

Metropolitan Transportation Commission and Association of Bay Area Governments
Joint MTC ABAG Legislation Committee

September 11, 2020

Agenda Item 5b

2020 Legislative Update on Priority Bills

Subject: Overview of the 2020 state legislative session, with a focus on bills for which MTC and ABAG have taken a position.

Overview: The Legislature’s two-year 2019-2020 legislative session wound down to an anti-climactic close on August 31st. Due to the COVID-19 pandemic, there were far fewer days of active session and the number of hearings were substantially reduced. As recently as last week, members of the state Senate were diagnosed with the virus resulting in the cancelation of a critical day of floor session. Leadership in both houses asked members to narrow down their bills to those related to COVID or of an urgent nature. Given this environment, staff recommended substantially fewer bills for positions by ABAG and MTC – taking positions on just six bills this year. In sum, only two priority bills that MTC or ABAG supported reached the Governor’s desk:

- SB 146 (Beall) – authorizing virtual public outreach meetings and qualification of “pop up” meetings applicable to outreach requirements through 2022 (applicable for the duration of Plan Bay Area 2050).¹
- SB 288 (Wiener) – CEQA streamlining for sustainable transportation projects (including bicycle and pedestrian facilities and dedicated bus lanes) to accelerate such improvements and help with economic recovery (two-year sunset).

Priority Bills MTC and/or ABAG Supported That Did NOT Advance

- SB 902 (Wiener), proposed CEQA exemption for modest upzoning, was held in Assembly Appropriations Committee.
- SB 995 (Atkins) – extended expedited judicial review provisions under the California Environmental Quality Act (CEQA) and adding affordable housing as an eligible project
- AB 3040 (Chiu), would have allowed moderate-income regional housing needs allocation (RHNA) credit for four-plexes was held in the Senate Appropriations Committee.
- AB 2621 (Mullin) would have established a framework for regional climate adaptation planning, laying the foundation for MTC and ABAG to play a key role in future climate adaptation efforts, in collaboration with other members of the Bay Area Regional Collaborative.
- SB 644 (Allen), an MTC priority bill introduced in 2019 that was intended to clarify statutes with regard to the permissible use of personally identifiable information collected by toll agencies and add clarity with regard to toll violation notice requirements.

¹ Due to time constraints, this bill was approved for a support position using both agencies’ urgency procedures and will be placed on the September agenda of the Commission and ABAG Executive Board for ratification of those positions.

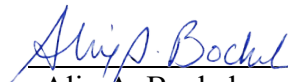
Other important transportation and housing bills that advanced include:

- AB 107 (Budget Committee)– transit clean-up legislation to provide greater flexibility to transit operators with regard to expenditures from the State Transit Assistance (STA)-State of Good Repair program and removing Transit Development Act (TDA) and STA penalties associated with fare-box requirements.
- AB 1286 (Muratuchi) – insurance requirements and local regulation of shared micromobility devices.
- AB 3088 (Chiu) – eviction and foreclosure protections through January 1, 2021 – *already signed by Governor Newsom and takes effect immediately.*
- SB 1351 (Beall) – authorizes up to \$5 billion in state revenue bonds for projects in the State Highway Operation and Protection Program (SHOPP) backed by revenues from the vehicle-based Transportation Improvement Fee established in SB 1 (Beall, 2017)
- SB 182 (Jackson) – requires local jurisdictions and councils of government to incorporate wildfire risk into their housing element updates and the regional housing needs allocation (RHNA) methodology.
- SB 356 (McGuire) – SMART and authority to operate freight rail and address housing needs of employees.

Three notable bills that failed to advance this year include:

- SB 899 (Wiener) – would have allowed churches to build 100 percent affordable housing on their parking lots.
- SB 1085 (Skinner) – would have expanded density bonus to projects dedicating at least 20 percent of units to moderate-income households.
- AB 2057 (Chiu) – proposed various near-term changes to improve the Bay Area transit rider experience and would have created a task force to study Bay Area transit issues. (Note, many of the themes proposed to be studied are being taken up by the Blue Ribbon Transit Recovery Task Force formed by the Commission in May 2020).

