Bay Area Metro Center
375 Beale Street
Suite 800
San Francisco, California

Meeting Agenda - Final

Joint ABAG MTC Housing Legislative Working Group

Chair, Julie Pierce, Vice Mayor, Clayton
Vice Chair, Jake Mackenzie, Councilmember, Rohnert Park

Thursday, April 18, 2019 | **7:00 PM** | **Board Room**

Association of Bay Area Governments - Metropolitan Transportation Commission
Housing Legislative Working Group
Administrative Committee

The meeting is scheduled to begin at 7:00 p.m.
Agenda, roster, and webcast available at http://abag.ca.gov and http://mtc.ca.gov
For information, contact Clerk of the Board at (415) 820-7913.

Location
Bay Area Metro Center, 375 Beale Street, Board Room, San Francisco, California
Teleconference Locations
Marin County Civic Center, 3501 Civic Center Drive, Room 326, San Rafael, California
County Administration Building, 1195 Third Street, Suite 310, Napa, California
City Hall, 650 Merchant Street, Mayor's Office, Vacaville, California

Roster
Julie Pierce, Jake Mackenzie, Margaret Abe-Koga, Anthony Adams, Judy Arnold, Newell Arnerich, Marilyn Ezzy Ashcraft, Keith Carson, Anna Chouteau, Donna Colson, Joan Cox, Alice Fredericks, Laura Hoffmeister, John Gioia, James Gore, Ryan Gregory, Don Horsley, Larry Klein, Cliff Lentz, Mary Luros, Kevin McDonnell, Lily Mei, Trish Munro, John Rahaim, Ken Rich, Ron Rowlett, John Vasquez

1. Call to Order / Roll Call / Confirm Quorum

2. Chair's Report

2. 19-0416 Chair's Report

Action: Information

Attachments: HLWG Roster 20190415.pdf
Handout Schedule 20190404.pdf

3. Report on Housing Bill Landscape focuses on bills identified below but may discuss other housing bills should time permit and Working Group members wish to do so.

Bill analysis included here are authored by Senate and Assembly Committees; additional MTC staff analyses will be provided by Wednesday, April 17, 2019.

3. 19-0436 Overview of April 18th Bill Analysis Discussion

Action: Information

Presenter: Rebecca Long

Attachments: Item 03 Cover Memo.pdf
Item 03 Attachment A Presentation 4.18.19 v2.pdf
Item 03 Attachment B Housing Bill Matrix.pdf
Item 03 Attachment C HLWG Updated Principles.pdf
Item 03 Handout April 18 Bill Matrix_Principles V2.pdf
Handout HLWG_Notes_04-05-2019.pdf
Handout HLWG_Notes_04-11-2019.pdf

3.a. 19-0413 Zoning - SB 330 (Skinner), AB 1279 (Bloom)

Action: Information

Presenter: Rebecca Long

Attachments: Item 03A SB330_Senate Governance And Finance.pdf
SB 330
Item 03A AB_1279_asm_comm analysis.pdf
AB 1279

3.b. 19-0414 Fees/Transparency - AB 1483 (Grayson), AB 1484 (Grayson)

Action: Information

Presenter: Rebecca Long

Attachments: Item 03B AB1483_Asm_comm_analysis.pdf
AB 1483
Item 03B AB_1484__asm_comm analysis.pdf
AB 1484

3.c. 19-0415 Funding/Regional Housing Entity - AB 1487 (Chiu)

Action: Information

Presenter: Rebecca Long

Attachments: Item 03C AB1487_asm_comm_analysis.pdf
AB 1487

4. Public Comment

Information

6. Adjournment / Next Meeting

The next meeting of the ABAG MTC Housing Legislative Working Group is on April 25, 2019.

Public Comment: The public is encouraged to comment on agenda items at Committee meetings by completing a request-to-speak card (available from staff) and passing it to the Committee secretary. Public comment may be limited by any of the procedures set forth in Section 3.09 of MTC's Procedures Manual (Resolution No. 1058, Revised) if, in the chair's judgment, it is necessary to maintain the orderly flow of business.

Meeting Conduct: If this meeting is willfully interrupted or disrupted by one or more persons rendering orderly conduct of the meeting unfeasible, the Chair may order the removal of individuals who are willfully disrupting the meeting. Such individuals may be arrested. If order cannot be restored by such removal, the members of the Committee may direct that the meeting room be cleared (except for representatives of the press or other news media not participating in the disturbance), and the session may continue.

Record of Meeting: Committee meetings are recorded. Copies of recordings are available at a nominal charge, or recordings may be listened to at MTC offices by appointment. Audiocasts are maintained on MTC's Web site (mtc.ca.gov) for public review for at least one year.

Accessibility and Title VI: MTC provides services/accommodations upon request to persons with disabilities and individuals who are limited-English proficient who wish to address Commission matters. For accommodations or translations assistance, please call 415.778.6757 or 415.778.6769 for TDD/TTY. We require three working days' notice to accommodate your request.

可及性和法令第六章：MTC 根據要求向希望來委員會討論有關事宜的殘疾人士及英語有限者提供服務/方便。需要便利設施或翻譯協助者，請致電 415.778.6757 或 415.778.6769 TDD / TTY。我們要求您在三個工作日前告知，以滿足您的要求。

Acceso y el Titulo VI: La MTC puede proveer asistencia/facilitar la comunicación a las personas discapacitadas y los individuos con conocimiento limitado del inglés quienes quieran dirigirse a la Comisión. Para solicitar asistencia, por favor llame al número 415.778.6757 o al 415.778.6769 para TDD/TTY. Requerimos que solicite asistencia con tres días hábiles de anticipación para poderle proveer asistencia.

Attachments are sent to Committee members, key staff and others as appropriate. Copies will be available at the meeting.

All items on the agenda are subject to action and/or change by the Committee. Actions recommended by staff are subject to change by the Committee.

375 Beale Street, Suite 800
San Francisco, CA 94105

Metropolitan Transportation Commission

Legislation Details (With Text)

File #:	19-0416	**Version:**	1	**Name:**	
Type:	Report			**Status:**	Informational
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Title:	Chair's Report				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	HLWG Roster 20190415.pdf Handout Schedule 20190404.pdf				

Date	Ver.	Action By	Action	Result

Chair's Report

Information

ABAG MTC Housing Legislative Working Group

Chair—Julie Pierce, Vice Mayor, City of Clayton

Vice Chair—Jake Mackenzie, Councilmember, City of Rohnert Park

County of Alameda—Supervisor Keith Carson

County of Contra Costa—Supervisor John Gioia

County of Marin—Supervisor Judy Arnold

County of Napa—Supervisor Ryan Gregory

City and County of San Francisco—Supervisor Hillary Ronen

County of San Mateo—Supervisor Don Horsley

County of Santa Clara—

County of Solano—Supervisor John Vasquez

County of Sonoma—Supervisor James Gore

Alameda County Mayors Conference—

Marilyn Ezzy Ashcraft, Mayor, City of Alameda

Lily Mei, Mayor, City of Fremont

Contra Costa County Mayors Conference—

Newell Arnerich, Councilmember, City of Danville

Laura Hoffmeister, Councilmember, City of Concord

Marin County City Selection Committee—

Joan Cox, Councilmember, City of Sausalito

Alice Fredericks, Councilmember, Town of Tiburon

Napa County City Selection Committee—

Mary Luros, Councilmember, City of Napa

Anna Chouteau, Councilmember, City of St. Helena

ABAG MTC Housing Legislative Working Group

City and County of San Francisco, Mayor—

Ken Rich, Development Director, Office of Economic and Workforce Development

John Rahaim, Planning Director

San Mateo County City Selection Committee—

Donna Colson, Mayor, City of Burlingame

Cliff Lentz, Councilmember, City of Brisbane

Cities Association of Santa Clara County—

Larry Klein, Mayor, City of Sunnyvale

Margaret Abe-Koga, Vice Mayor, City of Mountain View

Solano County City Selection Committee—

Ron Rowlett, Mayor, City of Vacaville

Anthony Adams, Councilmember, City of Suisun City

Sonoma County Mayors and Councilmembers Association—

Association of Bay Area Governments—

Kevin McDonnell, Vice Mayor, City of Petaluma

Metropolitan Transportation Commission—

Trish Munro, Councilmember, City of Livermore

4/15/19

Proposed ABAG MTC Housing Legislative Working Group Meeting Calendar

Location: Bay Area Metro Center, 375 Beale Street, San Francisco

Note: ABAG and MTC meetings are also listed for information purposes only.

Housing Legislative Working Group (HLWG)	**Friday, 4/5/19**	**11:00 a.m. to 1:00 p.m.**	**Yerba Buena/Ohlone**
HLWG	**Thursday, 4/11/19**	**2:00 p.m. to 4:00 p.m.**	**Board Room**
Joint ABAG Legislation Committee and MTC Legislation Committee (Joint ABAG/MTC Legislation)	*Friday, 4/12/19*	*9:15 a.m.*	*Board Room*
HLWG	**Thursday, 4/18/19**	**7:00 p.m. to 9:00 p.m.**	**Board Room**
Metropolitan Transportation Commission (MTC)	*Wednesday, 4/24/19*	*9:45 a.m.*	*Board Room*
HLWG	**Thursday, 4/25/19**	**7:00 p.m. to 9:00 p.m.**	**Board Room**
HLWG	**Wednesday, 5/1/19**	**3:00 p.m. to 5:00 p.m.**	**Board Room**
Joint ABAG/MTC Legislation Committee	*Friday, 5/10/19*	*9:15 a.m.*	*Board Room*
ABAG Legislation Committee and ABAG Executive Board	*Thursday, 5/16/19*	*5:00 p.m. and 7:00 p.m.*	*Board Room*
MTC	*Wednesday, 5/22/19*	*9:45 a.m.*	*Board room*
HLWG	**Thursday, 5/23/19**	**7:00 p.m. to 9:00 p.m.**	**Board Room**
HLWG	**Friday, 5/31/19**	**1:00 p.m. to 3:00 p.m.**	**Yerba Buena/Ohlone**
Joint ABAG/MTC Legislation Committee	*Friday, 6/14/19*	*9:15 a.m.*	*Board Room*
MTC	*Wednesday, 6/26/19*	*9:45 a.m.*	*Board Room*
ABAG Legislation Committee and ABAG Executive Board	*Thursday, 7/18/19*	*5:00 p.m. and 7:00 p.m.*	*Board room*

375 Beale Street, Suite 800
San Francisco, CA 94105

Metropolitan Transportation Commission

Legislation Details (With Text)

File #:	19-0436	**Version:**	1	**Name:**	
Type:	Report			**Status:**	Informational
File created:	4/17/2019			**In control:**	Joint ABAG MTC Housing Legislative Working Group
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Title:	Overview of April 18th Bill Analysis Discussion				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Item 03 Cover Memo.pdf Item 03 Attachment A Presentation 4.18.19 v2.pdf Item 03 Attachment B Housing Bill Matrix.pdf Item 03 Attachment C HLWG Updated Principles.pdf Item 03 Handout April 18 Bill Matrix_Principles V2.pdf Handout HLWG_Notes_04-05-2019.pdf Handout HLWG_Notes_04-11-2019.pdf				

Date	Ver.	Action By	Action	Result

Overview of April 18th Bill Analysis Discussion

Rebecca Long

Information

Item 3

Date: April 17, 2019

To: ABAG/MTC Housing Legislative Working Group

From: Executive Director

Subject: **Overview of April 18th Bill Analysis Discussion**

Background

At your meeting tomorrow, staff will present on a number of bills that are aimed at directly or indirectly accelerating housing production through various strategies, ranging from speeding up project approvals, upzoning in "high resource areas," providing greater public access to information related to fees, zoning and other standards applicable to housing, and, last but not least, creating a new regional agency to seek voter approval for new affordable housing funding and provide assistance to local agencies with regard to meeting local and regional affordable housing goals.

We recognize a number of working group members are eager to discuss SB 50 (Wiener) and SB 4 (McGuire), however, because significant amendments are planned before the bills will be heard in the Senate Governance & Finance Committee next week, we plan to take up those bills next week.

Attached is a presentation staff will walk through along with a matrix of the bills relative to the organizing principles and the latest bill tracker. Also attached for context (Attachment C).

Recommended Action

Information

Therese W. McMillan

Attachments

A. Bill Presentation
B. Updated Housing Bill Matrix
C. Updated Organizing Principles for Reviewing Housing Legislation
D. Housing Bill Tracker

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Production-Related Housing Bills

ABAG-MTC Housing Legislative Working Group

April 18, 2019

Production-Related Housing Bills for Review

Zoning

- SB 330 (Skinner) *Housing Crisis Act of 2019*
- AB 1279 (Bloom) *Housing Development in Hight-Resource Areas*

Fees/Transparency

- AB 1483 (Grayson) *Housing Data Collection and Reporting*
- AB 1484 (Grayson) *Mitigation Fee Act for Housing Development*

Funding

- AB 1487 (Chiu) *San Francisco Bay Area Regional Housing Finance Act*

SB 330 – Housing Crisis Act of 2019

Key Components

- Project approval process acceleration
- Greater certainty for project proponents
- Limitations on downzoning and building moratoria
- Legalize occupied substandard buildings

SB 330: Project Approval Process Acceleration

- Creates a new process for submitting a complete initial application and restricts changes a local government can make after a complete application is submitted.
- Specifies criteria that must be included for a project to be complete and requires HCD to develop a standardized form for local governments.
- Provides that after an application is deemed complete and if a project complies with general plan and zoning standards, a local government may not:
  - Require more than 3 de novo public hearings
  - Delay decision beyond 12 months

SB 330: Greater Certainty for Project Proponents

- Requires public agencies post on their web site all information required to submit a development application.
- Locks in historic designation of a site at the time an application is deemed complete.
- If a public agency determines an application is incomplete, it must provide applicant an exhaustive list of items in their application that were missing based on the agency's own check list.
- Key feature of the bill is to lock in policies, fees and standards at the time an application is deemed "complete," with some exceptions allowed.

SB 330: Discussion Questions

- **Production** The bill aims to accelerate housing production by speeding up permit approvals and limiting public review. Is 12 months acceptable? What about 3 hearings? What does the group think about this?
- **Flexibility** The bill is not “one size fits all” in terms of where it applies but it does curtail local zoning authority with respect to downzoning in high rent/low vacancy rate areas. What does the group think about this?
- **Transportation/Infrastructure Impacts** A significant policy proposal in the bill is restriction on any *new* parking requirements for housing developments or enforcement of *existing parking requirements*. What does the group think about this?

SB 330: Limitations on Downzoning and Building Moratoria

Designates “affected areas” of high rent and low vacancy rate where a local government, including its electorate, could not take actions that would:

- Result in a “less intensive use” than on 1/1/2018
- Establish design standards after 1/1/2008 not considered “objective”
- Limit number of land use approvals or permits
- Cap number of housing units or size of population

Exception: downzoning allowed in one location in an affected area if higher density allowed elsewhere so there is **no net loss** of residential capacity. Affected areas also prohibited from:

- Adopting new or enforcing existing parking requirements
- Charging fees or exactions, including for water & sewer, above rates on 1/1/2018
- Charging any fees to deed-restricted units affordable to low-income

SB 330: Legalize "Occupied Substandard Buildings"

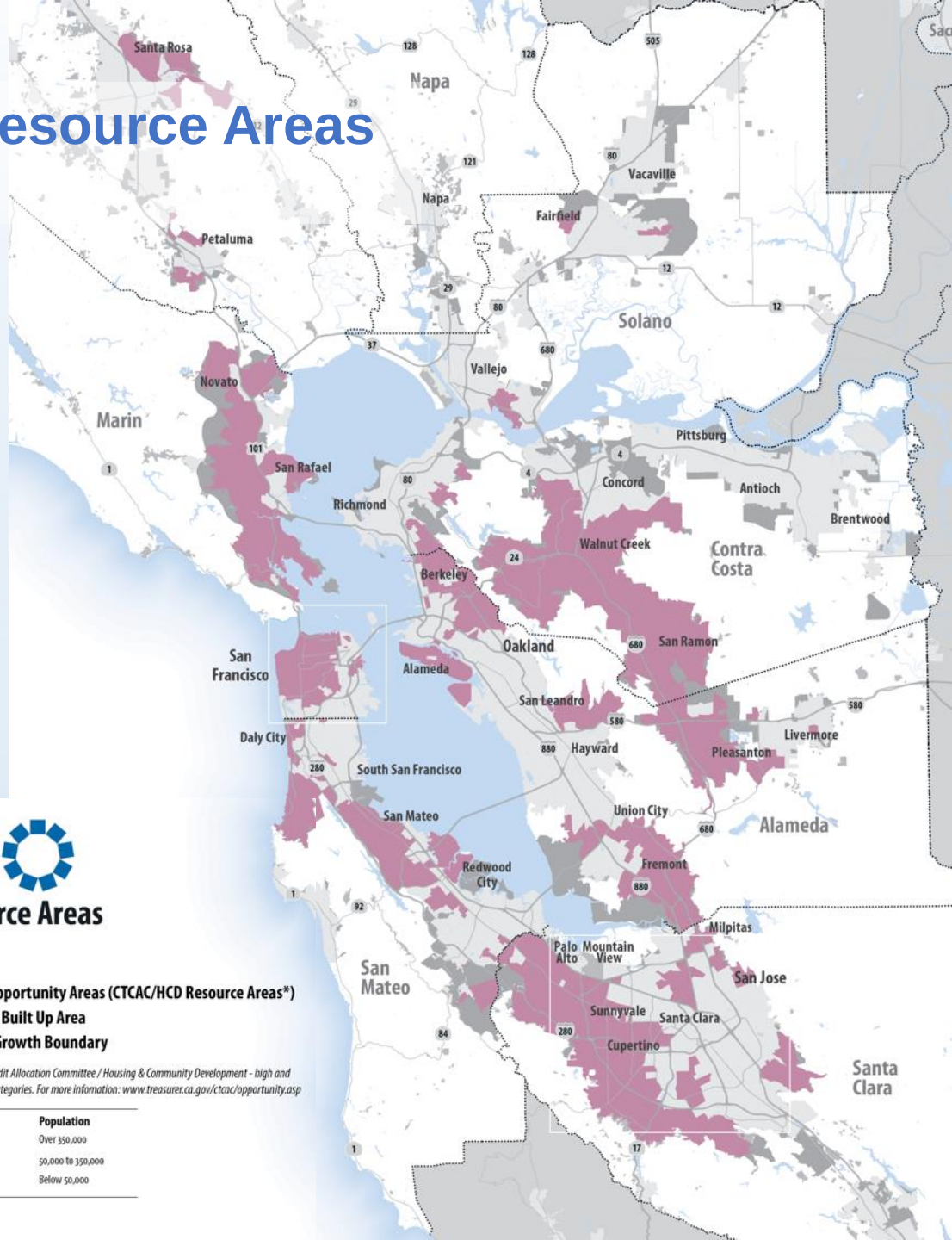
- A "protection" strategy to help residents remain in buildings that could be shuttered by building inspectors *if they meet certain life safety standards.*
- Requires HCD to develop building standards for buildings occupied by one or more people that an enforcement agency finds is in violation of any health and safety requirements.
- Sets minimum requirements, including:
  - Adequate sanitation and exit facilities
  - Seismic safety
  - Fire safety
  - Allows conditions otherwise prohibited today if they don't endanger the "life, limb, health, property, safety, or welfare of the public or the occupant"

AB 1279 – Housing Development in High-Resource Areas

"Missing Middle" Housing

Highlights:

- Applicable in state-designated high-resource areas; designation can be appealed
- "By-right" approval of projects with 2 to 100 units, depending on existing zoning and parcel size
- Subject to local "objective" design standards, but cannot trigger CEQA or undermine fair housing law
- Larger projects eligible for state density bonus but also subject to affordability requirements
- Parcels with existing rental units (in use for the last 10 years) excluded
- Parcels in environmentally sensitive areas and open space excluded



“Missing Middle” Housing

2-4 units and no more than 20 feet on single-family parcels, in high-resource areas

- Could be designed to compliment the existing neighborhood character.
- Increases walkability and safety by providing “eyes on the street.”
- Provides “naturally” affordable housing without public subsidies.

Image source: Berkeleyside

“Missing Middle” Housing

5-40 units and no more than 30 feet on larger lots adjacent to an “arterial” road or commercial area, in high-resource areas

ASSOCIATION OF BAY AREA GOVERNMENTS

METROPOLITAN TRANSPORTATION COMMISSION

Image source: various developer websites

AB 1279 – Housing Development: High-Resource Areas

"Missing Middle" Housing

CURRENT ZONING/WHAT'S ALLOWED UNDER AB 1279

I Single-Family Housing Only

1. Up to 4 units and not more than 20 feet high
2. Affordability requirement:
   a. Affordable to households with incomes at 100 percent AMI

   OR

   b. Fee of 10 percent of difference between affordable and market rate for units

II Residential Areas

Min. ¼-Acre, Near Major Road or Commercial Use

1. Up to 40 units and not more than 30 feet high
2. Projects ≤10 units:
   a. Same affordability requirements as for SF-zoned parcels
3. Projects > 10 units:
   a. 10 percent affordable to low- and 5 percent to very low-income HHs
   b. Local inclusionary standards apply if higher

III Housing & Commercial Development Allowed

Min. ½-Acre, Near Major Road or Commercial Use

1. Up to 100 units and not more than 55 feet high
2. Affordability Requirements:
   a. 50% total; 25 percent affordable to low- and 25 percent to very low-income HHs

AB 1279 – Housing Development: High-Resource Areas

"Missing Middle" Housing

Discussion Questions

- Many single-family homes are already two stories. Could tri- or fourplexes be designed to blend in?
- What does the group think about tying upzoning tied to high-resource areas, regardless of transit proximity?
- Do the proposed tenant protections in the bill go far enough, or go too far?
- Do the proposed affordability requirements in the bill go far enough, or go too far?

Image source: Valco Town Center Specific Plan

AB 1483: Housing Data Collection and Reporting

- Bill's underlying assumption: Better data = better outcomes
- Seeks to improve quality and availability of information local governments provide related to housing project approvals, fees and zoning standards.
- Expands on data already reported through "APR" – annual performance report jurisdictions submit to HCD to require annual reporting to HCD **and MPOs.**
- Additional detail required, such as name of applicant, # units, permits issued, number of certificates of occupancy issued.
- Allows MPOs to request additional information from local jurisdictions about housing, subject to HCD approval and conditional on provision of technical assistance from MPO or HCD.
- Requires posting on web site of all fees, zoning and planning standards related to housing development projects.

Note: AB 1484 amended to only include online posting of fees

AB 1483: Statewide Housing Data Strategy & Database

- Requires HCD develop a 10-year housing data strategy in its next revision of the CA Statewide Housing Plan
- Requires HCD establish an accessible statewide publicly accessible database with parcel-level housing data
- Requires HCD develop by January 1, 2022 protocols for data sharing, documentation, quality control, public access and promotion of open source platforms and decision tools related to housing data.

AB 1487 – Housing Finance Act

Production, Preservation and Protection

Highlights:

- Establishes the Housing Alliance for Bay Area to provide funding and technical assistance for 3 Ps
- 18-member board appointed by MTC and ABAG; 9-member committee to provide expert advice
- Broad taxing authority subject to voter approval; May assemble, lease or purchase parcels for affordable housing; cannot use eminent domain
- No regulatory authority over local land use
- Counties to develop expenditure plans; may administer funds instead of HABA

Senior housing

Affordable housing preservation

AB 1487 — Funding Distribution

Expenditures

≥60% for affordable housing production

Min.15- Max. 20% for preservation

Min.5- Max.10% for protection

Min.5- Max.10% for general funds to local governments that achieve unspecified housing benchmarks

Administration

75% of new revenue returned to county of origin; 25% available to be spent across region to highest need

- Counties have option to administer funds themselves or rely on HABA to allocate funds.

AB 1487: Potential Funding Measures

The bill authorizes HABA to place a number of different measures on the ballot, balanced across businesses, general taxpayers, commercial developers, and property owners including:

- parcel tax
- commercial linkage fee
- gross receipts tax
- head tax
- ½-cent sales tax [only measure with an amount specified]
- A general obligation bond to be funded by an ad valorem
- tax on the assessed value of local properties.
- A revenue bond

AB 1487 – Housing Finance Act

Production, Preservation and Protection

Discussion Questions:

- Do you think there is a role for a regional entity to raise and distribute housing funding, purchase and dispose of land and provide planning and technical assistance across the region?
- What are your thoughts about the funding sources listed in the bill?
- HABA is proposed to be governed equally by a board of MTC and ABAG, with 9 seats each. What do you think of this?
- The bill requires 75% of funds to be distributed to the county of origin. What do you think of this?
- What would be the best use of regional funds?
- Are there critical housing needs that jurisdictions are missing since the loss of redevelopment that HABA could fulfill at the regional level?

Shading indicates bills discussed by working group

2019 California Housing Bill Matrix

Last Updated: April 17, 2019

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PROTECTION				
Rent Cap	AB 36 (Bloom)	Loosens, but does not repeal, Costa Hawkins to allow rent control to be imposed on single family homes and multifamily buildings 10 years or older, with the exception of buildings owned by landlords who own just one or two units.		
	AB 1482 (Chiu)	Caps annual rent increases by an unspecified amount above the percent change in the cost of living. Exempts housing subject to a local ordinance that is more restrictive than the bill. Prohibits termination of tenancy to avoid the bill's provisions.	√	
Just Cause Eviction	AB 1481 (Bonta)	Prohibits eviction of a tenant without just cause stated in writing. Requires tenant be provided a notice of violation of lease and opportunity to cure violation prior to issuance of notice of termination.	√	
	AB 1697 (Grayson)	For a lease in which the tenant has occupied the property for 12 months or more, prohibits eviction of a tenant without just cause stated in writing.	√	
Tenant Organizing Rights	SB 529 (Durazo)	Declares that tenants have the right to form, join, and participate in the activities of a tenant association, subject to any restrictions as may be imposed by law, or to refuse to join or participate in the activities of a tenant association.		
Rent Assistance & Access to Legal Counsel	SB 18 (Skinner)	• Authorizes a competitive grant program to be administered by Department of Housing and Community Development (HCD) to provide emergency rental assistance and moving expenses and grants to local governments to provide legal aid for tenants facing eviction, meditation between landlords and tenants and legal education. The primary use of grant funds must be for rental assistance. • Requires HCD to post all state laws applicable to the tenant-landlord relationship on its web site no later than January 1, 2021 and to update biannually thereafter.	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION				
Accessory Dwelling Units (ADUs)	AB 68 (Ting)	• Prohibits local ADU standards from including certain requirements related to minimum lot size, floor area ratio or lot coverage, and parking spaces. • Requires an ADU (attached or detached) of at least 800 square feet and 16 feet in height to be allowed. • Reduces the allowable time to issue a permit from 120 days to 60 days.	√	
	AB 69 (Ting)	• Requires HCD to propose small home building standards to the California Building Standards Commission governing accessory dwelling units and homes smaller than 800 square feet. • Authorizes HCD to notify the Attorney General if they find that an ADU ordinance violates state law.	√	
	AB 587 (Friedman)	• Authorizes an ADU that was ministerially approved to be sold separately from the primary residence to a qualified buyer if the property was built or developed by a qualified nonprofit corporation and a deed restriction exists that ensures the property will be preserved for affordable housing.		
	AB 671 (Friedman)	Requires local agencies to include in their housing element a plan that incentivizes and promotes the creation of ADUs that can be offered for rent for very low-, low- and moderate-income households in their housing elements.		
	AB 881 (Bloom)	Eliminates ability of local jurisdiction to mandate that an applicant for an ADU permit be an owner-occupant.		

