development of the database, including, but not be limited to, DHCS, DSS, the County Behavioral Health Directors Association, the California Hospital Association (CHA), and organizations that have experience providing inpatient psychiatric care, psychiatric crisis stabilization, residential community mental health, and RTF services.

6. Requires DPH and stakeholders to consider strategies for facility use of the database.

**Background and Existing Law**

**Treatment beds in California.** According to a 2021 RAND report, California requires 50.5 inpatient psychiatric beds per 100,000 adults: 26.0 per 100,000 at the acute level and 24.6 per 100,000 at the subacute level, or 7,945 and 7,518 beds, respectively. At the community residential level, the estimated need is 22.3 beds per 100,000 adults. RAND estimated that California has a total of 5,975 beds at the acute level (19.5 per 100,000 adults) and 4,724 at the subacute level (15.4 per 100,000 adults), excluding state hospital beds. RAND also observed large regional variation. For example, excluding state hospitals, acute bed capacity ranged from 9.1 beds per 100,000 adults in the Northern San Joaquin Valley to 27.9 beds per 100,000 adults in the Superior region. For subacute bed capacity, regional estimates ranged from 7.4 to 31.8 beds per 100,000 adults. At the community residential level, RAND estimated that California has a total of 3,872 beds (12.7 per 100,000 adults). California has a shortfall of approximately 1,971 beds at the acute level (6.4 additional beds required per 100,000 adults) and a shortage of 2,796 beds at the subacute level (9.1 additional beds required per 100,000 adults), or 4,767 subacute and acute beds combined, excluding state hospital beds.

**In-Patient Bed Tracking:** State Responses to Need for Inpatient Care. According to a 2019 report published by the U. S. Department of Health and Human Service’s, Office of the Assistant Secretary for Planning and Evaluation (ASPE) entitled “In-Patient Bed Tracking: State Responses to Need for Inpatient Care,” states have begun to collect and post information on bed availability (i.e., create bed registries or bed tracking systems) as a tool for providers, patients, and caregivers to identify open beds more efficiently. In the absence of a bed registry, ED staff, patients, or other providers must call multiple hospitals or residential settings to determine if there is a slot available that would be appropriate given the patient’s needs. Little was known about states bed registries, their effectiveness, and challenges faced in their execution and utilization. As such, ASPE contracted with RTI International (an independent, nonprofit research institute dedicated to improving the human condition) to study whether states were making information on open beds available to consumers, the impact that inpatient bed tracking had on patient access, and the challenges that remain with inpatient bed tracking systems. To collect this information, RTI conducted an environmental scan and 13 interviews with 18 stakeholders in five states. Through the environmental scan and discussions with stakeholders, the authors found significant variation among states in how the registries were operating, the types of behavioral health providers they included, and perceptions of their usefulness. In some states, systems to track the availability of psychiatric hospital beds have been challenged by the reluctance of hospitals to update information on open beds frequently enough to be useful given rapid patient turnover. ED staff noted that the system does not negate the need for them to call hospitals to confirm that there is still an open bed that is appropriate for the patient’s needs and that relationships among hospitals and EDs and other crisis system staff may be more efficient than using the bed registries. However, some states reported that the registries were very helpful in locating open beds as well as in documenting the need for additional psychiatric beds. According to the ASPE report, there have been no formal evaluations of the effect of bed registries on access to care. Future research could help improve understanding of the characteristics and processes that make the bed registries most useful. Some avenues to explore include: how financial, regulatory, contractual, and policy levers can be used to encourage participation in bed
registry systems; how many consumers are using the public registries and how to increase their usage; whether technology can substitute for human data entry to track available treatment beds; and, whether registries reduce the time and effort required to locate an appropriate inpatient or residential bed.