Attachment: Attachment A: Housing bill landscape


Alix A. Bockelman

State Housing Bills – Status Update
As of 9/1/2020

Bill Number	Topic	Summary	Still Active?
PROTECTION & PRESERVATION			
AB 828 (Ting)	Tenant & homeowner protections	Eviction and foreclosure moratorium during COVID-19 emergency; extends until 15 days after state of emergency terminated	No
AB 1436 (Chiu)	Tenant & homeowner protections	Eviction and foreclosure moratorium during COVID-19 emergency; extends through April 1, 2021 or 90 days after the termination of the state of emergency, whichever is earlier. Requires deferred rents and mortgage payments to be ultimately be repaid.	No
AB 2690 (Low)	Tenant protections	Repeals exemption from rent stabilization or rent control applicable to mobilehome units rented after January 1, 1990	No
AB 3088 (Chiu)	Tenant protections	Establishes a moratorium on evictions for non-payment of rent due to COVID-19 financial hardship until January 31, 2021 and provides some limited protections against foreclosures to small landlords under the Homeowners Bill of Rights. Permits landlords to sue tenants for unpaid rental date beginning March 1, 2021. Makes various technical changes to AB 1482 (Chiu, 2019).	Enacted
SB 1419 (Caballero)	Tenant & homeowner protections	Tax credit for landlords that enter into a tenant-owner COVID-19 eviction relief agreement to defer rent payments.	No
PRODUCTION			
AB 69 (Ting)	Accessory dwelling units (ADUs) – Financing	Requires the Treasures to develop the Help Homeowners Add New Housing Program to assist homeowners in qualifying for loans to construct additional housing units on their property, including ADUs and junior ADUs.	Yes- Enrolled
AB 168 (Aguiar-Curry)	Housing Approval process related to tribal resources—SB 35 Update	Requires local governments, California Native American tribes, and development proponents to engage in a scoping consultation process before a development proponent may submit an application for streamlined approval pursuant to SB 35 (Wiener, 2017). Requires development proponents of an SB 35 streamlined approval to submit a notice of intent to submit an application for streamlined approval and requires the local jurisdiction to notify each tribe that is affiliated with the area within 30 days.	Yes – Enrolled

AB 434 (Daly)	Affordable Housing Financing Programs	Makes various changes to streamline eligibility and criteria for state housing funding programs.	Yes- Enrolled
AB 725 (Wicks)	Missing middle housing	Requires that at least 25 percent of each metropolitan jurisdiction’s share of moderate-income and above moderate-income regional housing need be allocated to sites zoned to allow at least four units of housing and, for moderate income RHNA sites, not more than 100 units per acre.	Yes- Enrolled
AB 831 (Grayson)	Housing Approval process – SB 35 Updates	Revises the process for development projects approved by the streamlined, ministerial process created by SB 35 (Wiener, 2017). Clarifies an allowable level of changes to be made to the initial design of a project before a new application is required and makes clear that off-site improvement permit requests cannot be used to block a project. Clarifies that the 2/3 residential requirement in SB 35 applies to the project, not the project's site or its zoning.	Yes- Enrolled
AB 953 (Ting)	Accessory dwelling units (ADUs)	Deems a completed ADU or junior ADU (JADU) application approved if, within 60 days of having received a completed ADU or JADU application, the local government has not acted on the application	No
AB 1279 (Bloom)	Streamlining multifamily housing development	Provides for by-right approval of certain multifamily housing developments in “high opportunity areas,” as designated by the department of Housing and Community Development. Housing projects must meet minimum affordability, density, and site requirements.	No
AB 1851 (Wicks)	Religious institution-affiliated housing developments	Prohibits a local agency from requiring replacement of parking spaces for religious use that a religious institution-affiliated housing project proposes to eliminate as part of that housing project; limits the number of parking spaces a developer can request to eliminate for a religious institution housing project at 50 percent of the existing parking spaces.	Yes – Enrolled
AB 2345 (Gonzalez)	Density bonus expansion	Amends density bonus law to allow developers to receive a maximum of six concessions—up from four—per project, revises affordability requirements, and decreases maximum allowable parking ratios a locality may require for certain developments receiving density bonuses, among other provisions.	Yes – Enrolled
AB 3040 (Chiu)	Missing middle housing	Creates certainty that local governments choosing to densify sites with existing single-family homes will receive RHNA credit for the upzoning in housing element site inventories; for every single family site upzoned (or planned to be upzoned) to allow four units by-right, HCD would be required to provide a minimum credit of 0.1 units toward accommodating a local government’s moderate-income or above moderate-income housing need, subject to certain conditions. Retains HCD discretion to provide additional credits.	No