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
ADUs (cont'd)	SB 13 (Wieckowski)	• Maintains local jurisdictions' ability to define height, setback, lot coverage, parking and size of an ADU related to a specified amount of total floor area. • Prohibits local agency from requiring the replacement of parking if a space is demolished to construct an accessory dwelling unit. • Allows a local agency to count an ADU for purposes of identifying adequate sites for housing. • Expires January 1, 2040	√	
Zoning/ Housing Approvals	AB 1279 (Bloom)	• Requires HCD to designate areas in the state as high-resource areas, by January 1, 2021, and every 5 years thereafter. • Makes housing development in such areas "by right" if the project is no more than four units in an area zoned for single family homes or up to 40 units and 30 feet in areas generally zoned for residential, subject to certain affordability requirements.		
	SB 4 (McGuire)	• Allows an eligible transit-oriented development (TOD) project that is located within ½ mile of an existing or planned transit station and meets various height, parking, zoning and affordability requirements a height increase up to 15 feet above the existing highest allowable height for mixed use or residential use. • Exempts a TOD project within ¼ mile of a planned or existing station from minimum parking requirements in jurisdictions > 100,000 in population. • Establishes a new category of residential project – a "neighborhood multifamily project" as a project that on vacant land that is allowed to be a duplex in a nonurban community or a four-plex in an urban community and grants such projects ministerial approval.	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
Zoning/ Housing Approvals (cont'd)	SB 50 (Wiener)	• Allows upzoning within ½-mile of transit and in high-opportunity areas. Provides for a five-year deferral of bill's provisions in "sensitive communities" that would be defined by HCD in conjunction with community groups. • Defers applicability of bill in "sensitive communities" –to be defined by HCD in conjunction with local community-based organizations—until January 1, 2025. • Excludes sites that contain housing occupied by tenants or that was previously occupied by tenants within the preceding seven years or the owner has withdrawn the property from rent or lease within 15 years prior to the date of application.	√	
	SB 330 (Skinner)	• Restricts a local jurisdiction or ballot measure from downzoning or imposing building moratoria on land where housing is an allowable use within an affected county or city identified by HCD as having fair market rate __ percent higher than statewide average fair market rent for the year and a vacancy rate below __ percent. • Prohibits a city or county from conducting more than three de novo hearings on an application for a housing development project. • Ten year emergency statute.	√	
Fees/ Transparency	AB 724 (Wicks)	• Requires HCD to create a rental registry online portal, which would be designed to receive specified information from landlords regarding their residential tenancies and to disseminate this information to the general public. • Requires HCD complete the rental registry online portal by January 1, 2021, and would require landlords to register within 90 days and annually thereafter.	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
Fees/ Transparency (cont'd)	AB 847 (Grayson)	• Requires HCD to establish a competitive grant program, subject to appropriation by the Legislature, to offset the cost of housing-related transportation impact fees. Qualifying recipients would be cities and counties, which may apply jointly with a developer. • Projects must be at least 20 percent affordable (specific area median income (AMI) level unspecified) and be consistent with sustainable communities strategy (SCS). • Preference for transit-oriented development.	√	
	AB 1483 (Grayson)	• Requires a city or county to compile of zoning and planning standards, fees, special taxes, and assessments in the jurisdiction. • Requires each local agency to post the list on its website and provide the list to the HCD and any applicable metropolitan planning organization (MPO). • Requires each city and county to annually submit specified information concerning pending housing development projects with completed applications within the city or county to HCD and any applicable MPO.	√	
	AB 1484 (Grayson)	• Prohibits a local agency from imposing a fee on a housing development project unless the type and amount of the exaction is specifically identified on the local agency's internet website at the time the development project application is submitted. • Prohibits a local agency from imposing, increasing, or extending any fee on a housing development project at an amount that is in excess of information made available on its web site. • Applicable to all cities statewide, including charter cities.	√	
Streamlining	AB 1485 (Wicks)	Modifies affordability requirements applicable to the by-right provisions in SB 35 (Wiener, 2017) such that a project can dedicate 10% of the total number of units to housing affordable to households making below 80% of the AMI or 20% to households earning below 120% AMI with an average income of units at or below 100%. ***Substantially Amended*** 4/11/19	√	√

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
Streamlining (cont'd)	AB 1706 (Quirk)	• Provides specified financial incentives to a residential development project in the San Francisco Bay Area that dedicates at least 20 percent of the housing units to households making no more than 150 percent AMI. • Incentives include exemption from CEQA, a cap on fees, a density bonus of 35 percent, parking reductions and a waiver of physical building requirements imposed on development, such as green building standards.	√	√
	SB 621 (Glazer)	• Requires the Judicial Council to adopt a rule of court applicable to an action to challenge an environmental impact report for an affordable housing project, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceeding with the court. • Prohibits a court from staying or enjoining the construction or operation of an affordable housing project unless it makes certain findings.	√	
Public Lands	SB 6 (Beall)	• Requires HCD to provide the Department of General Services (DGS) with a list of local lands suitable and available for residential development as identified by a local government as part of the housing element of its general plan. • Requires DGS to create a database of that information and information regarding state lands determined or declared excess and to make this database available and searchable by the public by means of a link on its internet website.	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
	AB 1255 (Rivas)	Requires the housing element to contain an inventory of land owned by the city or county that is in excess of its foreseeable needs and requires the city or county to identify those sites that qualify as infill or high density. •	√	
Public Lands (cont'd)	AB 1486 (Ting)	• Revises the definitions of "local agency" and "surplus land" applicable to the current law requirement that local agencies provide notice that the land is available for housing development. • Permits residential uses on all non-exempt surplus land, if 100 percent of the residential units are sold or rented at an affordable housing cost. • Requires that HCD create and maintain a downloadable inventory of public lands in the state. The inventory would be developed from information submitted by local agencies. • Expands HCD's enforcement mandate to include the Surplus Lands Act.	√	
Funding *(Note: Funding is the most relevant category for affordable housing preservation)*	AB 10 (Chiu)	Expands the state's Low Income Housing Tax Credit program by $500 million per year, up from $94 million, leveraging an estimated $1 billion in additional federal funds annually.	√	
	AB 11 (Chiu)	• Authorizes a city or county or two or more cities acting jointly to form an affordable housing and infrastructure agency that could use tax increment financing to fund affordable housing and infrastructure projects. • Requires establishment of new agencies be approved by the Strategic Growth Council and that expenditure plans for such agencies be aligned with the state's greenhouse gas reduction goals. • A minimum of 30 percent of funds would be required to be invested in affordable housing.	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
Funding (cont'd)	AB 1487 (Chiu)	• Establishes the Housing Alliance for the Bay Area (HABA), a new regional entity serving the nine Bay Area counties to fund affordable housing production, preservation and tenant protection programs. • Authorizes HABA to place unspecified revenue measures on the ballot, issue bonds, allocate funds to the various cities, counties, and other public agencies and affordable housing projects within its jurisdiction to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs, • Provides that HABA will governed by a board composed of an unspecified number of voting members from MTC, ABAG and gubernatorial appointees and be staffed by the Metropolitan Transportation Commission (MTC).	√	√
	AB 1568 (McCarty)	Conditions eligibility for SB 1 local street and road fund on an HCD determination that a jurisdiction's housing element is in compliance with state law.		
	AB 1717 (Friedman)	Establishes the Transit-Oriented Affordable Housing Program, to be administered by the California Housing Finance Agency (CalHFA). The program would allow a city council or a county board of supervisors to participate in the program by enactment of an ordinance establishing a transit-oriented affordable housing district. Such a district would be authorized to use tax-increment finance through a diversion of property taxes, including the school portion, to finance affordable housing projects. Funds would be redirected to CalHFA who would be authorized to issue bonds to pay for the projects.		

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
	SB 5 (Beall)	• Authorizes local agencies to apply to the state to reinvest their share of ERAF (Educational Revenue Augmentation Fund) funds in affordable housing or other community improvement purposes. Sets an initial limit of $200 million per year for the first five years, growing to $250 million in 2029. • Establishes the Local-State Sustainable Investment Incentive Program which would be administered by a new Sustainable Investment Incentive Committee comprised of state agency representatives and legislative and gubernatorial appointees. • Requires at least 50 percent of funds to be allocated for affordable housing and workforce housing and for 50 percent of the units to be affordable. • **MTC and ABAG support in concept**	√	
Funding (cont'd)	ACA 1 (Aguiar-Curry)	• Reduces vote threshold for local bonds or special taxes for affordable housing production, preservation or public infrastructure. • **MTC and ABAG support**	√	
	SB 128 (Beall)	• Eliminates the voter approval requirement for Enhanced Infrastructure Financing Districts (EIFDs), which can be used to finance affordable housing production and preservation, among other purposes. • **MTC and ABAG support**	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
Planning	AB 725 (Wicks)	Prohibits more than 20% of a jurisdiction's share of regional housing need for above moderate-income housing from being allocated to sites with zoning restricted to single-family development.	√	
	SB 235 (Dodd)	Allows the City and the County of Napa to reach an agreement under which the county would be allowed to count certain housing units built within the city toward the county's regional housing needs assessment (RHNA) requirement.	√	√
	SB 744 (Caballero)	Requires a lead agency to prepare the record of proceeding for a No Place Like Home project with the environmental review of the project if it is not eligible for approval as a use by right.		

Organizing Principles for Reviewing Housing Legislation

(Updated per discussion on April 11, 2019; changes highlighted and in italics)

1. Funding: More funding is needed. Does the bill provide more funding to help address the housing crisis related to one or more of the 3Ps of protection, production and preservation?

2. Production: More housing is needed across the affordability spectrum. Does the bill propose policy changes that are expected/intended to increase affordable and market rate housing production?

3. Protection: Does the bill propose ways to reduce displacement pressure on vulnerable Bay Area residents?

4. Flexibility: Our communities are unique. Does the bill account for differences across communities?

5. Jobs/Housing Balance: Does the bill help reduce jobs/housing imbalances across the region and account for different degrees of imbalance, and allow people to live closer to their jobs?

6. Reward Best Practices: Some communities have made great strides in production, preservation, and protection. Does the bill recognize prior actions taken locally consistent with intent of the bill to address the housing crisis?

7. Financial Impact: Are there potential financial impacts or other unintended consequences on local jurisdictions and/or taxpayers?

8. Transportation & Infrastructure Impacts: Does the bill address transportation or other infrastructure impacts *(e.g. schools, water, parks)* resulting from increased housing?

9. Parallel Policy Mandate: Does the bill support other state policies/priorities (e.g. GHG reduction/SB375)

10. Resilience: Does the bill improve resilience in local communities *with respect to sea level rise, earthquakes, fire, flooding, etc.?*

Bill Number	SB 330	AB 1279	AB 1483	AB 1484	AB 1487
Summary	Prohibits downzoning and moratoria	By-right development approval in state-designated high-resource areas (HRAs)	Mandatory posting on local web site all housing development-related fees and all zoning and planning requirements Authorizes MPO's to request additional local housing data via HCD. Requires HCD to develop data sharing and open source protocols.	Requires every local jurisdiction to post on its web site all housing development-related fees	Creates HABA, New funding for housing regionwide, plus technical assistance to local governments.
Funding			HCD required to provide technical assistance to local agencies upon request. Potential new costs for MPO		Authorizes various new funding measures on the ballot for 3Ps. Funding measures across taxpayers, businesses and developers. Notes $2.5 billion funding shortfall in region.
Production	Could accelerate housing production statewide by speeding up housing application process. Sets a 12-month limit on approval and limits to 3 the number of public hearings on projects consistent with zoning; Limits changes a local government can apply to a project after application is submitted. Requires HCD to develop a standardized form for housing applications	Could add new units that are affordable to moderate- and low-income households in infill sites close to schools, jobs and transit. Would not require public subsidy for new deed-restricted affordable housing.	Indirect: Posting of all planning and zoning standards and fees on web site will help facilitate development by making such information more accessible to developers	Indirect: Posting of fees on web site will help facilitate development by making such information more accessible to developers	Significant increase in funding to subsidize production for low-income households; Sets minimum target of 60% of funds for new units
Protection		Would protect existing tenants from physical displacement by disqualifying rental properties (in use over the last 10 years) from by-right approval. Would disqualify areas that are (or potentially could) experiencing gentrification or displacement from by-right approval.			Significant increase in funding to subsidize production for low-income households; Sets minimum target of 5% and maximum of 10% of funds for tenant protection programs

Bill Number	SB 330	AB 1279	AB 1483	AB 1484	AB 1487
Flexibility	Applies in jurisdictions with high rent and low vacancy rates cities with population >5,000; Unincorporated areas in a county in which at least 50% of the cities meet criteria above. Limitations on rejecting a project are tied to jurisdiction's general plan but ties criteria to those in effect as of 1/1/2018	Allows local jurisdictions to set objective design standards. Prohibits discretionary review/approval that could trigger CEQA. Higher building intensity levels are tiered based on existing zoning.	Different levels of capacity at the local level to compile and track housing-related data.	Cities have different levels of capacity at the local level to compile and track housing-related data.	Sets regional targets for 3Ps but allows for differences across counties; Allows a county to opt to adminsiter their 75% share or rely on HABA to do so, recognizing different capacity across counties.
Jobs / Housing Balance	Areas most affected by the bill are likely to be in close proximity to jobs as those are generally locations where rents are highest and vacancy rates lowest.	By definition, high-resource areas are near (high-performing) schools, job centers and/or public transit. By increasing middle- and low-income housing opportunities near schools, jobs and transit, the bill could make a substantial improvement in the jobs-housing balance at the local, county and regional level.			By increasing subsidy for affordable housing and requiring 75% return to source by county, potential for more funding available in job-rich areas. Includes variable commercial linkage fee and head-tax proposals that could impose higher rate on businesses and development in locations with high job/housing imbalance.
Reward Best Practices		Benefits to jurisdictions that meet or exceed development standards proposed in this bill are unclear.	Jurisdictions with information already posted on their web site will already be in compliance	Jurisdictions with information already posted on their web site will already be in compliance	Discretionary funding provided to jurisdictions that meet affordable housing benchmarks.
Financial Impact	Authorizes legal challenge if a local agency attempts to require a housing development project to comply with an ordinance, policy or standard not in effect when application was submitted. Cap on impact fee increases above 1/1/2018 in affected areas other than automatic adjustments.	Fee-based services provided by local jurisdictions such as garbage pickup and permit parking should see an increase in revenue. Administrative approvals should reduce the need for additional permit approval staff.	Additional staffing costs associated with providing new info to HCD, posting zoning standards and fees on its web site and to the public upon request. Potentially offset by HCD technical assistance	Additional staffing costs associated with posting all fee information on a public agency's website	Additional regional funding to help jurisdictions deliver on 3Ps. Technical assistance can augment or replace some staffing capacity needs at local level.

Bill Number	SB 330	AB 1279	AB 1483	AB 1484	AB 1487
Trans & Infrastructure Impacts	In "affected areas" **prohibits:** 1) enforcement of existing or adding new parking requirements for a proposed housing development in affected cities; 2) any fee for approval of a housing development, including sewer and water connection charges, above amount charged on 1/1/18, except may be adjusted based on an automatic annual adjustment referenced in a resolution if not for deed-restricted affordable housing;	Does not limit local development impact fees or parking standards. Proposes higher densities and heights in low density areas at a scale that could potentially negatively impact congestion, school access or parking availability.			Sets minimum of 5% and maximum of 10% for general funds to local jurisdictions as reward for achieving affordable housing benchmarks.
Resilience		Excludes by right approvals in severe fire hazard, flooding and earthquake zones.			
Parallel Policy Mandates	Help achieve RHNA goals; help address SB 375 GHG reduction by increasing funding for affordable housing near jobs.	Will help achieve Fair Housing outcomes as part of RHNA goals by increasing the supply of middle- and low-income housing near amenities; Could negatively impact GHG reduction targets by increasing density in neighborhoods without good access to transit or walk/bike friendly.	Help assist with annual tracking at local and regional levels towards RHNA goals		Help achieve RHNA goals; could help meet SB 375 GHG reduction targets by increasing funding for affordable housing near jobs.

Date: Friday, April 5, 2019, 11:00 a.m. – 1:00 p.m.

Location: Yerba Buena Room, Bay Area Metro Center
Staffing:

Julie Pierce, Chair
Jake Mackenzie, Vice Chair
Therese McMillan, Executive Director
Adrienne Weil, General Counsel
Alix Bockelman, Deputy Executive Director
Brad Paul, Deputy Executive Director
Rebecca Long, Government Relations Manager
Fred Castro, ABAG Clerk of the Board
Notetaking by: Lily Rockholt, Civic Edge Consulting

Attendance: Approximately 53 (inclusive of working group members) in person, one working group member and one community member on the phone

Chair Julie Pierce: Welcomed working group members and provided overview of process for the coming month. Noted that the working group has been created to show the diversity of opinions that exist throughout the Bay Area region. To that end, comments will be given directly to the Legislative Subcommittee. She further explained that "we will forward all of the ideas brought forward in the working group sessions – we will not be taking votes. A vote says there is one opinion – we want to share *all* of the opinions that we hear in these meetings."

There's an expectation that working group members will gather feedback from colleagues and members of their community to share at the meetings.

Contra Costa County representatives

- Flagged that the cities of Contra Costa have submitted a joint letter evaluating a number of housing bills currently under consideration. Jobs/housing balance is a particular concern for the county and the region.
- Believes housing is a regional issue.

Solano County representatives

- Prioritize job/housing balance. Noted that there are few rewards currently for the cities and counties making a real contribution towards affordable housing. Believes Suisun residents want more housing, but the costs and competitive nature of the Bay Area labor market makes this challenging. Requests more financial help as part of the regional or statewide solution. Has questions about using the government-owned lands for housing.
- A major concern is return to source funding.

San Francisco County representatives

- Served on the CASA Technical Committee. Interested in seeing parts of CASA compact become part of the solution.
- Has been working on an analysis of bills for San Francisco and wants to work towards a regional solution.

Alameda County representatives

- Would like more recognition for what is being done correctly, especially as one of the Bay's largest cities. Fremont has made strides in transit-oriented development. Would like to continue to focus on workforce development, including apprenticeship programs.
- The City of Alameda is an island community and transit is imperative, especially water transit. Acknowledged that solutions to the housing crisis must be regional.

San Mateo County representatives

- Acknowledged that Brisbane has made major strides towards addressing the housing crisis. Recently they have revised the General Plan to allow for significant (2,500+) additional housing units. Retaining local land use authority was crucial for the Brisbane locals to feel good about making these big changes.

- Burlingame has made major strides in addressing the housing crisis in recent years and will have increased housing units by approximately 20 percent in the next five to ten years. Would like more acknowledgement and support for the housing advances San Mateo County has made and speaker supports local control.
- Levied sales tax to build affordable housing/farm labor housing in one speaker's district.

Napa County representatives

- Wants to find housing solutions to housing crisis in Napa while retaining local control. Felt many voices were left out of the CASA Compact process and would like to identify solutions that will work in Napa county.
- Small cities have had many challenges with building affordable housing. Napa is losing its middle class, and we want to start looking for solutions.

Marin County representatives

- There are mostly single-family housing Marin's jurisdictions. Interested in creative housing solutions such as accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) and not having to pay for utility hookup fees for the ADUs and JADUs within existing homes.
- Does not want the housing bills to be one size fits all, advocates for creative affordable housing. Emphasizes ADUs and Junior ADUs and using them to meet the RHNA requirements with low and very low-income housing.
- Hopes any legislation will better address the constraints faced by small cities and help to maximize housing production. Hopes for better metrics to analyze the impacts of the proposed legislation. Interested in transactions of properties through school districts. Most interested in measures to fast track ADUs and Junior ADUs.

Brad Paul and Rebecca Long provided a summary of the what staff has heard during CASA Outreach to date and Executive Director Therese McMillian presented proposed Organizing Principles for Reviewing Housing Legislation:

1. Funding: Does bill provide more funding to address housing crisis?
2. Production: Does bill propose policy changes that help increase production?
3. Protection: Does bill propose ways to reduce displacement?
4. Flexibility: Our communities are unique. Does bill account for these differences?
5. Jobs/Housing Balance: Does bill help reduce jobs/housing imbalances across region?
6. Reward Best Practices: Does bill recognize prior successful local actions?
7. Financial Impact: What are bills financial impacts on jurisdictions and taxpayers?
8. Transportation and Infrastructure Impacts: This was clarified as being inclusive of schools, sewers, and anything else related to physical capacity of a municipality.

Overall the working group was supportive of the eight organizing principles. The notes below indicate requests for further clarifications and additions.

San Francisco County representatives

- Suggested an additional category relating to how the bill impacts GHG reductions.
  - **Therese McMillan:** This concern came up in other conversations. Especially in conversations where less housing is being built compared to the jobs.
  - **Vice Chair Jake Mackenzie:** Part of the action plan to implement PBA 2040, the Bay Area's Sustainable Communities plan, mandates GHG reduction by state law.
- San Francisco priorities include actually building housing – not just improving capacity.

San Mateo County representatives

- Would like to add a metric evaluating (and encouraging) a greater contribution from the business sector. Large corporations should be helping more with the housing crisis given that the jobs the've created in recent years are a major driver of housing demand.
  - **Chair Pierce:** Suggested this might fit under Funding and Jobs/Housing Balance metrics
- Suggested evaluating barriers to implementation and unintended consequences of bills.
- Concerns about the financial aspects of these bills, the potential for gross payroll taxes and the impact on San Mateo County.

Alameda County representatives

- Suggested that sustainability in infrastructure be identified.
  Look for ways to attract jobs to East Bay to reduce commuting/GHG and increase equity.

Contra Costa representative

- Would like to see an organizing principle added to acknowledge the linkage to the state's greenhouse gas emission targets since where housing is built ties in directly to this.

Marin County representatives

- Wanted to highlight safety – namely where housing should be built relative to sea level rise and fire threats.
  - **Chair Pierce:** Suggested this could fit under a Climate Change/Resiliency principle.

Solano County representatives

- Return to source consideration is important for Solano County, so that the county can leverage the funding in the most productive way. Solano can produce affordable housing for significantly less than other parts of the region.

Other Comments
McMillan: Requested any additional feedback on the Transportation and Infrastructure organizing principle.

- **Chair Pierce:** Suggested that ground water and/or other water considerations be considered as a metric.

Report on Housing Bill Landscape

Rebecca Long reviewed a number of bills and requested feedback. Also, asked if there are bills that should be added to the list. Noted she will add a map of sensitive communities to the website as well as a relevant study conducted by the UC Berkeley Terner Center.

Solano County representatives

- Requested clarity on use of "single-family unit" language. Wants to make sure there is not a penalty for multi-generational families sharing a home.

San Mateo County representatives

- Requested time at future meetings to dig deep into key bills.
    - **Chair Pierce:** Noted that there will be a lot of "homework" for the people in this room to the degree that these are important bills.

Alameda County representatives

- A priority is discussing fee structures, how they will be paid, and what they will cover. Concern cities will need help paying for infrastructure associated with increased housing and that proposed fees are too high for cities to pay alone.

Marin County representatives

- Wants to prioritize discussion of SB50 now that it has been substantially amended.

Chair Pierce: Asked if the sample matrix evaluating bills by the various organizing principles appeared to be a viable way to evaluate their contents and requested feedback on how to prioritize the bills themselves. Feedback included instructing staff to select order based on the most influential bills under each of the three Ps (protection, production, and preservation).

Discussion of Future Meeting Agendas

Santa Clara County

- Santa Clara working group members expressed frustration that they will not be ratified in advance of the next meeting on Thursday, April 11.

Public Comment:

1. **Contra Costa County representative** (Commented during public comment because he is not yet ratified): The letter written by Contra Costa cities identifies bills that are not included in this matrix. Requested staff review the letter and add bills as appropriate. Further identified impact fees as a top concern for Contra Costa. Finally, wants an organizing principle related to local control.

2. **Ken Bukowski:** Concerns about how affordable housing will be funded. Would like to see the working group evaluate bills related to streamlining approvals for homeless shelters, parking requirements, and traffic. Suggested live broadcasting the meetings to expand their reach.

3. **Anna Crisante:** Expressed frustration at lack of racial, housing, and age diversity that she observed among working group members. Majority are property owners, no renters (correction one renter). Shared that she had taken time off work to attend meeting and requested they be held outside of regular business hours. Identified affordable housing in Marin as her top priority as well as protecting minorities in the Bay Area as a whole.

4. **Jane Kramer:** There are community interests, and regional interests, and they may or may not coincide. You are going to have to uncover all the possibilities that are not yet spoken in your communities to come up with the best mesh of ideas.

5. **Rich Hedges:** Identified as a housing advocate with a focus on job/housing balance. Applauded existing up zoning legislation.

6. **Anita Enander**, Los Altos City Councilmember: We should clarify language like "high resource areas" and identify areas of ambiguity in the bills.

7. **John McKay:** Morgan Hill City Councilmember: Wants to review existing legislation as well as new legislation, as it's easier to update existing bills than create new legislation.

8. **Jason Beses:** He said that he feels this working group is too little too late. Also expressed frustration that MTC is paying for a lobbyist.

9. **Susan Kirsch**, founder of Livable California: Feels that the success of Silicon Valley is the root cause of the housing crisis.

10. **Jordan Grimes**, co-leader of Peninsula for Everybody, a tenant protection advocacy group: Wanted to promote regional control of housing production and zoning.

11. **Emma Ishi**, aide to Alameda County Supervisor Keith Carson: Thank you to all the members here. It is important you go to your communities, and talk to your people to get their opinions. Also, on the steering committee for CASA. Thank you.