**Crisis residential programs and crisis stabilization.** According to a 2010 report by the California Mental Health Planning Council, crisis residential programs are a lower-cost, community-based treatment option in home-like settings that help reduce ED visits and divert hospitalization and incarcerations. These programs include peer-run programs, such as crisis respites that offer safer, trauma-informed alternatives to psychiatric emergency units or other locked facilities. Crisis residential programs help reduce unnecessary stays in psychiatric hospitals, reduce the number and expense of ED visits, and divert inappropriate incarcerations while producing the same or superior outcomes to those of institutionalized care. Crisis stabilization services are those lasting less than 24 hours for individuals who are in psychiatric crisis whose needs cannot be accommodated safely in a residential setting. Crisis stabilization must be provided onsite at a 24-hour health facility, hospital-based outpatient program, or at other certified provider sites. The goal of crisis stabilization is to stabilize individuals and reintegrate them back into the community quickly. According to various reports, costs of providing care in a CSU are significantly lower than inpatient hospitalization. Beds for both of these types of facilities are typically decided upon licensure, and there is no entity that currently tracks real-time availability of beds in these facilities.

**Licensed RTFs.** Licensed RTFs provide nonmedical care and specialize in providing services to adults with SUDs who do not require treatment in an acute care medical facility on an inpatient, intensive outpatient, outpatient, or partial hospitalization basis. These facilities range in size from six-bed facilities in residential neighborhoods to facilities that accommodate hundreds of beds. The services typically include group, individual, and educational sessions and alcoholism or drug abuse recovery or treatment planning. Detoxification services are also provided and are defined by DHCS as services to support and assist an individual in the withdrawal process and to explore plans for continued treatment. RTFs also are licensed as per-bed facilities, and DHCS does not track the number of available beds in real time. Some counties, however, may require reporting by licensed facilities of bed availability in real-time as part of their contracts through the Drug Medi-Cal Organized Delivery System program.

**Status of Legislation**
The bill passed out of Assembly Health Committee on June 21, 15-0. The bill is now headed to Assembly Appropriations Committee.

**Arguments in Support**
The Psychiatric Physicians Alliance of California states in support, that according to a recent analysis (2021) by the National Association of State Mental Health Directors, California is one of 28 states that lack a statewide computerized tracking database, or other electronic system for the tracking of available psychiatric beds in community based hospitals. The registry proposed in this bill maps and connects patients and open beds, facilitating access to acute psychiatric inpatient, crisis stabilization, as well as residential mental health and residential SUD treatment beds. This is a critical function since patients in crisis may need emergency care, or need the intensive services provided in residential care, and delays in finding an open bed willing to take the patient can exacerbate crises.

**Support**
Big City Mayors (cosponsor)
California State Association of Psychiatrists (cosponsor)
Psychiatric Physicians Alliance of California (cosponsor)
Alameda County Families Advocating for the Serious Mentally Ill
Alcohol Justice
California Council of Community Behavioral Health Agencies
California State Sheriffs' Association
City of Oakland
City of Riverside
Govern for California
League of California Cities
Steinberg Institute

**Opposition**
None on file.
Item B-22
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 1227 (Eggman) - Involuntary commitment: intensive treatment (SB 1227) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language. The California League of Cities is requesting cities throughout the state to take a position on SB 1227 as this measure would permit a second intensive treatment period under the Lanterman-Petris-Short Act for a person who is still in need of intensive services, according to their mental health care provider. This period is intended to reduce the need for conservatorships if the patient is expected to stabilize within 30 days.

The City’s state lobbyist, Shaw Yoder Antwih Schmelzer & Lange, provided a summary memo for SB 1227 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 1227, the Liaisons may recommend the following actions:

- Oppose SB 1227;
- Support SB 1227;
- Support if amended SB 1227;
- Oppose unless amended SB 1227;
- 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
June 30, 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 1227 (Eggman) Involuntary commitment: intensive treatment

Version
June 23, 2022

Introduction
On April 4, State Senator Susan Talamantes Eggman (D-Stockton), the Big City Mayors coalition, the California State Association of Psychiatrists, and the Psychiatric Physicians’ Alliance of California announced the introduction of legislation to overhaul the state’s behavioral health care system.

According to the Senator Eggman’s press release, this bill package is intended to improve the behavioral health system across the continuum; from prevention and early intervention, community supports and services, intersystem collaboration, improving access to assisted outpatient treatment, providing increased accountability through outcome tracking, preventing avoidable conservatorships, and improving the effectiveness of our conservatorship process for those that need them. SB 1227 is part of this bill package.