AB 3107 (Bloom)	Housing development in underutilized commercial corridors	Authorizes housing as an “allowable use” on certain commercially-zoned land (infill sites not adjacent to industrial uses) if the housing development reserves at least 20% of the units to be affordable for low-income households, among other conditions. Provides that local governments are only subject to these provisions until 6 th cycle Housing Element rezonings are completed.	No
SB 182 (Jackson)	Reducing development in high fire risk areas	Revises regional housing needs allocation (RHNA) requirements to 1) add a sixth RHNA objective related to promoting resilient communities and 2) require consideration of wildfire risk as a factor in developing the RHNA methodology; expands local government fire hazard planning responsibilities.	Yes- Enrolled
SB 899 (Wiener)	Affordable housing development	Provides that 100% affordable housing projects meeting certain height, density, site, and prevailing wage conditions are a use by-right—regardless of existing local zoning—on land owned by religious institutions or nonprofit colleges.	No
SB 902 (Wiener)*	CEQA streamlining (zoning)	Authorize local governments, at their discretion, to pass a CEQA-exempt ordinance to upzone sites near transit and jobs—as defined by the bill—to allow for up to 10 units per parcel.	No
SB 995 (Atkins)	CEQA streamlining (housing projects-judicial review)	Extends until 2025 and expands existing authorization for CEQA judicial review streamlining to include a new affordable housing category for housing projects that dedicate at least 15 percent of the units to lower-income households, that satisfy specified labor requirements (including that the project be constructed with a skilled and trained workforce) and are consistent with a region’s sustainable communities strategy.	No
SB 1085 (Skinner)	Missing middle housing (density bonus)	Creates a new density bonus category for moderate income rental housing: projects with 20 percent of the proposed units reserved for moderate income households would receive a 35 percent density bonus. Revises qualifications for Density Bonus Law incentives and concessions.	No
SB 1120 (Atkins)	Missing middle housing	Encourages small-scale neighborhood development by streamlining the process (i.e. requires ministerial approval) of building a duplex or subdivide an existing lot in all residential areas. Projects would be need to conform to local zoning and design standards, historic districts, environmental quality and tenant protection requirements. Short term rentals would not be eligible for ministerial approval.	No

SB 1385 (Caballero)	Housing development in underutilized commercial corridors	Allows residential development in areas zoned for retail commercial or office use; requires housing developments allowed under the bill meet or exceed densities deemed appropriate to accommodate low income housing (ranges from 10 to 30 units/acre, depending on the jurisdiction) and compliance with local zoning (including parking, design ordinances, etc.) and approval processes for housing projects in a zone with the applicable density. Prohibits short term rentals of units created pursuant to the bill.	No
HOMELESSNESS			
AB 1845 (Rivas)	Office to End Homelessness	Establishes the Office (Office) to End Homelessness within Governor's Office, led by a Secretary on Housing Insecurity and Homelessness. Such office will have the authority to coordinate the work of various state departments. Shifts staff for the Homeless Coordinating and Financing Council to the new Office.	Yes- Enrolled
AB 2405 (Burke)	Right to housing	Establishes that it is the policy of the state that all individuals in California have a right to housing (with a focus on Housing First homelessness prevention), effective January 1, 2026 and requires that state and local agencies consider the policy when implementing programs and policies related to homelessness prevention and affordable housing.	Yes- Enrolled
AB 2553 (Ting)	Emergency homeless shelters	Expands the Shelter Crisis Act to all cities and counties statewide allowing homeless individuals to occupy public facilities designated as emergency housing for the duration of the crisis. Incorporates safe parking sites into the definition of "homeless shelter."	Yes - Enrolled
AB 3269 (Chiu)	Statewide homelessness plan	Requires that the state Homelessness Coordinating and Financing Council conduct a statewide homelessness needs and gaps analysis, subject to funding availability and/or technical assistance availability from the U.S. Department of Housing and Urban Development. The bill also requires HCD to work with local governments to develop homelessness reduction benchmark goals and requires that local governments submit to HCD no later than January 1, 2022 a county-level plan for meeting specified benchmarks.	No
SB 1138 (Wiener)	Emergency Shelters: Rezoning of Sites	Makes changes to housing element law with regards to where shelters may be zoned and requires localities that fail to adopt a legally compliant housing element within 120 days of the statutory deadline, to complete a rezone program within one year instead of the current three-year requirement.	No

*Note: Bills listed in **bold** were part of the Senate Leadership's housing package