12. **Veda Florez**, member of MTC Public Advisory Committee from Marin county: Thanks for this opportunity. I'd like to talk about guiding principles, protections bills, and add a bullet point to talk to underserved communities. Statewide and regional representatives that speak to underserved communities. Viewed the list of the 3 Ps and there aren't many bills under protections, are we not focusing on them or do they not exist.

Date: Thursday, April 11, 2019, 11:00 a.m. – 1:00 p.m.

Location: Board Room, MTC
Staffing:

Rebecca Long, Government Relations Manager
Brad Paul, Deputy Executive Director
Alix Bockelman, Deputy Executive Director
Julie Pierce, Chair
Jake Mackenzie, Vice Chair
Therese McMillan, Executive Director
Adrienne Weil, General Counsel
Fred Castro, ABAG Clerk of the Board
Notetaking by: Lily Rockholt, Civic Edge Consulting

Attendance: 26 in person, plus on the phone

Chair's Report
Chair Pierce: Commented that additional members of the Housing Legislative Working Group (HLWG) would be ratified on the evening of April 11.

Director McMillan: Provided an overview of the meeting agenda.

- Noted two new Organizing Principles based on feedback from the April 5 HLWG meeting.
    - *Parallel Policy Mandate: Does the bill support other state policies/priorities (e.g. GHG reduction/SB375).*
    - *Resilience: Does the bill improve resilience in local communities?*
- Updates were made to existing Organizing Principles, again based on HLWG feedback
    - Financial Impact now reads: Are there potential financial impacts *or other unintended consequences* on local jurisdictions and/or taxpayers?
    - Transportation & Infrastructure Impacts now reads: Does the bill address transportation or other infrastructure impacts *(e.g. schools, water, parks)* resulting from increased housing?
- Highlighted that today's meeting would focus on two major housing bill categories: bills related to Tenant Protection and Accessory Dwelling Units (ADUs).
- Asked for feedback on the updated Organizing Principles noting they can evolve over the course of the upcoming discussions.

Comments on Chair's Report
Alameda County

- Would like to see the following incorporated into the Organizing Principles: environmental justice (for example air quality), economic justice (for example commute times) and social justice.

Contra Costa County

- Overall, was supportive of updates. Requested additional clarity on the term "resilience" noting that it can mean many things.
    - **McMillian**: Agreed that "resilience" could be further defined in the next draft.

Chair Pierce: Noted that it's a priority of the HLWG to collect qualitative data for all members. The HLWG will not be voting or providing consensus-based recommendations to the Legislative Committee, as the purpose of the HLWG is to represent the many different perspectives found throughout the region.

Report on Housing Bill Landscape

Long: Read Analysis of Protection-Related Bills (included in agenda packet), noting that none of the bills have been heard by the Housing and Community Development Committee except for SB18, which passed committee.

Comments on Analysis of Protection-Related Bills

San Mateo County

- Expressed preference for local control over tenant protections and would like to see more incentives for landlords to keep rents low and avoid steep increases.
- Proposes that Just Cause Eviction Protections to be limited to people earning below a specific (to be determined) average median income (AMI).

Contra Costa County

- Hopes that legislation will consider the unintended consequences of rent control, such as possible landlord collusion to fix or increase rent prices.
- Believes that AB 36 will weaken the Costa-Hawkins Rental Control Act, notes that the homeless problem in Alameda County is significant.

Solano County:

- States that the jobs/housing balance is affecting Solano County communities even though it does have the most affordable housing in the region.
- Solano has capacity to build the most affordable housing in the Bay Area due to their cheaper land costs.
- Concerned about what happens when the one-time funding of SB18 dissipates.

San Francisco County:

- Notes that Costa-Hawkins had its limitations. Asks about owner move-ins.
    - **Long:** States that if it is in the lease, or major health concerns are involved, they would still be allowed.

Comments on ADU Bill Analysis Matrix:

Long:

- Notes that some of the support and opposition is not completely up-to-date in the ADU Bill Analysis Matrix. For example, the League of California Cities directly opposed AB 68.

San Mateo County:

- Noted that from a practical point of view, some of the zoning laws around ADUs are about public safety – such as the fire lane ordinances.
- Brought up concerns about the lack of parking requirement with ADUs.
- Noted that if laws allow ADUs to be sold separately from the primary dwelling, this will require them to have separate hook ups.
    - **Chair Pierce:** Offered that ownership requirements would change the flavor of the communities and would likely have some push back from certain legislators.
- Would like some sort of requirement that ADUs are not to be used for short term rentals, like Airbnb.
- Shared that in some parts of San Mateo county schools are closing due to the lack of students. Despite job growth and a competitive housing market many San Mateo residents don't have children. So, the concern about school capacity isn't shared region-wide.

Alameda County

- Urged bills provide for more local control. Would like to see a law allowing ADUs in garages for residences close to major transit centers.
  Historically, many Alameda County ADUs have been used for family members and additional leniency in ADUs helps keep multigenerational families together.
  Noted prefab housing could be a useful part of the solution, that it lessens the impact and timing of the construction.

Solano County:

- Expressed concern for removing impact fees as who will then pay for the utilities systems which will need updates to meet increased usage?
    - **Chair Pierce:** Notes that if the utility hook-ups go through the primary residence, less work is needed.
- Suggests a deeper look at the impact to schools, particularly concerning funding.
    - **Chair Pierce:** Noted that unintended consequences has been added to the "Financial Impact" organizing principle.
- Asked how long before a local jurisdiction must adopt an ADU policy.
    - **Chair Pierce:** Stated they have as much time as they want, but in the interim the state standards will apply.

Contra Costa County:

- Noted that impact fees were increased during the Great Recession to compensate for the utility companies funding gaps. It would be appropriate to lower the fees now that economy has bounced back.
- States that there should be some policies to make the ADU creation easier, perhaps even a set of standardized preapproved ADU designs to reduce the permitting cost, and architecture costs.
- Notes that waiving codes can be dangerous because they are there to ensure the safety of the people living in the home.
- Wants ADUs and JDUs to count toward RHNA requirements.
- Stated that AB 68, SB 13 and AB 69 are generally supportable.
    - **Long:** SB13 would allow them to, but not stated in AB 68 or AB 69.

Marin County:

- Shares that the ADU proposed legislation does not consider narrow legacy roads, and that one size does not fit all. Noted one way that Sausalito has handled differences within the community is by adopting an overlay zone where they really need off-street parking.
    - **Chair Pierce:** Notes that the narrow streets should be addressed under safety.
- Hopes JDUs will gain some clarity from this round of legislation, notes their ability to increase affordable housing.

Napa County:

- Hoped that whatever laws get passed allow the flexibility to continue the work they have already started on ADUs.

Next Meeting:

Chair Pierce: Asked if anyone would like to suggest items for the next meeting agenda.

Marin County:

- Noted that they thought almost all the housing bills had passed out of the subcommittee.
- Noted there are specific bill that address how to make the schools whole again with all the housing bills that were brought forward.
- Would like to discuss SB 4, SB 5 and SB 6.

Solano County:

- Requests information from the schools since most of these bills directly impact them.
    - **Long:** notes there is a trailer bill with $500 million in funding to be used for discretionary expenses related to the housing bills.

- Noted that they would like to discuss the bill related to the 75 percent of funds raised for the RHE to come back to the county [AB 1487 (Chiu)] and that they would like this number to be higher.

Contra Costa County:

- Would like to discuss some of the more controversial bills like SB50, AB 1483, AB 1484, AB 1485. For some of the cities and counties, noted these might become a barrier to building affordable housing for them.

Alameda County:

- Would like to discuss AB 1487.
- Voiced concern that the HLWG hasn't taken a more comprehensive approach to these bills, particularly analyzing the jobs housing balance, justice issues and transportation.
- Would also like to discuss alternative ways to get more affordable housing.

San Mateo County:

- Would like to discuss SB 4 and SB 50, anything funding related specifically anything related to the Regional Housing Enterprise [AB 1487].

Public Comment:

1. **Rich Hedges**: Appreciated the presence and the comments made today. Shares that San Mateo County has done some great work, and notes that prefab housing could be a powerful contributor to the fight for affordable housing.
   - **Chair Pierce:** Noted that San Mateo County has great resources and directed staff to get the resources to all the working group members.
   - **Horsley:** Mentioned he can bring copies of San Mateo handbooks/physical materials to the next working group meeting.
   - **Heather Peters**: Was a participant on the team of people who produced the materials San Mateo County developed. Noted their Amnesty Program to adopt ADUs made before it was fully legal is launching next month to encourage 3rd party inspector. Shares contact information for those who would like it. Hpeters@SMCgov.org

Closing comments:

Director McMillan: States that the working group members should notify the ABAG/MTC Staff by no later than Monday afternoon if they will be ~~telecommuting~~ teleconferencing into the meeting~~, notes that members can say they are calling in, but still show up in person. The same is not true for saying you're showing up in person but then telecommuting into the meeting~~.

375 Beale Street, Suite 800
San Francisco, CA 94105

Metropolitan Transportation Commission

Legislation Details (With Text)

File #:	19-0413	**Version:**	1	**Name:**	
Type:	Report			**Status:**	Informational
File created:	4/15/2019			**In control:**	Joint ABAG MTC Housing Legislative Working Group
On agenda:	4/18/2019			**Final action:**	
Title:	Zoning - SB 330 (Skinner), AB 1279 (Bloom)				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Item 03A SB330_Senate Governance And Finance.pdf SB 330 Item 03A AB_1279_asm_comm analysis.pdf AB 1279				

Date	Ver.	Action By	Action	Result

Zoning - SB 330 (Skinner), AB 1279 (Bloom)

Rebecca Long

Information

SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Mike McGuire, Chair
2019 - 2020 Regular

Bill No:	SB 330	**Hearing Date:**	4/10/19
Author:	Skinner	**Tax Levy:**	No
Version:	4/4/19	**Fiscal:**	Yes
Consultant:	Favorini-Csorba		

HOUSING CRISIS ACT OF 2019

Enacts the "Housing Crisis Act of 2019," which, until January 1, 2030: (1) makes changes to local approval processes, (2) modifies the Permit Streamlining Act, (3) imposes restrictions on certain types of development standards, and (4) creates separate building standards for occupied substandard buildings.

Background

Planning and approving new housing is mainly a local responsibility. The California Constitution allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

Planning and Zoning Law. State law provides additional powers and duties for cities and counties regarding land use. The Planning and Zoning Law requires every county and city to adopt a general plan that sets out planned uses for all of the area covered by the plan. A general plan must include specified mandatory "elements," including a housing element that establishes the locations and densities of housing, among other requirements. Cities' and counties' major land use decisions—including most zoning ordinances and other aspects of development permitting—must be consistent with their general plans. The Planning and Zoning Law also establishes a planning agency in each city and county, which may be a separate planning commission, administrative body, or the legislative body of the city or county itself. Cities and counties must provide a path to appeal a decision to the planning commission and/or the city council or county board of supervisors.

When approving development projects, counties and cities can require applicants to mitigate the project's effects by paying fees. The California courts have upheld these mitigation fees for sidewalks, parks, school construction, and many other public purposes. When imposing a fee as a condition of approving a development project, local officials must determine a reasonable relationship between the fee's amount and the cost of the public facility.

State housing law. The Legislature has enacted a variety of statutes to facilitate and encourage the provision of housing, particularly affordable housing and housing to support individuals with disabilities or other needs. Among them is the Housing Accountability Act (HAA), enacted in 1982 in response to concerns over a growing rejection of housing development by local governments due to not-in-my-backyard (NIMBY) sentiments among local residents (SB 2011,

Greene). The HAA, also known as the "Anti-NIMBY" legislation, restricts a local agency's ability to disapprove, or require density reductions in, certain types of residential projects. The HAA limits the ability of local governments to reject or render infeasible housing developments based on their density without a thorough analysis of the economic, social, and environmental effects of the action. Specifically, when a proposed development complies with objective general plan and zoning standards, including design review standards, a local agency that intends to disapprove the project, or approve it on the condition that it be developed at a lower density, must make written findings based on substantial evidence that the project would have a specific, adverse impact on the public health or safety and that there are no feasible methods to mitigate or avoid those impacts other than disapproval of the project.

Permit Streamlining Act. The 1977 Permit Streamlining Act requires public agencies to act fairly and promptly on applications for development permits, including wireless facilities. Public agencies must compile lists of information that applicants must provide 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; failure to act results in an application being "deemed complete." However, local governments may continue to request additional information, potentially extending the time before the clock begins running.

Once a complete application for a development has been submitted, the Act requires local officials to act within a specific time period after completing any environmental review documents required under the California Environmental Quality Act. Specifically, local governments must act within (1) 60 days after completing a negative declaration or determining that a project is exempt from review, or (2) 180 days after certifying an environmental impact report (EIR). If the local government fails to approve or disapprove the application in the applicable time period, the application is deemed granted, and the applicant may file suit in state court to order the local government to issue the permit.

California's housing challenges. 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 have contributed to the lack of housing production. Recent reports by the Legislative Analyst's Office (LAO) and others point to local approval processes as a major factor. They argue that local governments control most of the decisions about where, when, and how to build new housing, and those governments are quick to respond to vocal community members who may not want new neighbors. The building industry also points to CEQA review, and housing advocates note a lack of a dedicated source of funds for affordable housing.

Many local governments have adopted policies that limit or outright prohibit new residential development within their jurisdictions, or implement restrictive zoning ordinances, or otherwise impose costly procedural and design requirements on building. The author wants to remove some of these barriers in areas where housing is most acutely needed.

Proposed Law

Senate Bill 330 enacts the "Housing Crisis Act of 2019," which, until January 1, 2030: (1) makes changes to local approval processes, (2) modifies the Permit Streamlining Act, (3) imposes restrictions on certain types of development standards, and (4) creates separate building standards for occupied substandard buildings.

Approval process changes. SB 330 establishes a process for submitting a complete initial application—separate from and prior to the complete application required for the Permit Streamlining Act clock to begin running—and restricts the changes that local governments may apply to a project after a completed initial application is submitted.

SB 330 deems a complete initial application to have been submitted by a housing development applicant if they have provided the following information about the project:

- The specific location.
- The major physical alterations to the property on which the project is to be located.
- A site place showing the location on the property, as well as the massing, height, and approximate square footage, of each building that is to be occupied.
- The proposed land uses by number of units or square feet using the categories in the applicable zoning ordinance.
- The proposed number of parking spaces.
- Any proposed point sources of air or water pollutants.
- Any species of special concern known to occur on the property.
- Any historic or cultural resources known to exist on the property.
- The number of below market rate units and their affordability levels.

However, if a project applicant revises the project to change the number of units or square footage by 20 percent or more, excluding density bonus, the initial application is no longer complete.

SB 330 directs HCD to adopt a standardized form that applicants may use for submitting an initial application, and provides that the adoption of the form is not subject to the Administrative Procedures Act.

SB 330 prohibits a city or county from conducting more than three de novo hearings on a proposed housing development if it complies with the applicable, objective general plan and zoning standards in effect at the time a complete initial application. The city or county must consider and either approve or disapprove the application at any of the three hearings consistent with the applicable timelines under the Permit Streamlining Act. In addition to those requirements, the city or county must either approve or disapprove the permit within 12 months from when the date on which the application is deemed complete. However, SB 330 stops the clock from running while the applicant is revising their application materials.

SB 330 states that a project cannot be found inconsistent, not in compliance, or not in conformity with the zoning, and the project does not require rezoning, if the zoning does not allow the maximum residential use, density, and intensity allowable on the site by the land use or housing element of the general plan.

SB 330 amends the HAA to prohibit a local agency from applying ordinances, policies, and standards to a development after a completed initial application is submitted. The bill allows local governments to apply new standards after the complete initial application is submitted in the following circumstances:

- A development fee or exaction is indexed to inflation in the ordinance.

- A local government finds that a new standard is needed to mitigate or avoid a specific, adverse impact to public health or safety based on a preponderance of the evidence in the record, and there is no feasible alternative to mitigate it.
- A new policy, standard, or ordinance is needed to mitigate an impact of the project to a less than significant level pursuant to CEQA.
- The housing development project has not commenced construction within three years following the date that the project received final approval, as defined.
- The housing development project is revised following submittal of a complete initial application such that the number of residential units or square footage of construction changes by 20 percent or more, excluding the application of density bonus.

A local agency may also subject new square footage or units to the ordinances, policies, and standards in effect when the complete initial application is submitted.

A development applicant, a person who would be eligible to apply for residency in a proposed development, or a housing organization can file a lawsuit if a local agency requires a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a complete initial application was submitted.

Permit Streamlining Act changes. SB 330 also amends the existing application process under the Permit Streamlining Act. Specifically, SB 330 requires a public agency to provide an applicant with an exhaustive list of items in their application that was not complete. That list must be limited to those items actually required on the agency's checklist that is required by existing law. In any subsequent review of the application determined to be incomplete, the local agency cannot request the applicant to provide any new information that was not stated in the initial list of items that were not complete. When determining if the application is complete, the public agency must limit its review to only determining whether the application includes the missing information. SB 330 also requires each city and each county to make copies of any list of required application information available both (1) in writing to those persons to whom the agency is required to make information available, and (2) publicly available on their website.

The bill also requires any determination of whether the site of a proposed housing development is a historic site to be made at the time when the application for the project is deemed complete under the Permit Streamlining Act.

SB 330 provides that the timelines under the Permit Streamlining Act are mandatory.

Restrictions on local development standards and policies. SB 330 imposes restrictions on several types of development standards in an affected city or county. SB 330 defines "affected city" to be those that meet all the following conditions:

- The percentage by which the city's average rate of rent exceeded 130 percent of the national median rent in 2017, based on the federal 2013-2017 American Community Survey 5-year estimates.
- The percentage by which the vacancy rate for residential rental units is less than the national vacancy rate, based on the federal 2013-2017 American Community Survey 5-year estimates.
- The city has a population of more than 5,000, or has a population of 5,000 or less but is located within an urban core.

SB 330 defines an affected county to mean a county where at least half the cities are affected cities.

In an affected city or county, SB 330 prohibits a local government from adopting a development policy, standard, or condition that would have any of the following effects:

- Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use, as defined to include specified zoning standards, or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018.
- Imposing a moratorium or similar restriction or limitation on housing development, including mixed-use development, within all or a portion of the jurisdiction of the affected county or city, other than to specifically protect against an imminent threat to the health and safety. A city or county cannot enforce the moratorium until HCD approves it.
- Imposing or enforcing design standards established on or after January 1, 2018, that are not objective design standards.
- Limiting the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected county or affected city, as applicable.
- Capping the number of housing units that can be approved or constructed either annually or for some other time period.
- Limiting the population of the affected county or affected city, as applicable.

However, a local government may change land use designations or zoning ordinances to allow a less intensive use if it concurrently increases intensity elsewhere it ensure that there is no net loss of residential capacity. SB 330 also allows a local government to enact a policy that prohibits commercial use of land that is designated for residential use, such as short-term occupancy of a residence.

SB 330 also prohibits an affected city or county from:

- Imposing any new, or increasing or enforcing any existing, requirement that a proposed housing development include parking.
- Charging a development fee or exaction, including water or sewer connection fees, in an amount that exceeds the amount that would have applied to the project on January 1, 2018, except if that fee or exaction is indexed to inflation, or if that fee is charged in lieu of an inclusionary housing requirement.
- Charging any development fees or exactions to deed-restricted units affordable to lower income persons and families, as defined.

An affected city or county cannot deny a housing project solely because the applicant does not pay a fee that is prohibited by the bill.

SB 330 provides that if the affected county or affected city approves an application for a conditional use permit for a proposed housing development project and that project would have

been eligible for a higher density under the affected county's or affected city's general plan land use designation and zoning ordinances as in effect prior to January 1, 2018, the affected county or affected city must allow the project at that higher density.

A development that would require demolition of specified types of affordable housing units or rental units cannot benefit from SB 330's provisions unless (1) the developer agrees to provide relocation benefits to the current residents and offers them first right of refusal in the new development, and (2) the development is at least as dense as the existing residential use of property.

SB 330 nullifies any development policy, standard, or condition enacted on or after January 1, 2018, that does not comply with the above prohibitions. The bill states that it must be construed broadly to maximize the development of housing, and that any exceptions shall be construed narrowly.

SB 330 applies its provisions to the electorate of an affected city or county, and voids any voter initiative or other policy that requires local voter approval for an increase the allowable intensity of housing, to establish housing as an allowable use, or to provide services and infrastructure necessary to develop housing.

SB 330 exempts the Very High Fire Hazard Severity Zone, as defined in existing law, from its provisions, and provides that it does not affect the California Coastal Act of 1976, nor does it prevent the operation of CEQA.

Substandard buildings. SB 330 also establishes a process for legalizing occupied substandard buildings. The bill requires HCD to develop building standards and other rules that apply to an occupied substandard building, defined to be a building in which one or more persons reside that an enforcement agency finds is in violation of any health and safety requirements. SB 330 applies these standards, once developed, in lieu of the requirements that apply to buildings under existing law. The standards developed by HCD must:

- Require that an occupied substandard building include adequate sanitation and exit facilities and comply with seismic safety standards;
- Permit those conditions prohibited under existing substandard building laws that do not endanger the life, limb, health, property, safety, or welfare of the public or the occupant; and
- Meet rules and regulations developed by the State Fire Marshal.

SB 330 deems the occupied substandard building in compliance with state building codes and health and safety laws if it meets the substandard building requirements developed by HCD for a period of seven years. After that time, the current building standards in force at the time apply.

SB 330 sunsets all its provisions on January 1, 2030 and provides throughout the bill that nothing in the bill supersedes, limits, or otherwise modifies the requirements of CEQA. The bill also states that its provisions are severable, makes technical and conforming changes, and includes findings and declarations to support its purposes.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. California is in the midst of a housing crisis. Rents across the state significantly exceed the rest of the United States, and homeownership has fallen to abysmal levels. Demand is clearly high, but builders find themselves unable to meet that demand because of local rules that limit the number of units or simply prohibit building altogether. At a time when housing is so desperately needed, there are some local policies that should just be off limits. SB 330 is a targeted approach that prohibits the most egregious practices in the areas that are hardest hit by the housing crisis. It repeals local voter initiatives enacted by NIMBYs that have prevented well-meaning local officials from taking the steps they need to ensure that housing can get built. It prevents local governments from downzoning unless they upzone elsewhere, and it stops them from changing the rules on builders who are in the midst of going through the approval process. SB 330 also limits the application of parking ratios and design standards that drive up the cost of building. These are not uncontroversial changes, but SB 330 sunsets its provisions so that the Legislature can evaluate its effectiveness. The first rule of holes says that when you're in one, stop digging: SB 330 applies this principle to one of the state's greatest challenges.

2. Home rule. California is a diverse state, with 482 cities and 58 counties. Local elected officials for each of those municipalities are charged by the California Constitution with protecting their citizens' welfare. One chief way local governments do this is by exercising control over what gets built in their community. Local officials weigh the need for new housing against the concerns and desires of their constituents. Where appropriate, those officials impose enact ordinances to shape their communities or set standards to make sure that the impacts of new development are considered and mitigated, based on local conditions. SB 330 runs roughshod over the unique features of California's communities by imposing blanket prohibitions on certain types of development regulation.

3. Time marches on. Local governments update their development policies and standards over time to reflect new circumstances within their jurisdiction or to respond to mistakes made in the past. In some cases, this may mean amending those standards while a city or county is actively considering a project for approval. SB 330 freezes in time the standards that were in place when a complete initial application, a new term created in the bill, is filed. But these completed applications do not include all the information a local government needs to understand a development's impacts, make a decision on the project, or to even necessarily know which standards apply to it. That's why it's important to have a completed *final* application. Should the Legislature prevent new ordinances from applying before a local government has a chance to understand the impacts of a development?

4. Power to the people. In 1911, California voters amended the Constitution to provide voters the power to enact initiatives and referenda. The voter initiative is a "reserved power;" it is not a right granted to them, but a power reserved by them. As such, the power of initiative is integral to California's political process. SB 330 removes the ability of local elected officials, and more importantly, local voters, to enact new growth management ordinances or even enforce existing ones. Locals adopt these measures for a variety of reasons, some more noble than others: for example, some are adopted out of environmental concerns, such as preventing sprawl or

reducing pressure to convert agricultural land to urban uses, while others are intended to block new neighbors from moving in. To avoid universally overturning the will of the voters and to draw a distinction between some, the Committee may wish to consider amending SB 330 to allow the continuation some duly adopted growth management ordinances, such as those that may need enhanced open-space protections, that still allow for affordable housing development, and that have been in effect for a longer period of time.

5. Gridlock. Ask any local elected official: Californians love their cars and consider it of paramount importance that they have somewhere to park them. For this reason, many local governments impose minimum parking requirements. But building new parking is expensive and potentially increases the cost of new development. Developers, for their part, would prefer to only build the parking they absolutely need to include in order to rent or sell their units. SB 330 voids local parking requirements in areas that it affects, regardless of whether residents can realistically go without cars. The Committee may wish to consider amending SB 330 to allow some parking requirements to remain in force for developments that aren't close to transit or are built in smaller cities that may not have the density of amenities to allow going car-free, or otherwise allowing local governments to impose some parking limits where they are truly needed.

6. Time is money. Developers face lots of costs when they try to get a project built: the "hard" construction costs of the actual structure, plus the "soft" costs of completing all the procedural steps and documentation that are needed to secure approval, plus the time value of money. SB 330 aims to reduce these costs in several ways, including by imposing a 12-month time limit on approval and limiting the number of hearings on development applications that are consistent with local zoning to three. But this reduction in the number of hearings constrains public input on new developments. Given that the bill caps the total time to approval, developers' soft costs may be sufficiently reduced to encourage new production without having to limit public comment. The Committee may wish to consider amending SB 330 to increase or remove the limit on the number of hearings allowed on development approvals that is imposed by the bill.

7. Whither general plans? The general plan is often called the "constitution for future development." It serves an important role in shaping the location and type of development that will occur, ensuring that there is adequate infrastructure to support that development, providing adequate open space, and mitigating future risks from fire, floods, and climate change. Zoning ordinances then effectuate the requirements in the housing element and general plan—those ordinances are specific where the general plan is, well, general. SB 330 provides that a project isn't inconsistent with local zoning if it meets the objective standards for density and other metrics in the general plan, but that misunderstands how general plans and zoning ordinances are applied. For example, a general plan may specify a range of densities for an area, which is only then specifically applied through the zoning ordinance. AB 3194 (Daly) of last year initially made similar changes to the HAA as SB 330 does, but was amended to more accurately reflect the way zoning works in practice. The Committee may wish to consider amending SB 330 to track the changes made in the final version of AB 3194.