Summary
SB 1227 permits a second, up to 30-days, intensive treatment period under the Lanterman-Petris-Short (LPS) Act, for a person who is still in need of intensive services and the certification for an additional 30 (a 5270 hold) days has begun. Provides that under no circumstances is a person to be certified for more than two consecutive periods of 30 days.

Specifically, this bill:
1. If after 15 days of a 30-day period of intensive treatment pursuant to the LPS Act, but before expiration of the 30 days, the professional staff of the agency or facility treating the person finds that the person remains gravely disabled as a result of a mental disorder or impairment by chronic alcoholism and the person remains unwilling or unable to accept treatment voluntarily, allows the professional person in charge of the facility providing the intensive treatment to file a petition in the superior court for the county in which the facility providing intensive treatment is located seeking approval for up to an additional 30 days of intensive treatment.
2. Requires that the court immediately appoint the public defender or other attorney to represent the person subject to the hearing in 1), if that person does not already have counsel to represent them in the proceedings.
3. Requires that reasonable attempts be made by the mental health facility to notify family members or any other person designated by the patient, of the time and place of the judicial review, unless the patient requests that this information not be provided. Requires that the patient be advised by the facility that the patient has the right to request that this information not be provided.
4. Requires the court to either deny the petition or order an evidentiary hearing to be held within two judicial days after the petition is filed.
5. Allows the court to order that a person be held for up to an additional 30 days of intensive treatment, if at the evidentiary hearing the court finds, based on the evidence presented, all of the following:
   a. That the person is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to the person, or gravely disabled;
   b. That the person had been advised of the existence of, and has not accepted, voluntary treatment;
   c. That the facility providing intensive treatment is equipped and staffed to provide the required treatment and is designated by the county to provide intensive treatment; d) The person is likely to benefit from continued treatment.
6. If the court does not make all of the required findings in 5), requires that the person be released no later than the expiration of the original 30-day period.
7. Provides that a finding under 5) is not admissible in evidence in any civil proceeding without the consent of the person who was the subject of the finding.
8. Provides that in no event may a person be held beyond the original 30-day period of intensive treatment unless a court has determined that an additional period of up to 30 days of treatment is required, regardless of whether or not the court hearing has been set.
9. Allows an LPS conservatorship referral to be made within the second 30-day period of intensive treatment established by this bill.

Background and Existing Law

LPS Act. The LPS Act was signed into law in 1967 and provides for involuntary commitment for varying lengths of time for the purpose of treatment and evaluation, provided certain requirements are met. Additionally, the LPS Act provides for LPS conservatorships, resulting in involuntary commitment for the purposes of treatment if an individual is found to meet the criteria of being a danger to themselves or others or is gravely disabled as defined. Typically one first interacts with the LPS Act through what is known as a 5150 hold, which allows a peace officer or other authorized individual, as specified, to commit a person for an involuntary detention of up to 72 hours for evaluation and treatment if they are determined to be, as a result of a mental health disorder, a threat to self or others or gravely disabled. The peace officer or other authorized individual who initially detains the individual must determine and document that the individual meets this standard. Following the 72-hour hold under a 5150, a person may be certified for intensive treatment, which initially permits a hold for an additional period not to exceed 14-days (5250 hold), without court review, if they are found to still be a danger to self or others, or gravely disabled. When determining whether the person is eligible for a 14-day hold, the professional staff of the agency or facility providing evaluation services must find that the person has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis. A notice of certification is required for all persons certified for intensive treatment, and a copy of the notice for certification is required to be personally delivered to the person certified, the person's attorney, or the attorney or advocate, as specified.

If, after the initial 14 days, a person is still found to remain gravely disabled and unwilling or unable to accept voluntary treatment, the person may be certified for an additional period of not more than 30 days (a 5270 hold) of intensive treatment. A person cannot be found at this point to be gravely disabled if they can survive safely without involuntary detention with the help of responsible family, friends, or others who indicate they are both willing and able to help.

Status of Legislation
The bill passed out of Assembly Judiciary Committee on June 28, 11-0. The bill is now headed to Assembly Floor.

Arguments in Support
The California State Association of Psychiatrists (CSAP) and the Psychiatric and Physicians Alliance of California (PPAC), cosponsors of this bill, state that now more than ever communities are struggling to provide timely and appropriate care to those experiencing severe mental illness. The level of crisis that we are facing is a top priority that we must all be dedicated to solving. The COVID-19 pandemic has exacerbated negative mental health outcomes and action is needed. Untreated Californians who are experiencing mental illness deserve care, and increasing speed and access to service delivery should be a priority. CSAP is advocating for substantial change because the status quo is unacceptable, and it needs to be demonstrated that the well-being of California communities comes first. PPAC states that if a patient needs treatment for side effects to medications, selecting the right antidote medication, administering it, and adjusting that dosage correctly takes time. Some side effects reduce or dissipate after several weeks, and others may not. If severe side effects persist, and the patient cannot tolerate the medication, an alternate selection of an antipsychotic is necessary, and that starts the process all over again. PPAC states all these things take time. The cosponsors hope that an additional 30 days to recover can reduce the need for a conservatorship.

The County Behavioral Health Directors Association, also in support, states that if it is unclear to county behavioral health agencies that an individual may stabilize after being certified for 30 days of intensive treatment, counties often begin the investigation process for conservatorship midway through this treatment period. With the option to extend treatment, county behavioral health agencies will be able to focus on supporting individuals in their recovery and make efforts to avoid more restrictive involuntary treatment options, such as conservatorships.

**Arguments in Opposition**

The American Civil Liberties Union (ACLU) in opposition states that detaining and forcibly medicating people against their will is a serious interference with personal rights that should be undertaken only to the extent necessary, and only with proper judicial oversight. The design and purpose of the LPS Act is to ensure that people are not subject to the risk of erroneous decisions by requiring the government to demonstrate the need before a neutral decisionmaker, preferably a judicial officer. While brief detentions are permitted without the formalities of a judicial process and the right to a jury trial, this bill would dramatically expand the period of time before a detained person could be held without a determination that conservatorship is required. We have seen no evidence that detaining people for an additional 30 days is narrowly tailored and the least restrictive means of accomplishing a compelling governmental interest, consistent with the strict scrutiny test for evaluating government restrictions on fundamental freedoms. To pick just one of the many questions that must be answered, what is the evidence-based rationale for 30 days rather than a shorter period? Certainly, the administrative convenience of avoiding or delaying the need to petition for determination of conservatorship would not be sufficient. The LPS Act was previously amended to allow for a 30-day hold in addition to the 14-day holds. Now we are told that a further 30-day hold should be authorized without any apparent justification. The ACLU in conclusion states, at best it seems that there is only anecdotal information from a small Marin County study of the 30-day hold currently allowed, none of which has any reliable bearing on the question of whether a 60-day hold should be created. While there are currently bills pending before the legislature that we hope will result in better data about the LPS system, any decision to enact laws that infringe on individual liberties should await that data.

**Support**

Big City Mayors (co-sponsor)
California State Association of Psychiatrists (co-sponsor)
Psychiatric Physicians Alliance of California (co-sponsor)
Alameda County Families Advocating for the Seriously Mentally Ill
California Association of Public Administrators, Public Guardians and Public Conservators
County Behavioral Health Directors Association
Inland Empire Coalition of Mayors
League of California Cities
Steinberg Institute

**Opposition**
American Civil Liberties Union California Action
California Association of Social Rehabilitation Agencies
Depression and Bipolar Support Alliance
Disability Rights California
Item B-23
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 1238 (Eggman) - Behavioral health services: existing and projected needs (SB 1238) involves a policy matter that is not specifically addressed within the City Council adopted Legislative Platform language. The California League of Cities is requesting cities throughout the state to take a position on SB 1238 as this measure would require the Department of Health Care Services, beginning January 1, 2024, and at least every five years thereafter, to conduct a review of and prepare a report regarding current and projected behavioral health care infrastructure and service needs in each region of the state.

The City’s state lobbyist, Shaw Yoder Antwi Schmelzer & Lange, provided a summary memo for SB 1238 to the City (Attachment 1) and will provide a verbal update to the City Council Liaison/Legislative/Lobby Committee.