8. Pay the man. Local governments have seen their revenues significantly constrained over the past several decades. Local governments have seen their sources of revenue slashed by a series of propositions, while demand for public services have increased. As a result, cities and counties follow a simple principle: new developments should pay for the impacts that they have on the community and the burden they impose on public services. Developer fees pay for important public services, including schools, new infrastructure for water and wastewater, roads, transit,

and parks. SB 330 prevents most increases in fees, even if they follow the stringent requirements of the Constitution and state law, and outright exempts affordable units, even though those units are likely to generate similar demands for public services. Without the ability to charge appropriate fees, residents may find that their services are scaled back.

9. Mandate. The California Constitution generally requires the state to reimburse local agencies for their costs when the state imposes new programs or additional duties on them. Because SB 330 expands the penalties under state housing law and requires new duties of local planning officials, Legislative Counsel says it creates a new state mandate. But the bill disclaims the state's responsibility for reimbursing local governments for enforcing these new crimes. That's consistent with the California Constitution, which says that the state does not have to reimburse local governments for the costs of new crimes (Article XIIIB, 6[a] [2]). SB 330 also says that if the Commission on State Mandates determines that the bill imposes a reimbursable mandate, reimbursement must be made pursuant to existing statutory provisions.

10. Charter city. The California Constitution allows cities that adopt charters to control their own "municipal affairs." In all other matters, charter cities must follow the general, statewide laws. Because the Constitution doesn't define "municipal affairs," the courts determine whether a topic is a municipal affair or whether it's an issue of statewide concern. SB 330 says that its statutory provisions apply to charter cities. To support this assertion, the bill includes a legislative finding that the provision of adequate housing, in light of the severe shortage of housing at all income levels in this state, is a matter of statewide concern.

11. Double referral. The Senate Rules Committee has ordered a double referral of SB 330: first to the Governance and Finance Committee to hear issues relating to local permitting, and then to the Senate Housing Committee.

12. Related legislation. The Legislature is considering numerous bills to increase the production of housing in the state. Most notably, SB 4 (McGuire) and SB 50 (Wiener), increase zoning near transit and in other parts of the state.

Support and Opposition (4/5/19)

Support: Bay Area Council; Bridge Housing Corporation; Building Industry Association of the Bay Area; California Building Industry Association; California Community Builders; California Yimby; Enterprise Community Partners, Inc.; Facebook, Inc.; Silicon Valley At Home (Sv@Home); TMG Partners.

Opposition: League of California Cities.

-- END --

SB-330 Housing Crisis Act of 2019. (2019-2020)

Date Published: 04/04/2019 09:00 PM

AMENDED IN SENATE APRIL 04, 2019

AMENDED IN SENATE MARCH 25, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL No. 330

Introduced by Senator Skinner

February 19, 2019

An act to amend ~~Sections 65589.5 and 65943 of, to add Sections 65941.1 and 65950.2 to, and~~ *Section 65589.5 of, to amend, repeal, and add Section 65943 of,* to add and repeal Sections ~~65358.5, 65452.5, 65850.10,~~ 65905.5, 65913.3, ~~and 65913.10 of,~~ *65913.10, 65941.1, and 65950.2 of, and to add and repeal Chapter 12 (commencing with Section 66300) of Division 1 of Title 7 of,* the Government Code, and to add and repeal Section 17921.8 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 330, as amended, Skinner. Housing Crisis Act of 2019.

~~(1)The Planning and Zoning Law, among other things, requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that relates to its planning. That law authorizes the legislative body, if it deems it to be in the public interest, to amend all or part of an adopted general plan, as provided. That law also authorizes the legislative body of any county or city, pursuant to specified procedures, to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, open space, and other purposes.~~

~~This bill, until January 1, 2030, with respect to land where housing is an allowable use, would prohibit the legislative body of a county or city, defined to include the electorate exercising its local initiative or referendum power, in which specified conditions exist, from enacting an amendment to a general plan or specific plan or adopting or amending any zoning ordinance that would have the effect of (A) changing the zoning classification of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing zoning district below what was allowed under the general plan or specific plan land use designation and zoning ordinances of the county or city as in effect on January 1, 2018; (B) imposing a moratorium on housing development within all or a portion of the jurisdiction of the county or city, except as provided; (C) imposing design standards that are more costly than those in effect on January 1, 2019; or (D) establishing or implementing any provision that limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within the county or city. The bill would, notwithstanding these prohibitions, allow a city or county to prohibit the commercial use of land zoned for residential use consistent with the authority of the city or county conferred by other law. The bill would state that these prohibitions would apply to any zoning ordinance adopted or amended on or after January 1, 2018, and that any zoning ordinance adopted, or amendment to an existing ordinance or to an adopted general plan or specific plan, on or after that date that does not comply would be deemed void.~~

~~The bill would state that these prohibitions would prevail over any conflicting provision of the Planning and Zoning Law or other law regulating housing development in this state, except as specifically provided. The bill would also require that any exception to these provisions, including an exception for the health and safety of occupants of a housing development project, be construed narrowly. The bill would also declare any requirement to obtain local voter approval for specified purposes related to housing development against public policy and void.~~

~~(2)Existing law, the Permit Streamlining Act, requires public agencies to approve or disapprove of a development project within certain timeframes, as specified. The act requires a public agency, upon its determination that an application for a development project is incomplete, to include a list and a thorough description of the specific information needed to complete the application. Existing law authorizes the applicant to submit the additional material to the public agency, requires the public agency to determine whether the submission of the application together with the submitted materials is complete within 30 days of receipt, and provides for an appeal process from the public agency's determination. Existing law requires a final written determination by the agency on the appeal no later than 60 days after receipt of the applicant's written appeal.~~

~~This bill would provide that a housing development project, as defined, shall be deemed to have submitted a complete initial application upon providing specified information about the proposed project to the city or county from which approval for the project is being sought and would require the Department of Housing and Community Development to adopt a standardized form that applicants for housing development projects may use for that purpose, as specified.~~

~~The bill would require the lead agency, as defined, if the application is determined to be incomplete, to provide the applicant with an exhaustive list of items that were not complete, as specified.~~

~~The bill would provide that all deadlines in the Permit Streamlining Act are mandatory. The bill would prohibit a local agency from requiring more than 3 public hearings in total to consider and take final action on all of the land use approvals and entitlements necessary to approve and complete a proposed housing development project if the project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time a complete initial application was submitted, as specified.~~

~~(3)~~

(1) The Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based on a preponderance of the evidence in the record. The act specifies that one way to satisfy that requirement is to make findings that the housing development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use

designation as specified in any element of the general plan as it existed on the date the application was deemed complete. *The act requires a local agency that proposes to disapprove a housing development project that complies with applicable, objective general plan and zoning standards and criteria that were in effect at the time the application was deemed to be complete, or to approve it on the condition that it be developed at a lower density, to base its decision upon written findings supported by substantial evidence on the record that specified conditions exist, and places the burden of proof on the local agency to that effect. The act requires a court to impose a fine on a local agency under certain circumstances and requires that the fine be at least $10,000 per housing unit in the housing development project on the date the application was deemed complete.*

~~The bill would, instead, provide that one way to satisfy that requirement is for the local agency to make those findings in regard to any element of the general plan as it existed on the date a complete initial application was submitted, as specified.~~

~~The act requires a local agency that proposes to disapprove a housing development project that complies with applicable, objective general plan and zoning standards and criteria that were in effect at the time the application was deemed to be complete, or to approve it on the condition that it be developed at a lower density, to base its decision upon written findings supported by substantial evidence on the record that specified conditions exist, and places the burden of proof on the local agency to that effect.~~

~~The bill would, instead, require the objective general plan zoning standards and criteria to be determined by what was in effect at the time a complete initial application was submitted, and would make conforming changes in the provisions relating to the burden of proof.~~

This bill, until January 1, 2030, would specify that an application is deemed complete for these purposes if a complete initial application was submitted, as described below.

Existing law authorizes the applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization to bring an action to enforce the Housing Accountability Act. If, in that action, a court finds that a local agency failed to satisfy the requirement to make the specified findings described above, existing law requires the court to issue an order or judgment compelling compliance with the act within 60 days, as specified.

~~The bill~~

This bill, until January 1, 2030, would additionally require a court to issue the order or judgment previously described if the local agency required or attempted to require certain housing development projects to comply with an ordinance, policy, or standard not adopted and in effect when a complete initial application was submitted.

Existing law authorizes a local agency to require a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need, as specified.

~~The bill~~

This bill, until January 1, 2030, would, notwithstanding those provisions or any other ~~law,~~ *law and* with certain exceptions, require that a housing development project only be subject to the ordinances, policies, and standards adopted and in effect when a complete initial application is submitted, except as specified.

~~(4)~~

(2) The Planning and Zoning Law, except as provided, requires that a public hearing be held on an application for a variance from the requirements of a zoning ordinance, an application for a conditional use permit or equivalent development permit, a proposed revocation or modification of a variance or use permit or equivalent development permit, or an appeal from the action taken on any of those applications. That law requires that notice of a public hearing be provided in accordance with specified procedures.

This bill, until January 1, 2030, would prohibit a city or county from conducting more than 3 de novo hearings held pursuant to these provisions, or any other law, ordinance, or regulation requiring a public hearing, ~~on an~~

~~application for a zoning variance or a conditional use permit or equivalent development permit for a housing development project.~~ *if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time a complete initial application was submitted, as described below.* The bill would require the city or county to consider and either approve or disapprove the housing development project at any of the 3 hearings consistent with the applicable timelines under the Permit Streamlining Act, but would require the city or county to either approve or disapprove the permit within 12 months from when the date on which the application is deemed complete, as provided.

~~(5)~~

(3) The Planning and Zoning Law requires a county or city to designate and zone sufficient vacant land for residential use with appropriate standards, as provided. That law also authorizes a development proponent to submit an application for a development that is subject to a specified streamlined, ministerial approval process and not subject to a conditional use permit if the development satisfies certain objective planning standards.

This bill, until January 1, 2030, with respect to land where housing is an allowable use, would prohibit a county or city in which specified conditions exist from ~~(A) changing the general plan designation or zoning classification of a parcel or parcels of property to a less intensive classification or reducing the intensity of land use within an existing zoning district below what was allowed under the general plan land use designation or zoning ordinances of the city or county as in effect on January 1, 2018, with respect to a housing development project for which the application is deemed complete; (B) imposing a moratorium, or enforce an existing moratorium, on housing development within all or a portion of the jurisdiction of the county or city, except as provided; (C)~~ *(A)* imposing any new, increasing or enforcing any existing, requirement that a proposed housing development include ~~parking; (D)~~ *parking or (B)* charging fees, as defined, for the approval of a housing development project in excess of specified amounts, or charging any fee in connection with the approval of units within the housing development that meet specified affordability ~~criteria; or (E) establishing a maximum number of conditional use or other discretionary permits that the county or city will issue for the development of housing within all or a portion of the county or city or otherwise imposing or enforcing a cap on the number of housing units within or the population of the county or city. The bill would also deem an application for a permit for a proposed housing development project to be consistent and in compliance with the general plan land use designation and zoning ordinances of a city or county, if a reasonable person could have found that the application would have been consistent and in compliance with the general plan land use designation and zoning ordinances of the city or county as in effect on January 1, 2018.~~ *criteria.* If the city or county grants a conditional use permit approving a proposed housing development project and that project would have been eligible for a higher density under the city's or county's general plan land use designation and zoning ordinances as in effect on January 1, 2018, the bill would also require the city or county to allow the project at that higher density. The bill would require a project that requires the demolition of certain types of housing to comply with specified requirements, including the provision of relocation assistance and a right of first refusal in the new housing to displaced occupants.

The bill would state that these provisions would prevail over any conflicting provision of the Planning and Zoning Law or other law regulating housing development in this state, except as specifically provided. The bill would also require that any exception to these provisions, including an exception for the health and safety of occupants of a housing development project, be construed narrowly.

~~(6)~~

(4) The *Permit Streamlining Act, which is part of the* Planning and Zoning ~~Law~~ *Law,* requires each state agency and each local agency to compile one or more lists that specify in detail the information that will be required from any applicant for a development project. That law requires the state or local agency to provide copies of this information available to all applicants for development projects and to any persons who request the information.

The bill, ~~with respect to an application for a conditional use permit, zoning variance, or any other discretionary permit for a housing development project that is submitted to any city, including a charter city, or county that is not otherwise subject to the provisions described in (3), above, would (A) prohibit enforcement of any zoning ordinance adopted, amendment to an existing zoning ordinance or general plan, or any other standard adopted or amendment to an existing standard after the date on which the application for that housing~~

~~development project is deemed complete; (B) prohibit any fee, as defined, in excess of the amount of fees or other exactions that applied to the proposed housing development project at the time the application for that housing development project is deemed complete; and (C)~~ *until January 1, 2030,* for purposes of any state or local law, ordinance, or regulation that requires a city or county to determine whether the site of a proposed housing development is a historic site, would require the city or county to make that determination, which would remain valid for the pendency of the housing development, at the time the application is deemed complete. The ~~bill~~ *bill, until January 1, 2030,* would *also* require that each local agency make copies of any above-described list with respect to information required from an applicant for a housing development project available both (A) in writing to those persons to whom the agency is required to make information available and (B) publicly available on the internet website of the local agency. ~~The bill would repeal these provisions as of January 1, 2030.~~

(5) The Permit Streamlining Act requires public agencies to approve or disapprove of a development project within certain timeframes, as specified. The act requires a public agency, upon its determination that an application for a development project is incomplete, to include a list and a thorough description of the specific information needed to complete the application. Existing law authorizes the applicant to submit the additional material to the public agency, requires the public agency to determine whether the submission of the application together with the submitted materials is complete within 30 days of receipt, and provides for an appeal process from the public agency's determination. Existing law requires a final written determination by the agency on the appeal no later than 60 days after receipt of the applicant's written appeal.

This bill, until January 1, 2030, would provide that a housing development project, as defined, shall be deemed to have submitted a complete initial application upon providing specified information about the proposed project to the city or county from which approval for the project is being sought and would require the Department of Housing and Community Development to adopt a standardized form that applicants for housing development projects may use for that purpose, as specified. The bill would provide that a housing development project would not be deemed to have submitted a complete initial application under these provisions if, following the initial application being deemed complete, the development proponent revises the project such that the number of residential units or square footage of construction changes by 20% or more, except as specified.

The bill, until January 1, 2030, would require the lead agency, as defined, if the application is determined to be incomplete, to provide the applicant with an exhaustive list of items that were not complete, as specified.

The bill, until January 1, 2030, would also provide that all deadlines in the Permit Streamlining Act are mandatory.

(6) The Planning and Zoning Law, among other things, requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that relates to its planning. That law authorizes the legislative body, if it deems it to be in the public interest, to amend all or part of an adopted general plan, as provided. That law also authorizes the legislative body of any county or city, pursuant to specified procedures, to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, open space, and other purposes.

This bill, until January 1, 2030, with respect to land where housing is an allowable use, except as specified, would prohibit a county or city, including the electorate exercising its local initiative or referendum power, in which specified conditions exist, from enacting a development policy, standard, or condition, as defined, that would have the effect of (A) changing the land use designation or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing zoning district below what was allowed under the general plan or specific plan land use designation and zoning ordinances of the county or city as in effect on January 1, 2018; (B) imposing or enforcing a moratorium on housing development within all or a portion of the jurisdiction of the county or city, except as provided; (C) imposing or enforcing new design standards established on or after January 1, 2018, that are not objective design standards, as defined; or (D) establishing or implementing certain limits on the number of permits issued by, or the population of, the county or city. The bill would, notwithstanding these prohibitions, allow a city or county to prohibit the commercial use of land zoned for residential use consistent with the authority of the city or county conferred by other law. The bill would state that these prohibitions would apply to any zoning ordinance adopted or

amended on or after January 1, 2018, and that any zoning ordinance adopted, or amendment to an existing ordinance or to an adopted general plan or specific plan, on or after that date that does not comply would be deemed void.

The bill would state that these prohibitions would prevail over any conflicting provision of the Planning and Zoning Law or other law regulating housing development in this state, except as specifically provided. The bill would also require that any exception to these provisions, including an exception for the health and safety of occupants of a housing development project, be construed narrowly. The bill would also declare any requirement to obtain local voter approval for specified purposes related to housing development against public policy and void.

(7) The State Housing Law, among other things, requires the Department of Housing and Community Development to propose the adoption, amendment, or repeal of building standards to the California Building Standards Commission, and to adopt, amend, and repeal other rules and regulations for the protection of the public health, safety, and general welfare of the occupant and the public, governing hotels, motels, lodging houses, apartment houses, and dwellings, and buildings and structures accessory thereto. That law specifies that the provisions of the State Housing Law and the building standards and rules and regulations adopted pursuant to that law apply in all parts of the state and requires specified entities within each city, county, or city and county to enforce within its jurisdiction those pertaining to the maintenance, sanitation, ventilation, use, or occupancy of apartment houses, hotels, or dwellings. A violation of the State Housing Law, or any building standard, rule, or regulation adopted pursuant to that law, is a misdemeanor.

This bill would require the department to propose the adoption, amendment, or repeal of building standards to the California Building Standards Commission, and to adopt, amend, or repeal other rules and regulations for the protection of the public health, safety, and general welfare of the occupant and the public, applicable to occupied substandard buildings, as defined, in lieu of the above-described building standards, rules, and regulations. The bill would provide that an occupied substandard building that complies with these alternative building standards, rules, and regulations is deemed to be in compliance with the State Housing Law, and the building standards, rules, and regulations adopted pursuant to that law, for a period of 7 years following the date on which the enforcement agency finds a violation of the State Housing Law or a related building standard, rule, or regulation. The bill would make these provisions inoperative, except as specified, on January 1, 2030, and repeal these provisions on January 1, 2037.

(8) This bill would include findings that the changes proposed by this bill ~~to the Planning and Zoning Law~~ address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(9) By imposing various new requirements and duties on local planning officials with respect to housing development, and by changing the scope of a crime under the State Housing Law, this bill would impose a state-mandated local program.

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

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

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

(10) This bill would provide that the provisions of the act are severable.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the Housing Crisis Act of 2019.

SEC. 2. (a) The Legislature finds and declares the following:

(1) California is experiencing a housing supply crisis, with housing demand far outstripping supply. In 2018, California ranked 49th out of the 50 states in housing units per capita.

(2) Consequently, existing housing in this state, especially in its largest cities, has become very expensive. Seven of the 10 most expensive real estate markets in the United States are in California. In San Francisco, the median home prices is $1.6 million.

(3) California is also experiencing rapid year-over-year rent growth with three cities in the state having had overall rent growth of ~~10%~~ *10 percent* or more year-over-year, and of the 50 United States cities with the highest United States rents, 33 are cities in California.

(4) California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over the next 7 years.

(5) The housing crisis has particularly exacerbated the need for affordable homes at prices below market rates.

(6) The housing crisis harms families across California and has resulted in all of the following:

(A) Increased poverty and homelessness, especially first-time homelessness.

(B) Forced lower income residents into crowded and unsafe housing in urban areas.

(C) Forced families into lower cost new housing in greenfields at the urban-rural interface with longer commute times and a higher exposure to fire hazard.

(D) Forced public employees, health care providers, teachers, and others, including critical safety personnel, into more affordable housing farther from the communities they serve, which will exacerbate future disaster response challenges in high-cost, high-congestion areas and increase risk to life.

(E) Driven families out of the state or into communities away from good schools and services, making the ZIP Code where one grew up the largest determinate of later access to opportunities and social mobility, disrupting family life, and increasing health problems due to long commutes that may exceed three hours per day.

(7) The housing crisis has been exacerbated by the additional loss of units due to wildfires in 2017 and 2018, which impacts all regions of the state. The Carr Fire in 2017 alone burned over 1,000 homes, and over 50,000 people have been displaced by the Camp Fire and the Woolsey Fire in 2018. This temporary and permanent displacement has placed additional demand on the housing market and has resulted in fewer housing units available for rent by low-income individuals.

(8) Individuals who lose their housing due to fire or the sale of the property cannot find affordable homes or rental units and are pushed into cars and tents.

(9) Costs for construction of new housing continue to increase. According to the Terner Center for Housing Innovation at the University of California, Berkeley, the cost of building a 100-unit affordable housing project in the state was almost $425,000 per unit in 2016, up from $265,000 per unit in 2000.

(10) Lengthy permitting processes and approval times, fees and costs for parking, and other requirements further exacerbate cost of residential construction.

(11) The housing crisis is severely impacting the state’s economy as follows:

(A) Employers face increasing difficulty in securing and retaining a workforce.

(B) Schools, universities, nonprofits, and governments have difficulty attracting and retaining teachers, students, and employees, and our schools and critical services are suffering.

(C) According to analysts at McKinsey and Company, the housing crisis is costing California $140 billion a year in lost economic output.

(12) The housing crisis also harms the environment by doing both of the following:

(A) Increasing pressure to develop the state's farm lands, open space, and rural interface areas to build affordable housing, and increasing fire hazards that generate massive greenhouse gas emissions.

(B) Increasing greenhouse gas emissions from longer commutes to affordable homes far from growing job centers.

(13) Homes, lots, and structures near good jobs, schools, and transportation remain underutilized throughout the state and could be rapidly remodeled or developed to add affordable homes without subsidy where they are needed with state assistance.

(14) Reusing existing infrastructure and developed properties, and building more smaller homes with good access to schools, parks, and services, will provide the most immediate help with the lowest greenhouse gas footprint to state residents.

(b) In light of the foregoing, the Legislature hereby declares a statewide housing emergency, to be in effect until January 1, 2030.

(c) It is the intent of the Legislature, in enacting the Housing Crisis Act of 2019, to do both of the following:

(1) Suspend certain restrictions on the development of new housing during the period of the statewide emergency described in subdivisions (a) and (b).

(2) Work with local governments to expedite the permitting of housing in regions suffering the worst housing shortages and highest rates of displacement.

~~SEC. 3.Section 65358.5 is added to the Government Code, to read:~~

~~65358.5.(a)As used in this section:~~

~~(1)"Affected county or city" means a county or city, including a charter city, for which the Department of Housing and Community Development determines, in any calendar year, that both of the following conditions apply:~~

~~(A)The average rate of rent is _____ percent higher than the fair market rent for the state, for the year.~~

~~(B)The vacancy rate for residential rental units is less than _____ percent.~~

~~(2)Notwithstanding any other law, "legislative body of an affected county or city" includes the electorate of an affected county or city exercising its local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the affected county or city.~~

~~(b)(1)Notwithstanding any other law, with respect to land where housing is an allowable use, the legislative body of an affected county or city shall not enact an amendment to an adopted general plan that would have any of the following effects:~~

~~(A)Changing the general plan land use designation of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation below what was allowed under the land use designation of the affected county or city as in effect on January 1, 2018. For purposes of this subparagraph, "less intensive use" is broadly defined to include, but is not limited to, reductions to height, density, or floor area ratio, or new or increased open space or lot size requirements, for property designated for residential use in the affected county's or city's general plan or other land use planning document.~~

~~(B)Imposing design standards that are more costly than those in effect on January 1, 2018.~~

~~(C)Imposing a moratorium on housing development, including mixed-use development, within all or a portion of the jurisdiction of the affected county or city, except pursuant to an urgency zoning ordinance that, in addition to the requirements of Section 65858, complies with the requirements of subparagraph (B) of paragraph (1) of subdivision (b) of Section 65850.10.~~

~~(D)Establishing or implementing any provision that:~~

~~(i)Limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected county or city.~~

~~(ii)Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period.~~

~~(iii)Limits the population of the affected county or city.~~

~~(2)This section shall apply to any amendment to an adopted general plan on or after January 1, 2018. Any amendment to a general plan on or after that date that does not comply with this section shall be deemed void.~~

~~(c)Notwithstanding subdivisions (b) and (d), the legislative body of an affected county or city may enact an amendment to an adopted general plan that would have the effect of prohibiting the commercial use of land that is zoned for residential use, including, but not limited to, short-term occupancy of a residence, consistent with the authority of the city or county conferred by or authorized by other law.~~

~~(d)(1)Except as provided in paragraph (3), this section shall prevail over any conflicting provision of this title or other law regulating housing development in this state.~~

~~(2)It is the intent of the Legislature that this section be broadly construed so as to maximize the development of housing within this state. Any exception to the requirements of this section, including an exception for the health and safety of occupants of a housing development project, shall be construed narrowly.~~

~~(3)This section shall not be construed as prohibiting the amendment of an adopted general plan in a manner that allows greater density, facilitates the development of housing, reduces the costs to a housing development project, or as otherwise necessary to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(e)For purposes of this section, an "objective standard" is one that involves no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application.~~

~~(f)Notwithstanding Section 9215, 9217, or 9323 of the Elections Code or any other provision of law, except the California Constitution, any requirement that local voter approval be obtained to increase the allowable density or intensity of housing, to establish housing as an allowable use, or to provide services and infrastructure necessary to develop housing, is hereby declared against public policy and void.~~

~~(g)Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.~~

~~(h)This section shall remain in effect only until January 1, 2030, and as of that date is repealed.~~

~~SEC. 4.Section 65452.5 is added to the Government Code, to read:~~

~~65452.5.(a)(1)For purposes of this section "affected county or city" means a county or city, and includes a charter city for which the Department of Housing and Community Development determines, in any calendar year, that both of the following conditions apply:~~

~~(A)The average rate of rent is _____ percent higher than the fair market rent for the state, for the year.~~

~~(B)The vacancy rate for residential rental units is less than _____ percent.~~

~~(2)Notwithstanding any other law, "legislative body of an affected county or city" includes the electorate of an affected county or city exercising its local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the affected county or city.~~

~~(b)(1)Notwithstanding any other law, with respect to land where housing is an allowable use, the legislative body of an affected county or city shall not enact an amendment to an adopted specific plan that would have any of the following effects:~~

~~(A)Changing the specific plan land use designation of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing specific plan land use designation below what was allowed under the land use designation of the affected county or city as in effect on January 1, 2018. For purposes of this subparagraph, "less intensive use" is broadly defined to include, but is not limited to, reductions to height, density, or floor area ratio, or new or increased open space or lot size requirements, for property designated for residential use in the affected county's or city's specific plan or other land use planning document.~~

~~(B)Imposing design standards that are not objective or that are more costly than those in effect on January 1, 2018.~~

~~(C)Imposing a moratorium on housing development, including mixed-use development, within all or a portion of the jurisdiction of the affected county or city, except pursuant to an urgency zoning ordinance that, in addition to the requirements of Section 65858, complies with the requirements of subparagraph (B) of paragraph (1) of subdivision (b) of Section 65850.10.~~

~~(D)Establishing or implementing any provision that:~~

~~(i)Limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected county or city.~~

~~(ii)Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period.~~

~~(iii)Limits the population of the affected county or city.~~

~~(2)This section shall apply to any amendment to a specific plan adopted on or after January 1, 2018. Any amendment to a specific plan on or after that date that does not comply with this section shall be deemed void.~~

~~(c)Notwithstanding subdivisions (b) and (d), the legislative body of an affected county or city may enact an amendment to an adopted specific plan that would have the effect of prohibiting the commercial use of land that is zoned for residential use, including, but not limited to, short-term occupancy of a residence, consistent with the authority of the city or county conferred by or authorized by other law.~~

~~(d)(1)Except as provided in paragraph (3), this section shall prevail over any conflicting provision of this title or other law regulating housing development in this state.~~

~~(2)It is the intent of the Legislature that this section be broadly construed so as to maximize the development of housing within this state. Any exception to the requirements of this section, including an exception for the health and safety of occupants of a housing development project, shall be construed narrowly.~~

~~(3)This section shall not be construed as prohibiting the amendment of an adopted specific plan in a manner that:~~

~~(A)Allows greater density.~~

~~(B)Facilitates the development of housing.~~

~~(C)Reduces the costs to a housing development project.~~

~~(D)Imposes mitigation measures as otherwise necessary to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(e)For purposes of this section, an "objective standard" is one that involves no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application.~~

~~(f)Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.~~

~~(g)This section shall remain in effect only until January 1, 2030, and as of that date is repealed.~~

~~**SEC. 5.**~~ ***SEC. 3.*** Section 65589.5 of the Government Code is amended to read:

65589.5. (a) (1) The Legislature finds and declares all of the following:

(A) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(B) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(C) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.