After discussion of SB 1238, the Liaisons may recommend the following actions:

- Oppose SB 1238;
- Support SB 1238;
- Support if amended SB 1238;
- Oppose unless amended SB 1238;
- 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
June 30, 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 1238 (Eggman) Behavioral health services: existing and projected needs.

Version
May 2, 2022

Introduction
On April 4, State Senator Susan Talamantes Eggman (D-Stockton), the Big City Mayors coalition, the California State Association of Psychiatrists, and the Psychiatric Physicians’ Alliance of California announced the introduction of legislation to overhaul the state’s behavioral health care system.

According to the Senator Eggman’s press release, this bill package is intended to improve the behavioral health system across the continuum; from prevention and early intervention, community supports and services, intersystem collaboration, improving access to assisted outpatient treatment, providing increased accountability through outcome tracking, preventing avoidable conservatorships, and improving the effectiveness of our conservatorship process for those that need them. SB 1238 is part of this bill package.

Summary
Requires the Department of Health Care Services (DHCS), beginning January 1, 2024 and at least every five years thereafter, to conduct a review and produce a report regarding the current and projected BH care infrastructure and service needs in each “region,” of the state, as defined. Requires DHCS to share the report and any data received under 3) below with the Mental Health Services Oversight and Accountability Commission.

Specifically, this bill:
1. Requires DHCS, beginning January 1, 2024 and at least every five years thereafter, to conduct a review and produce a report regarding the current and projected BH care infrastructure and service needs in each “region,” of the state, as defined. Requires DHCS to share the report and any data received under 3) below with the Mental Health Services Oversight and Accountability Commission.
2. Defines “region” as Superior California, North Coast, San Francisco Bay Area, Northern San Joaquin Valley, Central Coast, Southern San Joaquin Valley, Inland Empire, Los Angeles County, Orange County, and San Diego-Imperial, as designated by the United States Census Bureau.
3. Requires DHCS, before developing the existing and projected BH need for a region, to meet and consult with the council of governments, cities, and counties, regarding the assumptions and methodology used by DHCS. Requires local governments to provide BH service and utilization data for the region, including total number of beds or slots, total utilization, and unmet need in all the following areas:
   a. Prevention and wellness services for mental health and substance use disorder (SUD) issues as specified;
b. Outpatient services, such as individual and group therapy and ambulatory detoxification services;
c. Peer and recovery services delivered in the community, as specified;
d. Community supports, including services to enable individuals to remain in their homes and participate in the community, as specified;
e. Intensive outpatient treatment services, as specified, to support individuals living with higher acuity BH needs;
f. Residential treatment provided on a short-term basis;
g. Crisis services, such as crisis call centers, mobile crisis services, and crisis residential, as specified;
h. Intensive treatment services that are provided in specified settings to those who require 24-hour, seven-days-a-week care, including inpatient psychiatric treatment and clinically managed inpatient services; and,
i. School-based BH services.

4. Requires the DHCS’s review to also include barriers to meeting projected future needs and suggestions to alleviate bottlenecks in the continuum.

Background and Existing Law

BH Continuum Infrastructure Program. The 2021-22 Budget Act allocated $756 million for the BH Continuum Infrastructure Program to provide county BH departments and non-profit community partners with funding to construct, acquire, or rehabilitate properties in order to increase treatment bed capacity. Another $2 billion of one-time funding is proposed for the 2022-23 Budget Act. The Administration estimates that this funding will result in more than 5,000 new treatment beds statewide. The need to expand mental health bed infrastructure is also needed at the Department of State Hospitals, which has a backlog of hundreds of individuals needing bed space in competency restoration in order to stand trial, in addition to limited space for LPS Act patients who are placed on involuntary detention or conservatorships. To address this need, the 2021-22 Budget Act added $287 million in one-time funds for more beds. Additionally, a growing number of inmates are waiting for state hospital beds, sometimes for months at a time. In the past five years, the number of California inmates deemed incompetent to stand trial and ordered sent to state hospitals increased 60%. A few decades ago, fewer than half of state hospital patients came from the criminal justice system compared to more than 90% today. When people in psychiatric crisis land in emergency rooms and jails, it is frequently because they are unable to get treatment in the community, even when they ask for it.

DHCS BH Continuum Assessment. In January 2022, DHCS completed an assessment of California’s BH service continuum, which included a number of findings indicating that there is a lack of appropriate services. Specifically, the assessment reported the following:

i. The rate of serious mental illness in California as reported in survey data has increased by more than 50% from 2008-2019;
ii. One-in-13 children in California has a serious emotional disturbance, with rates higher for low-income children and those who are Black or Latino, relative to other racial and ethnic groups;
iii. Marginalized groups in California often are at higher risk for behavioral health issues, but also are less likely to be able to access services;
iv. Close to one-in-three adults in prison (30%) received mental health services in 2017, more than doubling the rate since 2000. Jails typically have even higher rates of individuals living with mental health and SUDs, largely because people may have been arrested and incarcerated for nuisance crimes associated with their conditions;
v. Among Californians seeking mental health services, more than four in 10 (43%) reported that it was somewhat or very difficult to secure an appointment with a provider who accepts their insurance; and,
vi. There are still major barriers in access to SUD residential treatment services across most counties in the state, including many that participate in the Drug Medi-Cal Organized Delivery System (DMC-ODS), such that: 70% of counties report urgently needing residential treatment services across the board; 75% of counties cite a lack of available SUD residential beds specifically for youth patients; 22 counties do not have any residential SUD facilities; and, facilities offering clinically managed, population-specific, high-intensity residential services are relatively rare in California. There are only 36 high intensity residential service facilities in operation across nine counties (half of which are located in Los Angeles).

*Treatment beds in California.* According to a 2021 RAND report, California requires 50.5 inpatient psychiatric beds per 100,000 adults: 26.0 per 100,000 at the acute level and 24.6 per 100,000 at the subacute level, or 7,945 and 7,518 beds, respectively. At the community residential level, the estimated need is 22.3 beds per 100,000 adults. RAND estimated that California has a total of 5,975 beds at the acute level (19.5 per 100,000 adults) and 4,724 at the subacute level (15.4 per 100,000 adults), excluding state hospital beds. If state hospital beds are included, these figures increase to 7,679 (25.1 per 100,000 adults) and 9,168 beds (29.9 per 100,000 adults), respectively. RAND also observed large regional variation. For example, excluding state hospitals, acute bed capacity ranged from 9.1 beds per 100,000 adults in the Northern San Joaquin Valley to 27.9 beds per 100,000 adults in the Superior region. For subacute bed capacity, regional estimates ranged from 7.4 to 31.8 beds per 100,000 adults. At the community residential level, RAND estimated that California has a total of 3,872 beds (12.7 per 100,000 adults). California has a shortfall of approximately 1,971 beds at the acute level (6.4 additional beds required per 100,000 adults) and a shortage of 2,796 beds at the subacute level (9.1 additional beds required per 100,000 adults), or 4,767 subacute and acute beds combined, excluding state hospital beds. If state hospitals were included in this estimate, the shortage of acute inpatient beds would shrink to 267, and there would be no observable shortage in beds at the subacute level. Separately, RAND estimated a shortage of 2,963 community residential beds.

**Status of Legislation**
The bill passed out of Assembly Health Committee on June 21, 15-0. The bill is now headed to Assembly Appropriations Committee.

**Arguments in Support**
The California State Association of Psychiatrists, cosponsor of this bill, states that as is often the case with people struggling with housing issues and homelessness, people frequently cross city and county lines seeking shelter, community, and treatment. This bill would establish a regional planning process to evaluate whether behavioral health services and infrastructure are meeting community needs and identify trends to prepare for the future.

**Support**
Big City Mayors (cosponsor)
California State Association of Psychiatrists (cosponsor)
Alameda County Families Advocating for the Seriously Mentally Ill
Association of Regional Center Agencies
Board of Behavioral Sciences
California Academy of Family Physicians

California Medical Association
City of Oakland
City of Riverside
League of California Cities
National Association of Social Workers, California Chapter
Ochin, INC.
Steinberg Institute

**Opposition**
None file.
Item B-24
Verbal updates on legislative issues will be presented by the City’s lobbyists.
Item B-25
The Legislative/Lobby Liaison Committee may request items related to the purview of the Committee be placed on the next agenda.