(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development,

and affordability of housing for all income levels, including this section.

(K) The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(3) It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.

(b) It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the housing development project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the

emergency shelter financially infeasible.

(4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The housing development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date ~~a complete initial application was submitted pursuant to Section 65941.1,~~ *the application was deemed complete,* and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date ~~a complete initial application was submitted pursuant to Section 65941.1~~ *the application was deemed complete* shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the housing development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low, low-, and moderate-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency

from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) Notwithstanding any other law, until January 1, 2030, "deemed complete" means that the applicant has submitted a complete initial application pursuant to Section 65941.1.

~~(5)~~

(6) "Disapprove the housing development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(B) Fails to comply with the time periods specified in subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

~~(6)~~

(7) "Lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

~~(7)"Objective~~

(8) Until January 1, 2030, "objective standard or criteria" means one that involves no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time ~~a complete initial application was submitted pursuant to Section 65941.1,~~ *the housing development project's application is deemed complete,* that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by a preponderance of the evidence in the record.

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that a complete initial application was submitted pursuant to Section 65941.1, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

(B) If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(k) (1) (A) (i) The applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that any of the following are met, the court shall issue an order pursuant to clause (ii):

(I) The local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making findings supported by a preponderance of the evidence.

(II) The local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section or without making findings supported by a preponderance of the evidence.

(III) ~~The~~ *(ia) Subject to sub-subclause (ib), the* local agency, in violation of subdivision (o), required or attempted to require a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a complete initial application was submitted.

(ib) This subclause shall become inoperative on January 1, 2030.

(ii) If the court finds that one of the conditions in clause (i) is met, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section.

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount of ten thousand dollars ($10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit

and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

(ii) If any money derived from a fine imposed pursuant to this subparagraph is deposited in the Housing Rehabilitation Loan Fund, then, notwithstanding Section 50661 of the Health and Safety Code, that money shall be available only upon appropriation by the Legislature.

(C) If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and to approve the housing development project, in which case the application for the housing development project, as proposed by the applicant at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed to be approved unless the applicant consents to a different decision or action by the local agency.

(2) For purposes of this subdivision, "housing organization" means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency. A housing organization shall be entitled to reasonable attorney's fees and costs if it is the prevailing party in an action to enforce this section.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. For purposes of this section, "bad faith" includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) (1) ~~Except as provided in paragraph (2),~~ *Subject to paragraphs (2) and (5),* a housing development

project shall be subject only to the ordinances, policies, and standards adopted and in effect when a complete initial application is submitted pursuant to Section 65941.1.

(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the initial application is submitted pursuant to Section 65941.1 in the following circumstances:

(A) In the case of a fee, charge, or other monetary exaction, to an increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.

(B) A preponderance of the evidence in the record establishes that subjecting the housing development project to an ordinance, policy, or standard beyond those in effect when a complete initial application is submitted is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, as defined in subparagraph (A) of paragraph (1) of subdivision (j), and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Subjecting the housing development project to an ordinance, policy, or standard beyond those in effect when a complete initial application is submitted is necessary to mitigate an impact of the project to a less than significant level pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(D) The housing development project has not commenced construction within three years following the date that the project received final approval. For purposes of this subparagraph, "final approval" means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:

(i) The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition, request for reconsideration, or legal challenge having been filed.

(ii) If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

(E) The housing development project is revised following submittal of a complete initial application pursuant to Section 65941.1 such that the number of residential units or square footage of construction ~~increases~~ *changes* by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver or similar provision.

(3) This subdivision does not prevent a local agency from subjecting additional units or square footage that result from project revisions occurring after a complete initial application is submitted pursuant to Section 65941.1 to the ordinances, policies, and standards adopted and in effect when the complete initial application was submitted.

(4) For purposes of this subdivision, "ordinances, policies, and standards" means general plan, zoning, and subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

(5) This subdivision shall become inoperative on January 1, 2030.

(p) This section shall be known, and may be cited, as the Housing Accountability Act.

~~SEC. 6.Section 65850.10 is added to the Government Code, to read:~~

~~65850.10.(a)As used in this section:~~

~~(1)"Affected county or city" means a county or city, including a charter city, for which the department determines, in any calendar year, that both of the following conditions apply:~~

~~(A)The average rate of rent is _____ percent higher than the fair market rent for the state, for the year.~~

~~(B)The vacancy rate for residential rental units is less than _____ percent.~~

~~(2)Notwithstanding any other law, "legislative body of an affected county or city" includes the electorate of an affected county or city exercising its local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the affected county or city.~~

~~(b)(1)Notwithstanding any other law, with respect to land where housing is an allowable use, the legislative body of an affected county or city shall not adopt or amend any zoning ordinance that would have any of the following effects:~~

~~(A)Changing the zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing zoning district below what was allowed under the zoning ordinances of the affected county or city as in effect on January 1, 2018. For purposes of this subparagraph, "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, or new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, for property zoned for residential use in the affected county's or city's zoning ordinance.~~

~~(B)(i)Imposing a moratorium or similar restriction or limitation on housing development, including mixed-use development, within all or a portion of the jurisdiction of the affected county or city, other than to specifically protect against an imminent threat to the health and safety of persons residing in, or within the immediate vicinity of, the area subject to the moratorium or for projects specifically identified as existing restricted affordable housing.~~

~~(ii)The affected county or city shall not enforce a zoning ordinance imposing a moratorium or other similar restriction on or limitation of housing development until it has submitted the ordinance to, and received approval from, the department. The department shall approve a zoning ordinance submitted to it pursuant to this subparagraph only if it determines that the zoning ordinance satisfies the requirements of this subparagraph. If the department denies approval of a zoning ordinance imposing a moratorium or similar restriction or limitation on housing development as inconsistent with this subparagraph, that ordinance shall be deemed void.~~

~~(C)Imposing design standards that are not objective or that are more costly than those in effect on January 1, 2018.~~

~~(D)Establishing or implementing any provision that:~~

~~(i)Limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected county or city.~~

~~(ii)Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period.~~

~~(iii)Limits the population of the affected county or city.~~

~~(2)This section shall apply to any zoning ordinance adopted, or amendment to an existing ordinance, on or after January 1, 2018. Any zoning ordinance adopted, or amendment to an existing ordinance, on or after that date that does not comply with this section shall be deemed void.~~

~~(c)Notwithstanding subdivisions (b) and (d), the legislative body of an affected county or city may adopt or amend a zoning ordinance to prohibit the commercial use of land that is zoned for residential use, including, but not limited to, short-term occupancy of a residence, consistent with the authority conferred on the county or city by other law.~~

~~(d)(1)Except as provided in paragraph (3), this section shall prevail over any conflicting provision of this title or other law regulating housing development in this state.~~

~~(2)It is the intent of the Legislature that this section be broadly construed so as to maximize the development of housing within this state. Any exception to the requirements of this section, including an exception for the health and safety of occupants of a housing development project, shall be construed narrowly.~~

~~(3)This section shall not be construed as prohibiting the adoption or amendment of a zoning ordinance in a manner that:~~

~~(A)Allows greater density.~~

~~(B)Facilitates the development of housing.~~

~~(C)Reduces the costs to a housing development project.~~

~~(D)Imposes mitigation measures as necessary to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(e)For purposes of this section, an "objective standard" is one that involves no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application.~~

~~(f)Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.~~

~~(g)This section shall remain in effect only until January 1, 2030, and as of that date is repealed.~~

~~**SEC. 7.**~~***SEC. 4.*** Section 65905.5 is added to the Government Code, to read:

65905.5. (a) ~~A~~ *(1) Notwithstanding any other law, if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time a complete initial application was submitted pursuant to Section 65941.1, a* city or county shall not conduct more than three de novo hearings pursuant to Section 65905, or any other law, ordinance, or regulation requiring a public ~~hearing in connection with the approval of an application for a zoning variance or development permit, on an application for a zoning variance, conditional use permit, or equivalent development permit for a housing development project.~~ *hearing.* The city or county shall consider and either approve or disapprove the application at any of the three hearings allowed under this section consistent with the applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)), except ~~that~~ *that, subject to paragraph (2),* the city or county shall act to either approve or disapprove the permit within 12 months from when the date on which the application is deemed complete.

(2) Notwithstanding paragraph (1), the 12-month period shall be extended for a time period equal to the amount of time that elapses after a public agency has transmitted a determination regarding the sufficiency of an application until the applicant submits revised materials.

(b) For purposes of this section:

(1) "Deemed complete" means that the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.

(2) "Hearing" includes any public hearing conducted by the city or county with respect to the housing development project, whether by the legislative body of the city or county, the planning agency established pursuant to Section 65100, or any other agency, department, board, or commission of the city or county or any committee or subcommittee thereof.

(c) A housing development project shall not be found to be inconsistent, not in compliance, or not in conformity with the zoning, and the project shall not require rezoning, if the zoning does not allow the maximum residential use, density, and intensity allowable on the site by the land use or housing element of the general plan.

~~(c)~~

(d) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

~~(d)~~

(e) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

~~SEC. 8.~~***SEC. 5.*** Section 65913.3 is added to the Government Code, to read:

65913.3. (a) (1) As used in this ~~section, "affected county or~~ *section:*

(A) Except as otherwise provided in subparagraph (B), "affected city" means a ~~county or~~ city, including a charter city, for which the Department of Housing and Community Development determines, in any calendar year, that ~~both of the following conditions apply:~~ *the average of both of the following amounts exceeds ___:*

~~(A)The average rate of rent is _____ percent higher than the fair market rent for the state, for the year.~~

~~(B)The vacancy rate for residential rental units is less than _____ percent.~~

(i) The percentage by which the city's average rate of rent exceeded 130 percent of the national median rent in 2017, based on the federal 2013-2017 American Community Survey 5-year Estimates.

(ii) The percentage by which the vacancy rate for residential rental units is less than the national vacancy rate, based on the federal 2013-2017 American Community Survey 5-year Estimates.

(B) Notwithstanding subparagraph (A), "affected city" does not include any city that has a population of 5,000 or less and is not located within an urban core.

(2) "Affected county" means a county in which at least 50 percent of the cities located within the territorial boundaries of the county are affected cities.

~~(2)~~

(3) Notwithstanding any other law, for purposes of any action that this section prohibits an affected ~~city or~~ county *or an affected city* from doing, "affected county or *affected* city" includes the electorate of the affected county or ~~city~~ *affected city, as applicable,* exercising its local initiative or referendum power with respect to any act that is subject to that power by other law, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the affected county or *affected* city.

(b) Notwithstanding any other law, with respect to land where housing is an allowable use, an affected county or ~~city~~ *an affected city, as applicable,* shall not do ~~any~~ *either* of the following:

~~(1)With respect to a proposed housing development project for which the affected county or city has received an application for a permit and once that application is deemed complete, change the general plan designation or zoning classification of a parcel or parcels of property to a less intensive classification or reduce the intensity of land use within an existing zoning district below what was allowed under the general plan land use designation or zoning ordinances of the affected county or city as in effect on January 1, 2018. For purposes of this paragraph:~~

~~(A)"Deemed complete" means that the application for a housing development has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.~~

~~(B)"Less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, or new or increased open space or lot size requirements, for property zoned for residential use in the affected county's or city's general plan or other planning document.~~

~~(2)Impose a moratorium, or enforce an existing moratorium, on housing development, including mixed-use development, within all or a portion of the jurisdiction of the affected county or city, except pursuant to a zoning ordinance that complies with the requirements of subparagraph (B) of paragraph (1) of subdivision (b) of Section 65850.10.~~

~~(3)~~

(1) Impose any new, or increase or enforce any existing, requirement that a proposed housing development include parking.

~~(4)~~

(2) (A) Subject to ~~subparagraph (B),~~ *subparagraphs (B) and (C),* charge any fee, as that term is defined in subdivision (b) of Section 66000, or impose any other exaction imposed in connection with the approval of a development project for the approval of a housing development project in excess of the amount of fees or other exactions that would have applied to the proposed housing development project as of January 1, 2018. For purposes of this subparagraph, "other exaction" includes, but is not limited to, sewer and water connection charges, community benefit charges, and requirements that the project include public art.

(B) Notwithstanding subparagraph ~~(A),~~ *(A) and except as otherwise provided in subparagraph (C),* the affected county or *affected* city shall not charge any fee, as that term is defined in subdivision (b) of Section 66000, in connection with the approval of any unit within a housing development that meets the following criteria:

(i) The unit is affordable to persons and families with a household income equal to or less than 80 percent of the area median income.

(ii) The unit is subject to a recorded affordability restriction for at least 55 years.

(C) Notwithstanding subparagraph (A), an affected city or affected county may impose an increase in a fee, charge, or other monetary exaction resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee, charge, or other monetary exaction.

~~(C)~~

(D) Notwithstanding any provision of this paragraph to the contrary, an affected county or affected city may charge a fee that is in lieu of a housing development's compliance with any requirement imposed by the affected county or affected city, as applicable, to include a certain percentage of affordable units.

(E) An affected county or *affected* city shall not deny or refuse to approve a housing development project on the basis of an applicant's failure or refusal to pay an amount of fee or other exaction that exceeds the amount allowed under subparagraph (A) or any fee that the affected county or *affected* city is prohibited from charging pursuant to subparagraph (B).

~~(5)Establish or enforce a maximum number of conditional use or other discretionary permits that the affected county or city will issue for the development of housing within all or a portion of the affected county or city, or otherwise impose or enforce any cap on the maximum number of housing units within or population of the affected county or city.~~

~~(c)(1)Notwithstanding any other law, a housing development project shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project would have been consistent, compliant, or in conformity with the plan, program, policy, ordinance, standard, requirement, or other similar provision of the affected county or city as in effect on January 1, 2018.~~

~~(2)~~

(c) A housing development project shall not be found to be inconsistent, not in compliance, or not in conformity with the zoning in effect as of January 1, 2018, and the project shall not require rezoning, if the zoning did not allow the maximum residential use, density, and intensity allowable on the site by the land use or housing element of the general plan as of that date.

(d) If the affected county or *affected* city approves an application for a conditional use permit for a proposed housing development project and that project would have been eligible for a higher density under the affected county's or *affected* city's general plan land use designation and zoning ordinances as in effect prior to January 1, 2018, the affected county or *affected* city shall allow the project at that higher density.

(e) (1) Notwithstanding any other provision of this section, if a proposed housing development project subject

to this section would require the demolition of residential property as described in paragraph (2), an affected county or *an affected* city may only approve that housing development if all of the following apply:

(A) The proposed housing development project is at least as dense as the existing residential use of the property.

(B) The developer agrees to provide both of the following:

(i) Relocation benefits to the occupants of those affordable residential rental units.

(ii) A right of first refusal for units available in the new housing development project at rents commensurate with the occupants' previous rent or compensation to previous occupants who will be displaced.

(C) The affected county or city is not otherwise prohibited from approving the demolition of the affordable rental units pursuant to subparagraph (A).

(2) For purposes of this subdivision, "residential property" means:

(A) Residential rental units that are any of the following:

(i) Assisted pursuant to Section 8 of the United States Housing Act of 1937.

(ii) Subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) Affordable to persons with a household income equal to or less than 80 percent of the area median income.

(B) A residential structure containing residential dwelling units currently occupied by tenants, or were previously occupied by tenants if those dwelling units were withdrawn from rent or lease in accordance with Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 and subsequently offered for sale by the subdivider or subsequent owner of the property.

(f) (1) Except as provided in ~~paragraph (3),~~ *paragraphs (3) and (4),* this section shall prevail over any conflicting provision of this title or other law regulating housing development in this state.

(2) It is the intent of the Legislature that this section be construed so as to maximize the development of housing within this state. Any exception to the requirements of this section, including an exception for the health and safety of occupants of a housing development project, shall be construed narrowly.

(3) This section shall not be construed as prohibiting planning standards that allow greater density in or reduce the costs to a housing development project or are necessary to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) This section shall not apply to a housing development project located within a very high fire hazard severity zone. For purposes of this paragraph, "very high fire hazard severity zone" has the same meaning as provided in Section 51177.

(g) *(1)* Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(h) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

~~SEC. 9.Section 65913.10 is added to the Government Code, to read:~~

~~65913.10.(a)Each city and each county shall make copies of any list compiled pursuant to Section 65940 with respect to information required from an applicant for a housing development project available both (1) in writing to those persons to whom the agency is required to make information available under subdivision (a) of that section, and (2) publicly available on the internet website of the city or county.~~

~~(b)With respect to an application for a conditional use permit, zoning variance, or any other discretionary~~

~~permit for a housing development project that is submitted to any city, including a charter city, or county that is not otherwise subject to Section 65913.3, the following shall apply:~~

~~(1)The city or county shall not, with respect to the housing development project for which the application is filed, enforce or require the applicant to comply with any zoning ordinance adopted, an amendment to an existing zoning ordinance or general plan, or any other standard adopted or amendment to an existing standard after the date on which the application for that housing development project is deemed complete.~~

~~(2)(A)The city or county shall not, with respect to the housing development project for which the application is filed, charge any fee, as that term is defined in subdivision (b) of Section 66000, in excess of the amount of fees or other exactions that applied to the proposed housing development project at the time the application for that housing development project is deemed complete.~~

~~(B)The county or city shall not deny or refuse to approve a housing development project on the basis of an applicant's failure or refusal to pay an amount or fee that exceeds the amount allowed under this paragraph.~~

~~(3)For purposes of any state or local law, ordinance, or regulation that requires the city or county to determine whether the site of a proposed housing development project is a historic site, the city or county shall make that determination at the time the application for the housing development project is deemed complete. A determination as to whether a parcel of property is a historic site shall remain valid during the pendency of the housing development project for which the application was made.~~

~~(c)For purposes of this section, "deemed complete" means that the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.~~

~~(d)Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.~~

~~(e)This section shall remain in effect only until January 1, 2030, and as of that date is repealed.~~

SEC. 6. *Section 65913.10 is added to the Government Code, to read:*

65913.10. *(a) For purposes of any state or local law, ordinance, or regulation that requires the city or county to determine whether the site of a proposed housing development project is a historic site, the city or county shall make that determination at the time the application for the housing development project is deemed complete. A determination as to whether a parcel of property is a historic site shall remain valid during the pendency of the housing development project for which the application was made.*

(b) For purposes of this section, "deemed complete" means that the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.

(c) (1) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(d) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

~~**SEC. 10.**~~***SEC. 7.*** Section 65941.1 is added to the Government Code, to read:

65941.1. (a) A housing development project, as defined in paragraph (2) of subdivision (h) of Section 65589.5, shall be deemed to have submitted a complete initial application upon providing the following information about the proposed project to the city, county, or city and county from which approval for the project is being sought:

(1) The specific location.

(2) The major physical alterations to the property on which the project is to be located.

(3) A site place showing the location on the property, as well as the massing, height, and approximate square footage, of each building that is to be occupied.

(4) The proposed land uses by number of units or square feet using the categories in the applicable zoning ordinance.

(5) The proposed number of parking spaces.

(6) Any proposed point sources of air or water pollutants.

(7) Any species of special concern known to occur on the property.

(8) Any historic or cultural resources known to exist on the property.

(9) The number of below market rate units and their affordability levels.

(b) The Department of Housing and Community Development shall adopt a standardized form that applicants for housing development projects may use for the purpose of satisfying the requirements for submittal of a complete initial application. Adoption of the standardized form shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A housing development project shall not be deemed as having submitted a completed initial application if, following the initial application being deemed complete, the development proponent revises the project such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision.

(d) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

~~**SEC. 11.**~~***SEC. 8.*** Section 65943 of the Government Code is amended to read:

65943. (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency's submittal requirement checklist. In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.

(b) Not later than 30 calendar days after receipt of the submitted materials described in subdivision (a), the public agency shall determine in writing whether the application as supplemented or amended by the submitted materials is complete and shall immediately transmit that determination to the applicant. In making this determination, the public agency is limited to determining whether the application as supplemented or amended includes the information required by the list and a thorough description of the specific information needed to complete the application required by subdivision (a). If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter.

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to

the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

(d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

(f) Each city and each county shall make copies of any list compiled pursuant to Section 65940 with respect to information required from an applicant for a housing development project available both (1) in writing to those persons to whom the agency is required to make information available under subdivision (a) of that section, and (2) publicly available on the internet website of the city or county.

(g) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 9. *Section 65943 is added to the Government Code, to read:*

65943. *(a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.*

(b) Not later than 30 calendar days after receipt of the submitted materials, the public agency shall determine in writing whether they are complete and shall immediately transmit that determination to the applicant. If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter.

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

(d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

(f) This section shall become operative on January 1, 2030.

~~**SEC. 12.**~~***SEC. 10.*** Section 65950.2 is added to the Government Code, to read:

65950.2. (a) Notwithstanding any other ~~provision of~~ law, the deadlines specified in this article are mandatory.

~~(b)Notwithstanding any other provision of law, if a proposed housing development project complies with the applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards specified in subdivision (j) of Section 65589.5, in effect at the time a complete initial application was submitted pursuant to Section 65941.1, the local agency shall not require more than three public hearings in total to consider and take final action on all of the land use approvals and entitlements necessary to approve and complete the project. This consideration and final action shall take no longer than 12 months from the date of the application being deemed complete.~~

(b) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 11. *Chapter 12 (commencing with Section 66300) is added to Division 1 of Title 7 of the Government Code, to read:*

CHAPTER 12. Housing Crisis Act of 2019

66300*. (a) As used in this section:*

(1) (A) Except as otherwise provided in subparagraph (B), "affected city" means a city, including a charter city, for which the department determines, in any calendar year, that the average of both of the following amounts exceeds ___:

(i) The percentage by which the city's average rate of rent exceeded 130 percent of the national median rent in 2017, based on the federal 2013-2017 American Community Survey 5-year Estimates.

(ii) The percentage by which the vacancy rate for residential rental units is less than the national vacancy rate, based on the federal 2013-2017 American Community Survey 5-year Estimates.

(B) Notwithstanding subparagraph (A), "affected city" does not include any city that has a population of 5,000 or less and is not located within an urban core.

(2) "Affected county" means a county in which at least 50 percent of the cities located within the territorial boundaries of the county are affected cities.

(3) Notwithstanding any other law, "affected county" and "affected city" includes the electorate of an affected county or city exercising its local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the affected county or city.

(4) "Department" means the Department of Housing and Community Development.

(5) "Development policy, standard, or condition" means any of the following:

(A) A provision of, or amendment to, a general plan.

(B) A provision of, or amendment to, a specific plan.

(C) A provision of, or amendment to, a zoning ordinance.

(D) A subdivision standard or criterion.

(6) "Objective design standard" means a design standard that involve no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion

available and knowable by both the development applicant or proponent and the public official before submittal of an application.

(b) (1) Notwithstanding any other law, with respect to land where housing is an allowable use, an affected county or an affected city shall not enact a development police, standard, or condition that would have any of the following effects:

(A) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B). For purposes of this subparagraph, "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, for property zoned for residential use in the affected county's or city's zoning ordinance.

(B) (i) Imposing a moratorium or similar restriction or limitation on housing development, including mixed-use development, within all or a portion of the jurisdiction of the affected county or city, other than to specifically protect against an imminent threat to the health and safety of persons residing in, or within the immediate vicinity of, the area subject to the moratorium or for projects specifically identified as existing restricted affordable housing.

(ii) The affected county or affected city, as applicable, shall not enforce a zoning ordinance imposing a moratorium or other similar restriction on or limitation of housing development until it has submitted the ordinance to, and received approval from, the department. The department shall approve a zoning ordinance submitted to it pursuant to this subparagraph only if it determines that the zoning ordinance satisfies the requirements of this subparagraph. If the department denies approval of a zoning ordinance imposing a moratorium or similar restriction or limitation on housing development as inconsistent with this subparagraph, that ordinance shall be deemed void.

(C) Imposing or enforcing design standards established on or after January 1, 2018, that are not objective design standards.

(D) Establishing or implementing any provision that:

(i) Limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected county or affected city, as applicable.

(ii) Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period.

(iii) Limits the population of the affected county or affected city, as applicable.

(2) Any development policy, standard, or condition enacted on or after January 1, 2018, that does not comply with this section shall be deemed void.

(c) Notwithstanding subdivisions (b) and (d), an affected county or affected city may enact a development policy, standard, or condition to prohibit the commercial use of land that is designated for residential use, including, but not limited to, short-term occupancy of a residence, consistent with the authority conferred on the county or city by other law.

(d) (1) Except as provided in paragraphs (3) and (4), this section shall prevail over any conflicting provision of this title or other law regulating housing development in this state.

(2) It is the intent of the Legislature that this section be broadly construed so as to maximize the development of housing within this state. Any exception to the requirements of this section, including an exception for the health and safety of occupants of a housing development project, shall be construed narrowly.

(3) This section shall not be construed as prohibiting the adoption or amendment of a zoning ordinance in a

manner that:

(A) Allows greater density.

(B) Facilitates the development of housing.

(C) Reduces the costs to a housing development project.

(D) Imposes or implements mitigation measures as necessary to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) This section shall not apply to a housing development project located within a very high fire hazard severity zone. For purposes of this paragraph, "very high fire hazard severity zone" has the same meaning as provided in Section 51177.

(e) Notwithstanding Section 9215, 9217, or 9323 of the Elections Code or any other provision of law, except the California Constitution, any requirement that local voter approval be obtained to increase the allowable intensity of housing, to establish housing as an allowable use, or to provide services and infrastructure necessary to develop housing, is hereby declared against public policy and void. For purposes of this subdivision, "intensity of housing" is broadly defined to include, but is not limited to, height, density, or floor area ratio, or open space or lot size requirements, or setback requirements, minimum frontage requirements, or maximum lot coverage limitations.

(f) (1) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(g) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.

***66301.** This chapter shall remain in effect only until January 1, 2030, and as of that date is repealed.*

~~**SEC. 13.**~~***SEC. 12.*** Section 17921.8 is added to the Health and Safety Code, to read:

17921.8. (a) As used in this section, "occupied substandard building" means a building in which one or more persons reside that an enforcement agency finds is in violation of any provision of this part, any building standards published in the State Building Standards Code, or any other rule or regulation adopted pursuant to this part, other than the building standards and rules and regulations adopted pursuant to this section.

(b) (1) (A) Except as provided in paragraph (2), the department shall propose the adoption, amendment, or repeal of building standards to the California Building Standards Commission pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and shall adopt, amend, or repeal other rules and regulations for the protection of the public health, safety, and general welfare of the occupant and the public, applicable to occupied substandard buildings in lieu of those building standards, rules, and regulations adopted pursuant to Section 17921.

(B) The building standards proposed, and the rules and regulations adopted or amended, pursuant to this paragraph shall establish minimum health and safety standards for occupied substandard buildings, as follows:

(i) The building standards, rules, and regulations shall require that an occupied substandard building include adequate sanitation and exit facilities and comply with seismic safety standards.

(ii) The building standards, rules, and regulations shall permit those conditions proscribed by Section 17920.3 which do not endanger the life, limb, health, property, safety, or welfare of the public or the occupant.

(iii) Notwithstanding Section 17922, the building standards, rules, and regulations need not be substantially the same as those contained in the most recent editions of the international or uniform industry codes specified by that section.

(2) Notwithstanding paragraph (1), the building standards proposed to be adopted or amended, and the rules and regulations adopted or amended, by the State Fire Marshal pursuant to subdivision (b) of Section 17921 shall apply to an occupied substandard building.

(c) Notwithstanding any other law, an occupied substandard building that complies with the building standards, rules, and regulations adopted pursuant to this section shall be deemed to be in compliance with this part, the building standards published in the State Building Standards Code relating to this part, or any other rule or regulation promulgated pursuant to this part, for a period of seven years following the date on which an enforcement agency finds that the occupied substandard building is otherwise in violation of this part or any building standard, rule, or regulation adopted pursuant to this part. If, at the end of this seven-year period, the enforcement agency finds that the occupied substandard building is still in violation of any provision of this part, any building standards published in the State Building Standards Code, or any other rule or regulation adopted pursuant to this part, the occupied substandard building shall be subject to enforcement as provided in this part.

(d) (1) This section, other than subdivision (c), shall become inoperative on January 1, 2030.

(2) This section shall remain in effect only until January 1, 2037, and as of that date is repealed.

~~SEC. 14.~~ ***SEC. 13.*** The Legislature finds and declares that the provision of adequate housing, in light of the severe shortage of housing at all income levels in this state, is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, the provisions of this act apply to all cities, including charter cities.

~~SEC. 15.~~ ***SEC. 14.*** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

~~SEC. 16.~~ ***SEC. 15.*** The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
David Chiu, Chair
AB 1279 (Bloom) – As Introduced February 21, 2019

SUBJECT: Planning and zoning: housing development: high-resource areas

SUMMARY: Requires certain development sites in high resource areas to allow for more density and height and makes these sites subject to "use by-right" approval. Specifically, **this bill**:

1) Requires the Department of Housing and Community Development (HCD) to designate areas in this state as "high-resource areas," as follows:

    a) Specifies the definition of a "high-resource area" to mean an area of high opportunity and low residential density that is not currently experiencing gentrification and displacement, and that is not at a high risk of future gentrification and displacement;

    b) Requires HCD, in creating these designations, to collaborate with the California Fair Housing Task Force, convened by the department and the California Tax Credit Allocation Committee, and shall solicit input from members of the public and ensure participation from all economic segments of the community as well as members of protected classes;

    c) Requires that this designation must occur no later than January 1, 2021, and every five years thereafter;

    d) Requires the designation of an area as a high-resource area remains valid for five years, unless successfully appealed by a city or county. Specifies the appeal process as follows:

        i. A city or county that includes within its jurisdictional boundaries an area designated as a high-resource area may appeal to HCD to remove that designation at any point during the five-year period by submitting an appeal in a form and manner prescribed HCD.

        ii. HCD may remove the designation of a city or county that submits an appeal if HCD finds, based on substantial evidence, that the city or county has adopted policies after the area was designated as a high-resource area that meet the following requirements:

            a. The policies permit development of higher density housing in the high-resource area than were allowed under the city's or county's policies in effect at the time the area was designated as a high-resource area;

            b. The policies are sufficient to accommodate a similar number of housing units within the area and at similar levels of affordability as would be required by being in a high-resource area; and,

c. The policies are consistent with the city's or county's obligation to affirmatively further fair housing pursuant.

iii. In considering an appeal of a city or county submitted, HCD shall consult with the California Fair Housing Task Force and shall issue a decision within 90 days of receiving the appeal; and,

iv. The decision of the HCD regarding an appeal pursuant to this paragraph shall be final.

2) Defines "Use by right" to mean that the local government's review of the development project under this section may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" under the California Environmental Quality Act (CEQA), and that any required design review may not trigger review under CEQA.

3) Requires that a housing development project must be a use by right in any high-resource area if the development satisfies the following criteria:

a) If the development project is located in any portion of the high-resource area where allowable uses are limited to single-family residential development:

i. The development project may consist of no more than four residential units and have a height of no more than 20 feet.

ii. Either of the following must apply:

a. The initial sales price or initial rent for units in the development project does not exceed the amount of affordable housing cost or affordable rent to households with a household income equal to or less than 100 percent of the area median income; or

b. The initial sales price or initial rent exceeds these limits, and the developer agrees to pay a fee to the county or city equal to 10 percent of the difference between the actual initial sales price or initial rent and the sales price or rent that would be affordable to households making up to 100 percent of the area median income. In such an instance, the city or county must deposit this fee into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent to households with a household income less than 50 percent of the area median income, with a term of affordability of at least 55 years for units that are rented and 45 years for units that are for sale.

iii. The development project must comply with all objective design standards of the city or county. However, the city or county may not require the development project to comply with an objective design standard that would preclude the development from including up to four units or impose a maximum height limitation of less than 20 feet.

b) If the development project is located in any portion of the high-resource area where residential use is an allowable use, is located on a site that is at least one-quarter acre in size, and is either adjacent to an arterial road or located within a central business district:

   i. The development project may consist of no more than 40 residential units and has a height of no more than 30 feet;

   ii. For development projects consisting of 10 or fewer units, either of the following must apply:

      a. The initial sales price or initial rent for units in the development project does not exceed the amount of affordable housing cost or affordable rent to households with a household income equal to or less than 100 percent of the area median income; or

      b. The initial sales price or initial rent exceeds these limits, and the developer agrees to pay a fee to the county or city equal to 10 percent of the difference between the actual initial sales price or initial rent and the sales price or rent that would be affordable to households making up to 100 percent of the area median income, as provided in this subparagraph. The city or county shall deposit any fee received pursuant to this subparagraph into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent to households with a household income less than 50 percent of the area median income, with a term of affordability of at least 55 years for units that are rented and 45 years for units that are for sale.

   iii. For development projects consisting of more than 10 units, at least 10 percent of the units in the development project must have an affordable housing cost or affordable rent to lower income households and at least five percent must have an affordable housing cost or affordable rent to very low income households, with a term of affordability of at least 55 years for units that are rented and 45 years for units that are for sale. However, if the city or county requires that the development project include a greater percentage of units that are affordable to lower income and very low income households, the development project shall comply with that greater requirement; and

   iv. The development project must comply with all objective design standards of the city or county. However, the city or county may not require the development project to comply with an objective design standard that would preclude the development from including up to 40 units or impose a maximum height limitation of less than 30 feet.

c) If the development project is located in any portion of the high-resource area where residential or commercial uses are allowed use, is located on a site that is one-half acre in size or greater, and is either adjacent to an arterial road or located within a central business district:

i. The development project may consist of no more than 100 residential units and has a height of no more than 55 feet, and would be eligible for a density bonus or other incentives or concessions if it includes more affordable units than described below;

ii. At least 25 percent of the units in the development project must have an affordable housing cost or affordable rent to lower income households and at least 25 percent have an affordable housing cost or affordable rent to very low income households, with a term of affordability of at least 55 years for units that are rented and 45 years for units that are for sale;

iii. The development project must comply with all objective design standards of the city or county. However, the city or county may not require the development project to comply with an objective design standard that would preclude the development from including up to 100 units or impose a maximum height limitation of less than 55 feet.

d) None of the following circumstances apply:

i. The development project would require the demolition of rental housing that is currently occupied by tenants or has been occupied by tenants within the past 10 years.

ii. The development project is proposed to be located on a site that is any of the following:

a. A coastal zone;

b. Either prime farmland, farmland of statewide importance, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction;

c. Wetlands;

d. Within a high- or very high-fire hazard severity zone, unless the site has an adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development;

e. A hazardous waste site, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses;

f. Within a delineated earthquake fault zone, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission and by any local building department;

g. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood), unless the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management

Agency and issued to the local jurisdiction or the site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program;

h. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification;

i. Lands identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan;

j. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973, the California Endangered Species Act, or the Native Plant Protection Act; or

k. Lands under conservation easement.

iii. The development project is proposed to be located on a site that is not an infill site, defined to mean a site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

4) Specifies that this law shall not be construed to prevent a developer from submitting an application for a development permit in a high-resource area under the county's or city's general plan, specific plan, zoning ordinance, or regulation for a project that does not meet the criteria specified herein;

EXISTING LAW:

1) Provides for owner-occupied housing "affordable housing cost" may not exceed the following:

a) For extremely low income households the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit;

b) For very low income households the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit;

c) For lower income households whose gross incomes exceed the maximum income for very low income households and do not exceed 70 percent of the area median income adjusted for family size, the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit; and

d) For moderate-income households, affordable housing cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit.

2) Defines "affirmatively furthering fair housing" as taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, AFFH means taking meaningful actions that together address segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to AFFH extends to all of a public agency's activities and programs relating to housing and community development.

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the Bill: According to the author, "This bill would facilitate mixed-income and affordable housing development in high-resource, lower-density communities through local zoning overrides and other land use incentives. The bill is aimed at addressing the housing shortage in a way that also addresses exclusionary zoning practices that exacerbate racial and economic segregation and that provide few opportunities for lower-wage workers to live close to where they work in many areas of the state."

Background: The cost of housing in California is the highest of any state in the nation. Additionally, the pace of change has far outstripped that in other parts of the county. Whereas in 1970 housing in California was 30% more expensive than the U.S. average, now it is 250% more expensive. While incomes have increased over that period, they have done so at a much slower pace. The result is that housing has become much more expensive. Only 28% of households can buy the median priced home. Over half of renters and 80% of low-income renters are rent-burdened, meaning they pay over 30% of their income towards rent. According to a 2016 McKinsey Global Institute, every year Californians pay $50 billion more for housing than they are able to afford.

Building Additional Housing: According to the Legislative Analyst's Office, "a collection of factors drive California's high cost of housing. First and foremost, far less housing has been built in California's coastal areas than people demand. As a result, households bid up the cost of housing in coastal regions. In addition, some of the unmet demand to live in coastal areas spills over into inland California, driving up prices there too. Second, land in California's coastal areas is expensive. Homebuilders typically respond to high land costs by building more housing units on each plot of land they develop, effectively spreading the high land costs among more units. In California's coastal metros, however, this response has been limited, meaning higher land costs have translated more directly into higher housing costs. Finally, builders' costs—for labor, required building materials, and government fees—are higher in California than in other states. While these higher building costs contribute to higher prices throughout the state, building costs appear to play a smaller role in explaining high housing costs in coastal areas."

According to Up for Growth's 2018 analysis, housing underproduction is rampant throughout the United States, but California's underproduction is greater than the other 49 states combined.

According to the 2016 McKinsey study, California's housing deficit is over 2 million units, and that it would require production of 500,000 units a year (3.5 million units total) over a seven year period to normalize the state's housing prices. According to HCD, there needs to be 180,000 units built per year to maintain housing costs. By contrast, housing production averaged less than 80,000 new homes annually over the last 10 years.

Facilitating the necessary growth will require building at higher densities than are currently allowed in much of the state. The UC Berkeley Terner Center conducted a residential land use survey in California from August 2017 to October 2018. The survey found that most jurisdictions devote the majority of their land to single family zoning and in two-thirds of jurisdictions, multifamily housing is allowed on less than 25% of land. The LAO's 2016 analysis found that the housing density of a typical neighborhood in California's coastal metropolitan areas increased only by four percent during the 2000s. The prevailing development pattern continues to be single-family sprawl, with increasing pockets of high density housing in or near the downtown of large cities.

Increasing housing density has the risk of demonstrably changing the character of a neighborhood, potentially for the worse. A strategy for building more densely in a way that can be more in character is through "missing middle" construction types. This includes duplexes, triplexes, fourplexes, townhomes, courtyard apartments, and bungalow courts. According to SACOG's 2018 Housing Toolkit, this type of housing is cheaper to produce than larger apartment buildings, tends to become naturally affordable rental housing as it ages, provides sufficient density to support the shops, restaurants, and transit that are associated with walkable neighborhoods, and usually fits in with the look and feel of a single-family neighborhood.

Facilitating Access to Housing in High-Resource Areas: Multiple studies have shown that life outcomes improve for those living in "high-resource areas," i.e., neighborhoods with high quality public schools, proximity to well-paying jobs, and a clean and safe environment. Such studies have also shown that living in such communities can have a particularly beneficial outcome for low-income people in terms of health, employment, and educational attainment.

However, historically low-income people have been excluded from high-resource areas through a number of means. According to a 2018 paper by Nancy Walsh, JD, "racially restrictive covenants were widespread tools of discrimination during the first half of the 20th century. By the time the Supreme Court ruled them to be unenforceable in 1948, it is estimated that more than half of all residential properties built in the intervening decades were constrained by racially restrictive covenants. This also includes the "redlining" practices that came into place after the adoption of the federal National Housing Act of 1934. This act made mortgages more affordable and stopped bank foreclosures during the Great Depression. However, these loans were distributed in a manner to purposefully exclude "high risk" neighborhoods composed of minority groups, and to limited access to these loans by minority groups. This practice led to underdevelopment and lack of progress in these segregated communities while neighborhoods surrounding them flourished due to increased development and investment.

The rapidly rising cost of housing in California has only exacerbated these historic trends. A 2019 study by UC Berkeley's Urban Displacement Project showed that rising housing prices in the Bay Area has led to "new concentrations of poverty and racial segregation in the region and the perpetuation of racial disparities in access to high-resource neighborhoods."

To address these historic disparities, the state has prioritizing allocation of its tax credits into "high opportunity areas." The defining and mapping of these areas has been undertaken by the California Tax Credit Allocation Committee (TCAC) in the State Treasurer's Office and HCD. TCAC and HCD convened a group of independent organizations and researchers called the California Fair Housing Taskforce (Taskforce). The Taskforce released a detailed opportunity mapping methodology document that identifies specific policy goals and purposes, as well as detailed indicators to identify areas that further the policy goals and purposes.

Increasing Development in High Resource Areas: As stated by the author, the bill would facilitate mixed-income and affordable housing in high-resource areas that are not experiencing nor at risk of gentrification and displacement. The bill would make certain kinds of housing development a use by-right in these areas, as follows:

- In areas zoned only for single-family residential development, the development project could consist of up to four residential units with a height of up to 20 feet. The units would have to be either affordable to households making 100% of the area median income (AMI), or sold or rented at a higher AMI if the developer pays 10% of the difference to the local jurisdiction, who would be required to use it to build deed-restricted units for households at 50% AMI or less;
- In areas zoned for residential use that are in more prime development locations (i.e., at least one-quarter acre in size and located on a major street and/or the central business district), the development project could consist of up to 40 residential units with a height of up to 30 feet. Projects with 10 or fewer units would need to meet the same affordability parameters as the projects in single-family zones discussed above. Projects of more than 10 units would need to dedicate at least 10% of the units to households with low incomes (typically 50%-80% AMI) and 5% to very low incomes (typically under 50% AMI);
- If the parcel exceeded one-half acre in these prime locations, the development would have an extra incentive to have higher affordability requirements. A project that had at least 25% of its units dedicated to low-income households and 25% to very-low income households would be allowed to have up to 100 residential units with a height of up to 55 feet. Such a project could receive a density bonus if it were to include additional affordable units; and,
- No qualifying project must require the demolition of housing that is currently for rent or has been in the past ten years, or be located in an environmentally unsafe or sensitive area.

To facilitate the implementation of these requirements, the bill requires HCD to undergo a process to define "high-resource areas," based on consultation with a diversity of stakeholders, and with an appeal process for jurisdictions that disagree with designations within their borders.

Staff Comments: Were this bill to pass out of the committee, the author should consider several refinements to further clarify and fulfill the intent of the bill. Potential refinements include:

- For qualifying projects not limited to single-family zoning, the proposed unit cap does not account for the variations in parcel size and allowed height. As such, projects might under-develop relative to preferable densities in order to utilize the bill's by-right approval process. Instead, the author may consider applying a density-based unit cap that is responsive to the parcel size and allowed height.

- For qualifying projects to be allowed up to 55 feet they must meet a 50% affordability target. Such a target requires that the project receive public funding and/or be subsidized by a large commercial development on the same site. This enticement of large commercial developments may be counterproductive to reducing the jobs/housing mismatch that has exacerbated our current housing crisis. To better meet the intent of increased affordable development and decreased upward pressure on rents, the author may consider increasing the affordability requirement for qualifying projects to 100%. By contrast, if the author would like to see more market rate development in these communities, and commensurately more affordable housing that could come from a market-based solution, the author may consider reducing the affordable housing requirement to the maximum amount that would still facilitate housing development that would not require subsidization.
- This bill makes a development eligible for a density bonus or other incentives or concessions if it includes affordable units "in excess" than otherwise required to be a qualified project. This would allow projects providing one additional unit of affordable housing to get the density bonus. If that is not the intent, the author might consider specifically defining how much "in excess" a project should be to qualify.
- The bill relies on the terms "arterial road" and "central business district." The author should consider defining these terms to ensure clarity of application.

Related Legislation:

- SB 50 (Wiener) (2019): Would requires a local government to grant increased development capacity in transit-rich and high-resource areas when a development proponent meets specified requirements. This bill is pending hearing in Senate Governance and Finance Committee.

- AB 686 (Santiago. Chapter 958, Statutes of 2018): Requires a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing. Status: Chapter 958, Statutes of 2018

Double referred: This bill was also referred to the Assembly Committee on Local Government where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Rural Legal Assistance Foundation (co-sponsor)
Public Advocates (co-sponsor)
Western Center on Law and Poverty (co-sponsor)

Opposition

None on file.

Analysis Prepared by: Steve Wertheim / H. & C.D. / (916) 319-2085

AB-1279 Planning and zoning: housing development: high-resource areas. (2019-2020)

Date Published: 02/22/2019 04:00 AM

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL No. 1279

Introduced by Assembly Member Bloom

February 21, 2019

An act to add Section 65913.6 to the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1279, as introduced, Bloom. Planning and zoning: housing development: high-resource areas.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a housing element. That law allows a development proponent to submit an application for a development that is subject to a specified streamlined, ministerial approval process not subject to a conditional use permit if the development satisfies certain objective planning standards, including that the development is (1) located in a locality determined by the Department of Housing and Community Development to have not met its share of the regional housing needs for the reporting period, and (2) subject to a requirement mandating a minimum percentage of below-market rate housing, as provided.

This bill would require the department to designated areas in this state as high-resource areas, as provided, by January 1, 2021, and every 5 years thereafter. The bill would authorize a city or county to appeal the designation of an area within its jurisdiction as a high-resource area during that 5-year period. In any area designated as a high-resource area, the bill would require that a housing development project be a use by right, upon the request of a developer, in any high-resource area designated pursuant be a use by right in certain parts of the high-resource area if those projects meet specified requirements, including specified

affordability requirements. For certain development projects where the initial sales price or initial rent exceeds the affordable housing cost or affordable rent to households with incomes equal to or less than 100% of the area median income, the bill would require the applicant agree to pay a fee equal to 10% of the difference between the actual initial sales price or initial rent and the sales price or rent that would be affordable, as provided. The bill would require the city or county to deposit the fee into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent to households with a household income less than 50% of the area median income.

This bill would require that the applicant agree to, and the city and county ensure, the continued affordability of units affordable to lower income and very low income households for 45 years, for rented units, or 55 years, for owner-occupied years. The bill would provide that a development housing is ineligible as a use by right under these provisions if it would require the demolition of rental housing that is currently occupied by tenants, or has been occupied by tenants within the past 10 years, or is located in certain areas. The bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA does not apply to the ministerial approval of projects.

This bill, by requiring approval of certain development projects as a use by right, would expand the exemption for ministerial approval of projects under CEQA.

By adding to the duties of local planning officials with respect to approving certain development projects, this bill would impose a state-mandated local program.

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

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65913.6 is added to the Government Code, to read:

65913.6. (a) For purposes of this section:

(1) "Department" means the Department of Housing and Community Development.

(2) "High-resource area" means an area of high opportunity and low residential density that is not currently experiencing gentrification and displacement, and that is not at a high risk of future gentrification and displacement, designated by the department pursuant to subdivision (b).

(3) "Infill site" means a site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(4) (A) "Use by right" means that the local government's review of the development project under this section may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act (Division 2 (commencing with Section 66410)).

(B) A local ordinance may provide that "use by right" does not exempt the development project from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) (1) No later than January 1, 2021, and every five years thereafter, the department shall designate areas in this state as high-resource areas in accordance with this section. In designating areas of the state as high-resource areas, the department shall collaborate with the California Fair Housing Task Force, convened by the department and the California Tax Credit Allocation Committee, and shall solicit input from members of the public and ensure participation from all economic segments of the community as well as members of those classes protected pursuant to Section 12955. Except as provided in paragraph (2), the designation of an area as a high-resource area shall remain valid for five years.

(2) (A) A city or county that includes within its jurisdictional boundaries an area designated as a high-resource area pursuant to this section may appeal to the department to remove that designation at any point during the five-year period specified in paragraph (1) by submitting an appeal in a form and manner prescribed by the department.

(B) The department may remove the designation of a city or county that submits an appeal pursuant to subparagraph (A) if it finds, based on substantial evidence, that the city or county has adopted policies after the area was designated as a high-resource area that meet the following requirements:

(i) The policies permit development of higher density housing in the high-resource area, in a manner substantially similar to subdivision (c), than were allowed under the city's or county's policies in effect at the time the area was designated as a high-resource area.

(ii) The policies are sufficient to accommodate a similar number of housing units within the area and at similar levels of affordability as would be allowed under subdivision (c).

(iii) The policies are consistent with the city's or county's obligation to affirmatively further fair housing pursuant to Section 8899.50.

(C) In considering an appeal of a city or county submitted pursuant to this subparagraph (A), the department shall consult with the California Fair Housing Task Force and shall issue a decision within 90 days of receiving the appeal.

(D) The decision of the department regarding an appeal pursuant to this paragraph shall be final.

(c) Notwithstanding any inconsistent provision of a city's or county's general plan, specific plan, zoning ordinance, or regulation, upon the request of a developer a housing development project shall be a use by right in any high-resource area designated pursuant to this section if the development satisfies the following criteria:

(1) If the development project is located in any portion of the high-resource area where allowable uses are limited to single-family residential development:

(A) The development project consists of no more than four residential units and has a height of no more than 20 feet.

(B) Either of the following apply:

(i) The initial sales price or initial rent for units in the development project does not exceed the amount of affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to households with a household income equal to or less than 100 percent of the area median income, as determined by the department pursuant to Section 50093 of the Health and Safety Code.

(ii) If the initial sales price or initial rent exceeds the limit specified in clause (i), the developer agrees to pay a fee to the county or city equal to 10 percent of the difference between the actual initial sales price or initial rent and the sales price or rent that would be affordable to households making up to 100 percent of the area median income, as provided in this subparagraph. The city or county shall deposit any fee received pursuant to this clause into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to households with a household income less than 50 percent of the area median income, as determined by the department pursuant to Section 50093 of the Health and Safety Code.

(C) The development project complies with all objective design standard of the city or county. However, the city or county shall not require the development project to comply with an objective design standard that would preclude the development from including up to four units or impose a maximum height limitation of less than 20 feet.

(2) If the development project is located in any portion of the high-resource area where residential use is an allowable use:

(A) The development project consists of no more than 40 residential units and has a height of no more than 30 feet.

(B) The development project is located on a site that is one-quarter acre in size or greater and is either adjacent to an arterial road or located within a central business district.

(C) (i) For development projects consisting of 10 or fewer units, either of the following apply:

(I) The initial sales price or initial rent for units in the development project does not exceed the amount of affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to households with a household income equal to or less than 100 percent of the area median income, as determined by the department pursuant to Section 50093 of the Health and Safety Code.

(II) If the initial sales price or initial rent exceeds the limit specified in subclause (I), the developer agrees to pay a fee to the county or city equal to 10 percent of the difference between the actual initial sales price or initial rent and the sales price or rent that would be affordable to households making up to 100 percent of the area median income, as provided in this subparagraph. The city or county shall deposit any fee received pursuant to this subparagraph into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to households with a household income less than 50 percent of the area median income, as determined by the department pursuant to Section 50093 of the Health and Safety Code.

(ii) For development projects consisting of more than 10 units, at least 10 percent of the units in the development project have an affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to lower income households and at least 5 percent have an affordable housing cost or affordable rent to very low income households. However, if the city or county requires that the development project include a greater percentage of units that are affordable to lower income and very low income households, the development project shall comply with that greater requirement.

(D) The development project complies with all objective design standards of the city or county. However, the city or county shall not require the development project to comply with an objective design standard that would preclude the development from including up to 40 units or impose a maximum height limitation of less than 30 feet.

(3) (A) If the development project is located in any portion of the high-resource area where residential or commercial uses are an allowable use:

(i) The development project consists of no more than 100 residential units and has a height of no more than 55 feet.

(ii) The development project is located on a site that is one-half acre in size or greater and is either adjacent to an arterial road or located within a central business district.

(iii) At least 25 percent of the units in the development project have an affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to lower income households and at least 25 percent have an affordable housing cost or affordable rent to very low income households.

(iv) The development project complies with all objective design standards of the city or county. However, the city or county shall not require the development project to comply with an objective design standard that would preclude the development from including up to 100 units or impose a maximum height limitation of less than 55 feet.

(B) A development project that is a use by right pursuant to this paragraph shall be eligible for a density bonus or other incentives or concessions if it includes units within an affordable housing cost or affordable rent, as specified in Sections 50052.5 and 50053, respectively, of the Health and Safety Code, to lower income and very low income households in excess of the minimum amount required by clause (ii) of subparagraph (A).

(4) An applicant for a development project that is a use by right pursuant to paragraph (1), (2), or (3) shall agree to, and the city or county shall ensure, the continued affordability of units included in the development project that are affordable to lower income and very low income households in accordance with the applicable affordability requirement under this subdivision for at least the following periods of time:

(A) Fifty-five years for units that are rented.

(B) Forty-five years for units that are owner occupied.

(d) A development project shall not be eligible for approval as a use by right pursuant to subdivision (c) if any of the following apply:

(1) The development project would require the demolition of rental housing that is currently occupied by tenants or has been occupied by tenants within the past 10 years.

(2) The development project is proposed to be located on a site that is any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high- or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(G) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(3) The development project is proposed to be located on a site that is not an infill site.

(e) This section shall not be construed to prevent a developer from submitting an application for a development permit in a high-resource area under the county’s or city’s general plan, specific plan, zoning ordinance, or regulation for a project that does not meet the criteria specified in subdivisions (c) and (d).

(f) The Legislature finds and declares that ensuring residential development at greater density in high-resource areas of this state is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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Metropolitan Transportation Commission

Legislation Details (With Text)

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Date	Ver.	Action By	Action	Result

Fees/Transparency - AB 1483 (Grayson), AB 1484 (Grayson)

Rebecca Long

Information

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
David Chiu, Chair
AB 1483 (Grayson) – As Amended April 1, 2019

SUBJECT: Housing data: collection and reporting

SUMMARY: Requires increased reporting of housing data from local jurisdictions, compilation of data by the state, and dissemination of the data by both local jurisdictions and the state. Specifically, **this bill**:

1) Requires the compilation of information concerning city and county zoning and planning standards, fees, special taxes, and property assessments for housing development projects as follows:

    a) Requires each city and county to compile one or more lists that specify in detail all of the following information applicable to housing development projects in its jurisdiction:

        i. All zoning and planning standards;

        ii. All fees imposed by the city or county and any other local agency on a housing development project under the Mitigation Fee Act; and,

        iii. All special taxes and property assessments imposed on a development including charges by an assessment district, taxes for the payment of principal and interest on voter-approved bonds, and fees authorized by the Mello-Roos Community Facilities Act of 1982;

    b) Requires each city and county to make this information available by:

        i. Posting the lists its internet website and making available upon request; and,

        ii. Annually providing the lists to the Department of Housing and Community Development (HCD) and any applicable metropolitan planning organization (MPO).

    c) Requires HCD to post this information on its internet website by January 1, 2021, and each year thereafter;

    d) Enables HCD to require the city or county submit this information to as part of the annual housing element production report; and

    e) Requires, upon request of a local public entity, that HCD must provide technical assistance to that local public entity in providing this information.

2) Requires the compilation of information concerning housing development projects in cities and counties as follows:

    a) Each city and county must annually compile the following information:

i. The number of housing development project applications that the city or county has deemed complete, but have not been issued a certificate of occupancy, including:

1. The name of the applicant;

2. The location of the proposed project;

3. The date the application was deemed complete; and

4. The nature of the additional permits needed to complete the housing development project.

ii. The number of discretionary permits granted by the legislative body or planning commission of the city or county, including conditional use permits and zoning variances;

iii. The number of building permits issued by the city or county;

iv. The number of certificates of occupancy issued by the city or county.

b) Each city and county must annually submit a report with this information to HCD and any applicable MPO;

c) Requires HCD to post this information on its internet website by January 1, 2021, and each year thereafter;

d) Enables HCD to require the city or county submit this information to as part of the annual housing element production report; and

e) Requires, upon request of a local public entity, that HCD must provide technical assistance to that local public entity in providing this information.

3) Defines, for purposes of this section, "housing development project" to mean a use consisting of residential units only or mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

4) Requires that, as part of the annual housing element report submitted to HCD, HCD may require a city or county planning agency to include any other they deem necessary or convenient for purposes of assessing progress toward the state's housing goals.

5) Enables HCD to assess the accuracy of the information submitted as part of the annual housing element production report. If HCD determines that any report submitted to it by a planning agency pursuant to this section contains inaccurate information, HCD may require that the planning agency correct that inaccuracy.

6) Enables a metropolitan planning organization (MPO) to receive data regarding housing production within a county or city located within the territorial boundaries of the MPO, as follows:

   a) The MPO must submit a request for the data to HCD by a majority vote of its governing board. The request shall be in the form and manner required by HCD and shall demonstrate that the request for housing data is justified on the basis of furthering the state's housing goals;

   b) An MPO that requests this housing data must collaborate with the county or city from which the data is sought to establish the scope of the requested data, so as to ensure that the request does not create an undue burden on the staff of the county or city;

   c) HCD must grant a request for this housing data, and must require the planning agency of the county or city that is the subject of the request to provide that data to the MPO, if it determines that all of the following apply:

      i. The request is justified on the basis of furthering the state's housing goals;

      ii. The MPO has collaborated with the county or city to establish the scope of the requested data;

      iii. The scope of the requested data does not create an undue burden on the staff of the county or city;

      iv. The MPO has agreed to provide, or has proposed to enter into an agreement with the department to provide, technical assistance to the county or city to fulfill the request.

   d) If HCD grants a request for housing data pursuant to this subdivision, the MPO shall provide, or enter into an agreement with HCD to provide, technical assistance to the planning agency of the county or city that was the subject of the request in order to fulfill that request.

7) Establishes requirements for the collection as dissemination of data as follows:

   a) Requires a 10-year housing data strategy to be included in each of HCD's subsequent California Statewide Housing Strategy. This strategy must discuss the data suitable to inform modern state housing policymaking in support of safe, sustainable, and equitable housing that is sufficient to meet the housing needs of this state.

   b) Requires HCD to establish a statewide, publicly accessible, geographic information system database of parcel boundaries, capable of linking to all parcel-level housing data available to the state.

   c) Requires HCD to develop protocols for data sharing, documentation, quality control, public access, and promotion of open-source platforms and decision support tools related to housing data. No later than January 1, 2021, HCD shall submit to the Legislature a report describing these protocols.

d) Requires HCD to coordinate and integrate existing housing data from local, state, and federal agencies.

e) Requires that, no later than January 1, 2022, HCD must develop, and thereafter operate and maintain, a single, publicly accessible, and machine-readable data portal for all nonpersonal housing data collected by the department.

f) Requires HCD to require, as a condition of providing funds through grants or contracts for research or projects relating to housing pursuant to this part, that fund recipients adhere to their protocols for data sharing, transparency, documentation, and quality control.

8) Provides that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

EXISTING LAW:

1) Requires every city and county to prepare and adopt a general plan containing seven mandatory elements, including a housing element (Govt. Code Sections 65300 and 65302).

2) Requires a housing element to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development (Govt. Code Section 65583).

3) Requires local governments located within the territory of a metropolitan planning organization (MPO) to revise their housing elements every eight years following the adoption of every other regional transportation plan. Local governments in rural non-MPO regions must revise their housing elements every five years (Govt. Code Section 65588).

4) Requires, prior to each housing element revision, that each council of governments (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment (RHNA) and allocate to each jurisdiction in the region its fair share of the housing need for all income categories. Where a COG does not exist, HCD determines the local share of the region's housing need (Govt. Code Sections 65584-65584.09).

5) Requires housing elements to include an inventory of land suitable for residential development that identifies enough sites that can be developed for housing within the planning period to accommodate the local government's entire share of the RHNA (Govt. Code Sections 65583 and 65583.2).

6) Requires all cites including charter cities to submit an annual general plan report that the includes the following (Govt. Code Sections 65400):

a) The number of housing development applications received in the prior year;

b) The number of units included in all development applications in the prior year;

c) The number of units approved and disapproved in the prior year; and

d) A listing of sites rezoned to accommodate that portion of the local government's share of the regional housing need for each income level that could not be accommodated on sites identified in the housing element's site inventory. This shall also include any additional sites that may have been required to be identified under No Net Loss Zoning law.

7) Requires HCD to update and provide a revision of the California Statewide Housing Plan to the Legislature every four years thereafter. The revisions must contain a comparison of the housing need for the preceding four years with the amount of building permits issued in those fiscal years, the determination of the statewide need for housing development for the current year and projected four additional years ahead, and a revision of the housing assistance goals for the current year and projected four additional years ahead (Health and Safety Section 50452).

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the Bill: According to the author, "Better information is needed to guide action by cities, metropolitan planning organizations, elected officials, developers, community groups, academic researchers, and voters. By making housing development pipeline data open and available, we can leverage California's dedicated community of housing researchers and advocates to implement smart, effective solutions to our housing affordability crisis."

Background: Every local government is required to prepare a housing element as part of its general plan. The housing element process starts when HCD determines the number of new housing units a region is projected to need at all income levels (very low-, low-, moderate-, and above-moderate income) over the course of the next housing element planning period to accommodate population growth and overcome existing deficiencies in the housing supply. This number is known as the RHNA. The Council of Governments (COG) for the region, or HCD for areas with no COG, then assigns a share of the RHNA number to every city and county in the region based on a variety of factors.

In preparing its housing element, a local government must show how it plans to accommodate its share of the RHNA. The housing element must include an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. Included in this analysis is an assessment of both governmental and nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

Existing law requires all local jurisdictions to annually provide housing information to HCD including the following information from the prior year and/or for the current eight-year housing element cycle:

- The number of housing development applications received;

- The number of units included in all development applications;
- The number of units approved and disapproved;
- For each income category, the number of net new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy;
- A unique site identifier (such as assessor's parcel number) for each entitlement, building permit, or certificate of occupancy; and
- The overall progress in meeting its share of regional housing needs.

Addressing Housing Data Deficiencies: While the state collects a wealth of housing data, much of it is not accessible in a standardized or organized manner that facilitates research and analysis. As such, policy makers and housing researchers often lack the data needed to adequately understand housing problems and to make and track progress on housing solutions. Additionally, there are substantial gaps in the data, particularly around zoning, standards, and fees that further impedes research and analysis.

This bill would help fill in gaps in the data by requiring local jurisdictions to provide the following information to the state:

- Information about the housing entitlement process, including all zoning and planning standards, fees, taxes, and property assessments.
- Information about applications received, including project-specific data and cumulative data on outcomes.

To help local jurisdictions provide this information, the bill requires that HCD must provide them technical assistance upon request. The bill enables MPOs to request additional information from local jurisdictions with HCD's permission. The bill does not require the state to reimburse local jurisdictions for the cost of fulfilling these requirements.

This bill would help make sure that this data is accessible, standardized, and organized for public use by requiring that the following occur:

- By January 1, 2021, HCD must place on its internet website all data collected from local jurisdictions and develop protocols for data sharing, documentation, quality control, public access, and promotion of open-source platforms;
- By January 1, 2022, HCD must develop, and thereafter operate and maintain, a single, publicly accessible, and machine-readable data portal for all non-personal housing data collected by the department; and
- That a 10-year housing data strategy to be included in each of HCD's subsequent California Statewide Housing Strategies.

Staff Comments: This bill would increase the collection, standardization, and dissemination of housing data, which in turn could greatly benefit the policymaking at the local, regional, and state levels. However, this process is likely to be substantially challenging to both local jurisdictions and HCD, given that each of the state's 540 local jurisdictions has its own set of rules, definitions, and data collection process. Recognizing this, the Committee may wish to consider amending the bill to extend the timeframe for the implementation of this program by

one year. This would give HCD and local jurisdictions more time to develop data standards and to organize data for dissemination.

The bill requires each city and county to annually submit a report to HCD and any applicable MPO containing a summary of information about the housing development projects they have received, as well as specific information about projects that have not received a certificate of occupancy. Given the intent of the bill is to collect data about all housing projects for further analysis, it potentially makes more sense to have detailed data about all housing projects. As such, the Committee may wish to consider amending the bill to require the local jurisdictions to submit to HCD more complete data on individual projects, including the number of units proposed in the project, and the permits that have already been received.

The bill requires local jurisdictions to collect and share information on housing development projects, and defines those to mean a use consisting of residential units only or mixed-use developments with at least two-thirds of the square footage designated for residential use. Given that this bill is about housing data, it does not seem appropriate to eliminate projects that include any housing – especially as some of the largest housing developments in the state contain more than one-third non-residential uses. As such, the Committee may wish to consider amending the bill define housing development project to mean any development project containing residential units.

The bill requires local jurisdictions to compile lists that specify all zoning and planning standards, to post these lists to their internet website, and provide this information to HCD. However, zoning and planning standards are typically quite complex and layered, and compiling them into "lists" could potential be both time consuming and of limited value. This is particularly true of relevant zoning maps. For purposes of data collection, it is likely more useful for the public, researchers, and policymakers to ensure that these zoning and planning standards are available, and that it is relatively easy to understood how they evolve over time. As such, the Committee may wish to amend the legislation to not require lists of zoning and planning standards, but instead require that all zoning and planning standards be posted to the internet websites of local jurisdictions, that annually the jurisdiction archives this information, and that this information is what is shared annually with HCD and relevant MPOs.

Committee Amendments: To address the issues raised above, the Committee may wish to consider the following amendments:

- Extending the timeframe for the implementation of this program by one year;
- Require the local jurisdictions to submit to HCD more complete data on individual projects, including the number of units proposed in the project, and the permits that have already been received;
- Define "housing development project" to mean any development project containing residential units; and
- Require that all zoning and planning standards be posted to the internet websites of local jurisdictions, that annually the jurisdiction archives this information, and that this information is what is shared annually with HCD and relevant MPOs. Do not require lists of zoning and planning standards.

Related Legislation:

AB 1484 (Grayson) (2019) would freeze specified impact and development fees on housing developments at an application for a housing development is deemed complete. *This bill is pending in the Local Government Committee.*

Double referred: This bill was also referred to the Assembly Committee on Local Government where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
Building Industry Association of the Bay Area
California Apartment Association
California Association of Realtors
California Building Industry Association
California Community Builders
Chan Zuckerberg Initiative
Eden Housing
Enterprise Community Partners, Inc.
Habitat for Humanity East Bay/Silicon Valley
Leading Age California
Non-Profit Housing Association of Northern California
North Bay Leadership Council
Related California
SV@Home
SPUR
TMG Partners
Urban Displacement Project, UC-Berkeley

Support if Amended

American Planning Association, California Chapter
The San Francisco Foundation
Working Partnerships USA

Opposition

None on file.

Analysis Prepared by: Steve Wertheim / H. & C.D. / (916) 319-2085

AB-1483 Housing data: collection and reporting. (2019-2020)

Date Published: 04/11/2019 09:00 PM

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY APRIL 01, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL No. 1483

Introduced by Assembly Member Grayson

February 22, 2019

An act to amend Section 65400 of, and to add Sections 65940.1 and 65940.2 to, the Government Code, and to amend Section 50452 of, and to add Sections 50457.5, 50469, and 50515 to, the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1483, as amended, Grayson. Housing data: collection and reporting.

(1) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Department of Housing and Community Development (department) that includes, among other specified information, the number of net new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, as provided.

This bill would authorize the department to require a planning agency to include in that annual report specified additional information that this bill would require, as described below. The bill would require the department, if requested, to provide technical assistance in providing this additional information to the local public entity that

is required to include this additional information in the annual report. The bill would also authorize the department to assess the accuracy of the information submitted as part of the annual report and, if it determines that any report submitted to it by a planning agency contains inaccurate information, require that the planning agency correct that inaccuracy.

This bill would authorize a metropolitan planning organization to request that the department require the planning agency for a county or a city located within its territorial boundaries to provide data regarding housing production within the county or city. The bill would require the department to grant this request if it determines that the metropolitan planning organization has complied with specified requirements and the request is justified on the basis of furthering the state's housing goals. The bill would require the metropolitan planning organization to provide, or enter into an agreement with the department to provide, technical assistance to the planning agency of the county or city that was the subject of the request in order to fulfill that request.

(2) The Permit Streamlining Act, which is part of the Planning and Zoning Law, requires each public agency to provide a development project applicant with a list that specifies the information that will be required from any applicant for a development project. Existing law prohibits a local agency from requiring additional information from an applicant that was not specified in that list.

The Mitigation Fee Act requires a local agency that establishes, increases, or imposes a fee as a condition of approval of a development project to, among other things, determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

This bill would require a city or county to compile a list that provides ~~zoning and planning standards,~~ fees imposed under the Mitigation Fee Act, special taxes, and assessments applicable to housing development projects in the jurisdiction. *The bill would also require a city or county to make all zoning and planning standards available on its internet website and to maintain and annually update an archive of those standards.* This bill would require each local agency to post the list on its internet website and provide the list to the department and any applicable metropolitan planning organization. The bill would require the department to post the information submitted pursuant to these provisions on its internet website by January 1, ~~2021,~~ *2022,* and each year thereafter.

This bill would require each city and county to annually submit specified information concerning pending housing development projects with completed applications within the city or county, the number of applications deemed complete, and the number of discretionary permits, building permits, ~~and~~ certificates of occupancy issued by the city or ~~county~~ *county, and specified information regarding each housing development project for which the city or county deemed an application to be complete or issued a building permit or certificate of occupancy* to the department and any applicable metropolitan planning organization. The bill would require the department to post the information submitted pursuant to these provisions on its internet website by January 1, ~~2021,~~ *2022,* and each year thereafter.

(3) Existing law requires the department to update and provide a revision of the California Statewide Housing Plan to the Legislature every 4 years, as provided. Existing law requires that these revisions contain specified segments, including a comparison of the housing need for the preceding 4 years with the amount of building permits issued and mobilehome units sold in those fiscal years.

This bill, for the next revision of the plan on or after January 1, 2020, and each subsequent revision thereafter, would require that revisions of the plan include a 10-year housing data strategy, as provided.

(4) Existing law requires the department to make available to the public information about federal, state, and local laws regarding housing and community development and to develop specifications for the structure, functions, and organization of a housing and community development information system for this state, as provided.

This bill would require the department to establish a statewide, publicly accessible, geographic information system database of parcel boundaries. The bill would also require the department to develop specified protocols relating to housing data and submit a report to the Legislature on those protocols by January 1, ~~2021.~~ *2022.* The bill would require a recipient of state funds through a grant or contract for research or a project relating to housing to adhere to these protocols as a condition of receiving state funds. The bill would

require the department to coordinate and integrate existing housing data from local, state, and federal agencies and to develop, operate, and maintain a data portal for all nonpersonal housing data collected by the department.

(5) By requiring each city and county to report on, and post on its internet website, specified information regarding housing development, this bill would impose a state-mandated local program.

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

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government’s compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

The report may include the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city’s or county’s share of the regional

housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) The number of net new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier which must include the assessor's parcel number, but may include street address, or other identifiers.

(I) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (b) of Section 65913.4, the total number of building permits issued pursuant to subdivision (b) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (b) of Section 65913.4.

(J) Any additional information required by the Department of Housing and Community Development pursuant to subdivision (b).

(K) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its ~~Internet Web site~~ *internet website* within a reasonable time of receiving the report.

(b) As part of the annual report submitted to it pursuant to paragraph (2) of subdivision (a), the Department of Housing and Community Development may require the planning agency to include the following additional information:

(1) The information concerning ~~zoning and planning standards,~~ fees, special taxes, and property assessments required pursuant to Section 65940.1.

(2) The information concerning the number of housing development applications deemed complete, pursuant to Section 65943, and the number of discretionary permits, building permits, and certificates of occupancy issued by the city or county required pursuant to Section 65940.2.

(3) Any other information the Department of Housing and Community deems necessary or convenient for purposes of assessing progress toward the state's housing goals.

(c) (1) (A) A metropolitan planning organization, by a majority vote of its governing board, may submit a request to the Department of Housing and Community Development to require that a planning agency for a county or a city located within the territorial boundaries of the metropolitan planning organization provide data regarding housing production within the county or city. The request shall be in the form and manner required by the department and shall demonstrate that the request for housing data is justified on the basis of furthering the state's housing goals.

(B) A metropolitan planning organization that requests housing data pursuant to this subdivision shall collaborate with the county or city from which the data is sought to establish the scope of the requested data, so as to ensure that the request does not create an undue burden on the staff of the county or city.

(C) The Department of Housing and Community Development shall grant a request for housing data pursuant to this subdivision, and shall require the planning agency of the county or city that is the subject of the request to provide that data to the metropolitan planning organization, if it determines that all of the following apply:

(i) The request is justified on the basis of furthering the state's housing goals.

(ii) The metropolitan planning organization has collaborated with the county or city to establish the scope of the requested data.

(iii) The scope of the requested data does not create an undue burden on the staff of the county or city.

(iv) The metropolitan planning organization has agreed to provide, or has proposed to enter into an agreement with the department to provide, technical assistance to the county or city to fulfill the request, in accordance with paragraph (2).

(2) If the Department of Housing and Community Development grants a request for housing data pursuant to this subdivision, the metropolitan planning organization shall provide, or enter into an agreement with the department to provide, technical assistance to the planning agency of the county or city that was the subject of the request in order to fulfill that request.

(d) The Department of Housing and Community Development may assess the accuracy of the information submitted as part of the annual report required pursuant to paragraph (2) of subdivision (a). If the department determines that any report submitted to it by a planning agency pursuant to this section contains inaccurate information, the department may require that the planning agency correct that inaccuracy.

(e) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 2. Section 65940.1 is added to the Government Code, to read:

65940.1. (a) Each city and county shall compile one or more lists that specify in detail all of the following information applicable to housing development projects in its jurisdiction:

~~(1)All zoning and planning standards.~~

~~(2)~~

(1) All fees imposed by the city or county and any other local agency on a housing development project under the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020)).

~~(3)~~

(2) All special taxes and property assessments imposed on a development including charges by an assessment district, taxes for the payment of principal and interest on voter-approved bonds, and fees authorized by the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5).

(b) A city or county shall make ~~the list required by subdivision (a)~~ *both of the following* available on its internet ~~website and available upon request.~~ *website:*

(1) The list required by subdivision (a). The city or county shall also make the list be made available upon request.

(2) All zoning and planning standards. The city or county shall also maintain and annually update a publicly accessible archive of its zoning and planning standards.

(c) (1) Each city and county shall annually provide the lists of information required by subdivision (a) *and the*

information required by paragraph (2) of subdivision (b) to the Department of Housing and Community Development and any applicable metropolitan planning organization. The department shall post the information submitted pursuant to subdivision (a) on its internet website by January 1, ~~2021,~~ *2022,* and each year thereafter.

(2) The Department of Housing and Community development may require that the city or county provide the lists of information required by subdivision (a) as part of the annual report required by paragraph (2) of subdivision (a) of Section 65400.

(d) For purposes of this section, "housing development project" means ~~a use consisting of any of the following:~~ *any development project that includes residential units.*

~~(1)Residential units only.~~

~~(2)Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.~~

SEC. 3. Section 65940.2 is added to the Government Code, to read:

65940.2. (a) Each city and county shall annually submit a report to the Department of Housing and Community Development and any applicable metropolitan planning organization containing the following information:

(1) The number of housing development project applications that the city or county has deemed complete pursuant to Section 65943, but have not been issued a certificate of occupancy. ~~This report shall include all of the following information for each application:~~

~~(A)The name of the applicant.~~

~~(B)The location of the proposed project.~~

~~(C)The date the application was deemed complete.~~

~~(D)The nature of the additional permits needed to complete the housing development project.~~

(2) The number of discretionary permits granted by the legislative body or planning commission of the city or county, including conditional use permits and zoning variances.

(3) The number of building permits issued by the city or county.

(4) The number of certificates of occupancy issued by the city or county.

(5) Information regarding each housing development project for which the city or county has deemed an application to be complete pursuant to Section 65943 or issued a building permit or certificate of occupancy during the year covered by the report, including, but not limited to, all of the following:

(A) The name of the applicant.

(B) The location of the housing development project.

(C) The number of units in the housing development project.

(D) The date the application was deemed complete.

(E) The nature of any permits the housing development project has already received.

(F) The nature of any additional permits needed to complete the housing development project.

(b) The department shall post the information submitted pursuant to subdivision (a) on its internet website by January 1, ~~2021,~~ *2022,* and each year thereafter.

(c) The ~~Department of Housing and Community development~~ *department* may require the city or county to provide the information required to be submitted ~~to it~~ by subdivision (a) as part of the annual report required by paragraph (2) of subdivision (a) of Section 65400.

(d) For purposes of this section, "housing development project" means ~~a use consisting of any of the following:~~ *any development project that includes residential units.*

~~(1)Residential units only.~~

~~(2)Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.~~

SEC. 4. Section 50452 of the Health and Safety Code is amended to read:

50452. (a) The department shall update and provide a revision of the California Statewide Housing Plan to the Legislature by January 1, 2006, by January 1, 2009, and every four years thereafter. The revisions shall contain all of the following segments:

(1) A comparison of the housing need for the preceding four years with the amount of building permits issued and mobilehome units sold in those fiscal years.

(2) A revision of the determination of the statewide need for housing development specified in subdivision (b) of Section 50451 for the current year and projected four additional years ahead.

(3) A revision of the housing assistance goals specified in subdivision (c) of Section 50451 for the current year and projected four additional years ahead.

(4) A revision of the evaluation required by subdivision (a) of Section 50451 as new census or other survey data become available. The revision shall contain an evaluation and summary of housing conditions throughout the state and may highlight data for multicounty or regional areas, as determined by the department. The revision shall include a discussion of the housing needs of various population groups, including, but not limited to, the elderly persons, disabled persons, large families, families where a female is the head of the household, and farmworker households.

(5) An updating of recommendations for actions by federal, state, and local governments and the private sector which will facilitate the attainment of housing goals established for California.

(6) For the next revision of the plan on or after January 1, 2020, and each subsequent revision thereafter, a 10-year housing data strategy that defines suitable data to inform modern state housing policymaking in support of safe, sustainable, and equitable housing that is sufficient to meet the housing needs of this state.

(b) The Legislature may review the plan and the updates of the plan and transmit its comments on the plan or updates of the plan to the Governor, the Secretary of Business, Consumer Services and Housing, and the Director of Housing and Community Development.

SEC. 5. Section 50457.5 is added to the Health and Safety Code, to read:

50457.5. The department shall establish a statewide, publicly accessible, geographic information system database of parcel boundaries, capable of linking to all parcel-level housing data available to the state.

SEC. 6. Section 50469 is added to the Health and Safety Code, to read:

50469. (a) (1) The department shall develop protocols for data sharing, documentation, quality control, public access, and promotion of open-source platforms and decision support tools related to housing data. No later than January 1, ~~2021,~~ *2022,* the department shall submit to the Legislature a report describing these protocols.

(2) The report required to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(b) (1) The department shall coordinate and integrate existing housing data from local, state, and federal agencies.

(2) No later than January 1, ~~2022,~~ *2023,* the department shall develop, and shall thereafter operate and maintain, a single, publicly accessible, and machine-readable data portal for all nonpersonal housing data collected by the department.

(c) The department shall require, as a condition of providing funds through grants or contracts for research or projects relating to housing pursuant to this part, that fund recipients adhere to the protocols developed pursuant to subdivision (b) for data sharing, transparency, documentation, and quality control.

SEC. 7. Section 50515 is added to the Health and Safety Code, to read:

50515. Upon request of a local public entity required to submit an annual report to the department pursuant to paragraph (2) of subdivision (a) of Section 65400 of the Government Code, the department shall provide technical assistance to that local public entity in providing the information required pursuant to subdivision (b) of Section 65400 of the Government Code.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Date of Hearing: April 3, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
David Chiu, Chair
AB 1484 (Grayson) – As Amended March 26, 2019

SUBJECT: Mitigation Fee Act: housing developments

SUMMARY: Requires local agencies to publish fees for housing development projects on their internet website and freezes "impact and development fees that are applicable to housing developments" for two-years after a development application is deemed complete. Specifically, **this bill**:

1) Defines "housing development project" to mean a use consisting of any of the following:
   a) Residential units only;
   b) Mixed-use development consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use; and,
   c) Transitional housing or supportive housing.
2) Defines "impact and development fees that are applicable to housing developments" to mean any of the following:
   a) Any fee imposed under the Mitigation Fee Act;
   b) Any fee based on the impact of a project;
   c) Parkland dedication fees imposed under the Quimby Act;
   d) Affordable housing fees; and
   e) Utility connection fees and capacity charges that are established by the city or county.
3) Requires a local agency to provide a list of all fees imposed on a "housing development project" on the local agency's website.
4) Prohibits a local agency from imposing, extending, or increasing any fee upon a housing development project after an application is submitted unless the local agency specifically identifies the type and amount of the fee, including any fee scale, on the local agency's internet website at the time the application for the project is submitted to the local agency.
5) Requires a city or county to provide an applicant a good faith statement disclosing the amount of impact and development fees applicable to a housing development at the time that the application for a housing development is deemed complete.
6) Prohibits a public agency from increasing any impact and development fees to a housing development for two years after the city or county issued the good faith statement.
7) Provides that the prohibition on fee increases shall not apply to the following:

a) A fee charged for a water or sewer connection;

b) Fees within the a community benefit agreement;

c) Fees charged by both water and utility entities, both public and private; and

d) Any fee increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee in effect at the time the housing development application is deemed complete.

8) Provides that the fact that a housing development project may require a land use approval that is considered legislative does not limit or narrow the applicability or scope of the prohibition against fee increases.

9) Provides that the prohibition on fee increases, does not prohibit additional fees, charges, or other exactions if the project is changed to include additional units or square footage that result from project revisions after the application is determined to be complete.

10) Provides that the prohibition on fee increases, does not limit a city, county, or city and county authority to impose a fee or other exaction necessary to mitigate a housing development project's impact to a less than significant level pursuant to the California Environmental Quality Act (CEQA)

11) Provides that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

EXISTING LAW:

1) Requires the Department of Housing and Community Development (HCD), by June 30, 2019, to complete a study to evaluate the reasonableness of local fees charged to new developments and make recommendations of potential amendments to the Mitigation Fee Act to substantially reduce fees for residential development.

2) Defines housing development to mean:

a) Residential units only

b) Mixed use developments consisting of residential and non-residential with at least two-thirds of the use dedicated to residential

c) Transitional and supportive housing

3) Establishes the Permit Streamlining Act and requires the following:

a) No later than 30 days after any public agency receives an application for a development project, the agency must determine in writing whether the application is complete and provide that determination to the applicant of the development project;

b) If the written determination is not made within 30 days then the application is deemed complete;

c) If the application is determined not to be complete, the public agency must provide an explanation of the specific information needed to complete the application; and

d) The public agency to provide an appeals process for a developer to challenge a determination that an application for a development project is incomplete.

4) Authorizes a local government to enter into a development agreement with a party that has a legal or equitable interest in a property.

5) Requires a development agreement to specify the duration of the agreement, the permitted uses of the property, the density of intensity or the use, the maximum height and size of the proposed buildings, and any dedication of land for a public purpose. The agreement may provide construction shall begin within a specified time and that the project or any phase must be completed within a specified time.

6) Allows the development agreement to include conditions, terms, restrictions, and requirements for subsequent discretionary actions provided they do not prevent the development of a project at the density and intensity in the agreement.

7) Allows a development agreement to be amended or cancelled, in whole or in part, by mutual consent of the developer and the local government.

8) Establishes the Mitigation Fee Act and requires a local agency to do all of the following when establishing, increasing, or imposing a fee on a development project:

a) Identify the purpose of the fee;

b) Identify the use to which the fee is to be put;

c) Determine how there is a reasonable relationship between the fees use and the type of development project on which the fee is imposed; and

d) Determine how there is a reasonable relationship between the need for a public facility and the type of development project on which the fee is imposed.

FISCAL EFFECT: Unknown.

COMMENTS:

Background: Local governments can charge housing developments a variety of fees. Cities charge service fees to pay for staff time for processing a development application, reviewing plans, permit approvals, and inspections. Impact fees are imposed to pay for the cost of the infrastructure needed to support the development. The Mitigation Fee Act, passed in 1989, requires cities to identify the purpose of a fee, the use of the fee and that there is a "reasonable" relationship between the fee amount and the impact of the project. Local agencies also charge fees to fund open space and parks, school fees, water and sewer fees, and project specific fees through negotiated development agreements. The passage of Proposition 13 and the loss of property tax revenues have fueled cities' dependence on fees to fund infrastructure and services.

At the beginning of the development process a developer submits a development application. The Permit Streamlining Act requires a planning department to determine if an application is complete within 30 days. If the planning department determines that the application is incomplete it must provide in writing why it is incomplete. When the developer resubmits the application the 30 day timeline starts again.

Local governments and developers can enter into development agreements to negotiate the conditions of development. Development agreements and vesting maps provide greater certainty to developers throughout the process, because once those terms are negotiated they cannot be altered unless by mutual consent. Under the existing process fees can be locked in when a developer enters into a development agreement or secures a vesting map. Those are subject to negotiation between the developer and the city and all of the details of the development are part of the agreement.

Some jurisdictions publish development fee schedules that developers can use to estimate the cost of development. Some city planners will provide estimates of the fees associated with a development at the application process. Not all cites publish fee schedules or provide estimates which make it difficult for developers to estimate the cost of the project. The development process can take several years, and the final cost of the development is not known until the permit stage.

This bill requires local agencies to publish fees on their website. Once the application for a development is deemed complete, impact and development fees are locked in for two years. Fees include those fees covered by the Mitigation Fee Act, fees for parklands, sewer and water connection fees imposed by the city and county, fees to address impacts of a development and affordable housing fees.

University of California Impact Fee Report: In March 2018, the Terner Center for Housing and Innovation at UC Berkeley, published a study *It All Adds Up: the Cost of Housing Development Fees in Seven California Cities*, that looked at the development fees charged in seven different cities (Berkeley, Oakland, Fremont, Los Angeles, Irvine, Sacramento, and Roseville) to determine the total amount of fees charged in each city, the makeup of the fees, and the extent to which information on the development fees is available to builders. The results showed a wide range in the amount of fees charged for multifamily housing from $12,000 per unit in Los Angeles to $75,000 per unit in Fremont. In addition, the report found several issues with the way that development fees are implemented including difficulty in estimating fees, lack of oversight or coordination between city departments in setting fees, variability in type and size of impact fees across cities, the way in which individual fees add up and substantially increase the cost of building housing, and the fact that projects are often subject to additional exactions not codified in any fee schedule. The report made several recommendations to improve state and local development fee policies including: 1) adopt objective standards for determining the amount of fees that can be charged, 2) adopt a fee transparency policy and implement best practices for setting and charging fees, 3) define when fees can be levied and changed during the development process, and 4) identify alternative ways to pay for the cost of growth to reduce cities' reliance on fees.

Further study: As the Berkeley study points out; there is a need for greater transparency in the development process. Despite the requirement that fees be reasonable under the Mitigation Fee Act, there is a wide discrepancy between the amounts of fees charged by local jurisdictions for

development. AB 879 (Grayson) Chapter 374, Statutes of 2017 required HCD to complete a study to evaluate the reasonableness of local fees charged to new developments and make recommendations for potential amendments to the Mitigation Fee Act to substantially reduce fees for residential development. The study must be completed by June 30, 2019.

Support if amended: The American Planning Association, which has a support if amended position on the bill, writes, "APA believes that the process now in the bill with the addition of several key qualifying amendments, are feasible, consistent with best local practices regarding the imposition of fees on housing units at the time the development application is determined to be complete and apply to specific fees that are known to the city or county at that early stage in the development process." APA requests that the hold on fees only apply to the housing units in the development project and the application must include a detailed square footage breakdown to make clear that the freeze on fees only applies to housing and not commercial portions of a development. In addition, APA requests that the bill be amended to state that in addition to any changes in the units or square footage, other project changes proposed by the applicant after the application is deemed complete, can result in changes to the fees in effect at the time the development is deemed complete.

Staff comments: This bill includes several inconsistencies.

- The requirement to freeze impact and development fees for two years applies when a city or county deems an application for a housing development is complete; however, the requirement to disclose fees on a website and that only fees listed on a website can be imposed on a development applies more broadly to local agencies which includes special districts and school districts. The bill should be amended to use "city and county" throughout.

- The bill defines the fees that must be frozen at the time of the application stage as "impact and development fees charged to a housing development" but this term is not used to define the fees that a local agency publishes on their website. To ensure consistency, the bill should be amended to require local agencies to list "impact and development fees charged to a housing development" on their website.

- The bill also prohibits a local agency from imposing fees that are not listed on the website at the time an application is submitted. This should be changed to the time an application is deemed complete. There may be considerable time between when an application is submitted and deemed complete.

Committee *amendments*:

- Require local agencies to disclose "impact and development fees applicable to housing developments" consistent with the definition of "impact and development fees applicable to housing developments" in 65944.5 (f) on their website.

- Prohibit local agencies from imposing fees not listed on their internet website at the time the housing development is application is deemed complete versus when it is submitted.

- To make the bill consistent require cities and counties to disclose impact and development fees applicable to housing developments on their website rather than local agencies.

Double referred: This bill was also referred to the Assembly Committee on Local Government where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Realtors (co-sponsor)
California Building Industry Association (co-sponsor)
California Housing Consortium (co-sponsor)
California Apartment Association
Bay Area Council
Building Industry Association of the Bay Area
California Community Builders
California YIMBY
EAH Housing
Facebook
Habitat for Humanity East Bay/Silicon Valley
Non-Profit Housing Association of Northern California
North Bay Leadership Council
Related California
SV@Home
SPUR
TMG Partners

Support If Amended

PICO California
The San Francisco Foundation
Working Partnerships USA

Opposition

None on file

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085

AB-1484 Mitigation Fee Act: housing developments. (2019-2020)

Date Published: 04/10/2019 09:00 PM

AMENDED IN ASSEMBLY APRIL 10, 2019

AMENDED IN ASSEMBLY APRIL 04, 2019

AMENDED IN ASSEMBLY MARCH 26, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL No. 1484

Introduced by Assembly Member Grayson

February 22, 2019

An act to amend Section 65940 of, and to add ~~Sections 65944.5 and~~ *Section* 66004.1 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1484, as amended, Grayson. Mitigation Fee Act: housing developments.

~~(1)The~~

The Mitigation Fee Act requires a local agency that establishes, increases, or imposes a fee as a condition of approval of a development project to, among other things, determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

~~This bill would prohibit a city, county, or city and county from imposing a fee, as defined, on a housing development project, as defined, unless the type and amount of the exaction is specifically identified on the city or county's internet website at the time the application for the development project is deemed complete by the city or county.~~

This bill would require each city, county, or city and county to post on its internet website the type and amount of each fee imposed on a housing development project, as defined.

~~(2)Existing~~

Existing law, the Permit Streamlining Act, requires each public agency to provide a development project applicant with a list that specifies the information that will be required from any applicant for a development project. Existing law prohibits a local agency from requiring additional information from an applicant that was not specified in that list.

This bill would require each city, county, or city and county to include the location on its internet website of all fees imposed upon a housing development project in the list of information provided to a development project applicant that was developed pursuant to the provisions described above.

~~This bill would, at the time that an application for a housing development project is deemed complete, require the city, county, or city and county to provide a good faith statement disclosing the amount of impact and development fees applicable to the housing development. The bill would also prohibit a public agency from increasing these disclosed impact and development fees for 2 years after the city, county, or city and county issued the good faith statement, except as provided. By increasing the duties of local officials, this bill would impose a state-mandated local program.~~

~~(3)This~~

This bill would make findings that ensuring access to affordable housing is a matter of statewide concern rather than a municipal affair and, therefore, applies to all cities, including a charter city and a charter city and county.

~~(4)The~~

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

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65940 of the Government Code is amended to read:

65940. (a) (1) Each state agency and each local agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Each local agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

(2) For housing development projects, as defined by paragraph (2) of subdivision (h) of Section 65589.5, each city, county, or city and county shall include the location on its internet website ~~of all fees imposed upon a housing development project, as described in~~ *of the information required by* Section 66004.1, in the list required under paragraph (1).

(b) (1) The list of information required from any applicant shall include, where applicable, identification of whether the proposed project is located within 1,000 feet of a military installation, beneath a low-level flight path or within special use airspace as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined in Section 65944.

(2) The information described in paragraph (1) shall be based on information provided by the Office of Planning and Research pursuant to paragraph (2) of subdivision (d) as of the date of the application. Cities, counties, and cities and counties shall comply with paragraph (1) within 30 days of receiving this notice from

the office.

(c) (1) A city, county, or city and county that is not beneath a low-level flight path or not within special use airspace and does not contain a military installation is not required to change its list of information required from applicants to comply with subdivision (b).

(2) A city, county, or city and county that is entirely urbanized, as defined in subdivision (e) of Section 65944, with the exception of a jurisdiction that contains a military installation, is not required to change its list of information required from applicants to comply with subdivision (b).

(d) (1) Subdivision (b) as it relates to the identification of special use airspace, low-level flight paths, military installations, and urbanized areas shall not be operative until the United States Department of Defense provides electronic maps of low-level flight paths, special use airspace, and military installations, at a scale and in an electronic format that is acceptable to the Office of Planning and Research.

(2) Within 30 days of a determination by the Office of Planning and Research that the information provided by the Department of Defense is sufficient and in an acceptable scale and format, the office shall notify cities, counties, and cities and counties of the availability of the information on the internet.

~~SEC. 2.Section 65944.5 is added to the Government Code, to read:~~

~~65944.5.(a)At the time that an application for approval of a housing development project is deemed complete pursuant to Section 65943, the city, county, or city and county shall provide the applicant a good faith statement disclosing the amount of impact and development fees applicable to the housing development.~~

~~(b)(1)A public agency shall not increase any impact and development fees applicable to the housing development disclosed pursuant to subdivision (a) for two years after the city, county, or city and county issued the good faith statement pursuant to subdivision (a), except as provided in paragraph (2).~~

~~(2)Notwithstanding paragraph (1), the prohibition against fee increases provided in paragraph (1) shall not apply to any of the following:~~

~~(A)A fee or charge imposed pursuant to Section 66013.~~

~~(B)Fees within a community benefit agreement.~~

~~(C)Fees charged by both water and utility entities, both public and private.~~

~~(D)Any fee increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee in effect at the time the housing development application is deemed complete.~~

~~(c)The fact that a housing development project may require a land use approval that is considered legislative in nature shall not be construed to limit or narrow the applicability or scope of the prohibition against fee increases provided in subdivision (b).~~

~~(d)Nothing in this section shall be construed to prevent additional units or square footage that result from project revisions occurring after the application is determined by the local agency to be complete from being subject to a fee, charge, or other exaction that was in effect at the time that the housing development application is deemed complete.~~

~~(e)Nothing in this section shall be construed to limit the authority of a city, county, or city and county to impose a fee or other exaction necessary to mitigate a housing development project's impact to a less than significant level pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(f)For purposes of this subdivision, "impact and development fees that are applicable to housing developments" means any of the following:~~

~~(1)Any fees imposed under the Mitigation Fee Act, as defined in Section 66000.~~

~~(2)Any fee based on the impact of a project.~~

~~(3)Parkland dedication fees imposed under the Quimby Act pursuant to Section 66477.~~

~~(4)Affordable housing fees.~~

~~(5)Utility connection fees and capacity charges that are established by the city or county.~~

~~**SEC. 3.**~~***SEC. 2.*** Section 66004.1 is added to the Government Code, to read:

66004.1. Notwithstanding any other law, a city, county, or city and county shall~~ not impose, extend, or increase any impact or development~~ *post each* fee that is applicable to a housing development project, as defined in paragraph (2) of subdivision (h) of Section 65589.5,~~ unless the city or county specifically identifies the type and amount of the fee, including any fee scale if applicable,~~ on the city or county's internet~~ website at the time the application for the project is deemed complete by the city or county pursuant to Section 65943.~~ *website.*

~~**SEC. 4.**~~***SEC. 3.*** The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern, and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, the changes made by this act apply to all cities, including a charter city or a charter city and county.

~~**SEC. 5.**~~***SEC. 4.*** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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Metropolitan Transportation Commission

Legislation Details (With Text)

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Date	Ver.	Action By	Action	Result

Funding/Regional Housing Entity - AB 1487 (Chiu)

Rebecca Long

Information

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 1487 (Chiu) – As Amended April 4, 2019

SUBJECT: San Francisco Bay area: housing development: financing

SUMMARY: Establishes the San Francisco Bay Regional Housing Finance Act and creates a regional housing agency for the San Francisco Bay area. Specifically, **this bill**:

1) Includes the following declarations from the Legislature:

   a) The San Francisco Bay area is facing the most significant housing crisis in the region's history, as countless residents are contemplating moving, spend hours driving every day, are one paycheck away from an eviction, or homelessness;

   b) The San Francisco Bay area faces this crisis because, as a region, it has failed to produce enough housing at all income levels, preserve affordable housing, protect existing residents from displacement, and address the housing issue regionally;

   c) The housing crisis in the San Francisco Bay area is regional in nature and too great to be addressed individually by the region's 101 cities and 9 counties;

   d) However, the current process is anything but regional; instead each city and county is responsible for their own decisions around housing;

   e) The San Francisco Bay area faces an annual funding shortfall of $2,500,000,000 in its efforts to address the affordable housing crisis; and

   f) A regional entity is necessary to help address the housing crisis in the San Francisco Bay area by delivering resources and technical assistance at a regional scale, including:

      i. Providing critically funding to affordable housing projects across the San Francisco Bay area;

      ii. Providing staff support to local jurisdictions that require capacity or technical assistance to expedite the preservation and production of housing;

      iii. Funding tenant services, such as emergency rental assistance and access to counsel, thereby relieving local jurisdictions of this cost and responsibility;

      iv. Assembling parcels and acquiring land for the purpose of building affordable housing; and

      v. Monitoring and reporting on progress at a regional scale.

2) Establishes the Housing Alliance for the Bay Area (entity) as follows:

   a) The entity has jurisdiction extending throughout the San Francisco Bay area, including the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma and the City and County of San Francisco;

   b) The formation and jurisdictional boundaries of the entity are not subject to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000;

   c) The entity's purpose is to increase affordable housing in the San Francisco Bay area by providing for enhanced funding and technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production;

   d) It is the intent of the Legislature that the entity complement existing efforts by cities, counties, districts, and other local, regional, and state entities, related to addressing the goals described in this title; and,

   e) It is the intent of the Legislature that the entity be staffed by the existing staff of the Metropolitan Transportation Commission (MTC), or any successor agency, with the understanding that additional staff with expertise in affordable housing finance and other aspects of the entity's work will be needed.

3) Establishes the governing board for the entity as follows:

   a) The entity shall be governed by a board composed of 18 voting members, including nine from MTC and nine from the Association of Bay Area Governments (ABAG);

   b) The entity shall form an advisory body comprised of nine representatives with knowledge and experience in the areas of affordable housing finance and development, tenant protection, resident service provision, and housing preservation;

   c) Each member of the board shall serve at the pleasure of the appointing authority;

   d) The appointing authority shall fill any vacancy on the board within 90 days from the date on which the vacancy occurs;

   e) The board shall select from its members a chair, who shall preside over meetings of the board, and a vice chair from its members, who shall preside in the absence of the chair;

   f) A member appointed may receive a per diem for each board meeting that the member attends. The board shall set the amount of that per diem for a member's attendance, but that amount shall not exceed one hundred dollars ($100) per meeting. A member shall not receive a payment for more than two meetings in a calendar month. A member may waive a payment of this per diem;

   g) Members of the board are subject to Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5;

h) The entity shall be subject to the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974;

i) Members of the board member shall exercise independent judgment on behalf of the interests of the residents, the property owners, and the public as a whole in furthering the intent and purposes of this title;

j) The time and place of the first meeting of the board shall be at a time and place within the San Francisco Bay area fixed by the chair of the board. After the first meeting, the board shall hold meetings at times and places determined by the board;

k) The board may make and enforce rules and regulations necessary for the governance of the board, the preservation of order, and the transaction of business; and

l) In exercising the powers and duties conferred on the entity by this title, the board may act either by ordinance or resolution.

4) Establishes the powers of the entity such that it may:

a) Raise and allocate new revenue by authorizing the entity to place on the ballot in all or a subset of the nine counties in the San Francisco Bay area various funding measures that distribute the responsibility across commercial developers, businesses above a certain size, taxpayers, and property owners within its jurisdiction. These funding measures may include:

i. A parcel tax;

ii. A commercial linkage fee that is either of the following:

1. A variable rate fee assessed on new construction, providing a credit for a project in a local jurisdiction with an existing linkage fee program; or

2. A flat rate fee assessed on new construction.

iii. A gross receipts tax with variable rates according to business sector with an exemption for small businesses;

iv. A business tax based upon the number of employees assessed at a variable rate with an exemption for small businesses;

v. One-half of one cent ($0.005) increase in sales tax;

vi. A general obligation bond to be funded by an ad valorem tax on the assessed value of local properties; and

vii. A revenue bond.

b) Incur and issue indebtedness and assess fees on any debt issuance and loan products for reinvestment of fees and loan repayments in affordable housing production and preservation;

c) Allocate funds to the various cities, counties, and other public agencies and affordable housing projects within its jurisdiction to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs, pursuant to this title, in accordance with applicable constitutional requirements;

d) Apply for and receive grants from federal and state agencies;

e) Solicit and accept gifts, fees, grants, and allocations from public and private entities;

f) Deposit or invest moneys of the entity in banks or financial institutions in the state;

g) Sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction;

h) Engage counsel and other professional services;

i) Enter into and perform all necessary contracts;

j) Enter into joint powers agreements pursuant to the Joint Exercise of Powers Act;

k) Hire staff, define their qualifications and duties, and provide a schedule of compensation for the performance of their duties;

l) Use staff provided by MTC. A person who performs duties as interim or temporary staff pursuant to this subdivision shall not be considered an employee of the entity;

m) Assemble parcels and lease or acquire land for affordable housing development;

n) Collect data on housing production and monitor progress on meeting regional and state housing goals;

o) Provide support and technical assistance to local governments in relation to producing and preserving affordable housing;

p) Provide public information about the entity's housing programs and policies;

q) Any other express or implied power necessary to carry out the intent and purposes of this title.

5) Specifies the limitations of the powers of the entity in that it may not:

a) Regulate or enforce local land use decisions; or

b) Acquire property by eminent domain.

6) Enables for the expenditure funding revenues as follows:

a) The entity must distribute the total funds for the region over a five-year period commencing after revenue is approved by voters as follows:

i. A minimum of 60 percent for production of housing units affordable to lower income households.

ii. A minimum of 5 percent and a maximum of 10 percent for tenant protection programs. The entity shall give priority to tenant protection programs that have flexible funding sources. Funding for tenant protection programs may be used for any of the following:

1. Providing access to counsel for tenants facing eviction.

2. Providing emergency rental assistance for lower income households.

3. Providing relocation assistance for lower income households.

4. Collection and tracking of information related to displacement risk and evictions in the region.

iii. A minimum of 15 percent and a maximum of 20 percent for preservation of housing affordable to low- or moderate-income households.

iv. A minimum of 5 percent and a maximum of 10 percent for general funds awarded to a local government that achieves affordable housing benchmarks established by the entity.

b) The entity may lower these minimum distribution amounts if it adopts a finding that the minimum funding amount exceeds the region's needs. The finding must be placed on a meeting agenda for discussion at least 30 days before the entity adopts the finding.

c) The entity may allocate funds directly to a city, a county, a public entity, or a private project sponsor.

d) The entity must distribute funds so that an amount equal to or greater than 75 percent of the revenue received from a county over a five-year period through authorized funding expended in the county, as follows:

i. A county may request to administer all or a portion of the funds required to be expended in the county.

ii. The entity shall approve, deny, or conditionally approve the request based on factors, including, but not limited to, whether the county has a demonstrated

track record of successfully administering funds for the listed purposes and has sufficient staffing capacity to conduct the work effectively; and

iii. The entity shall distribute funds to a county based on an expenditure plan submitted by the county and approved by the entity. A county's proposed expenditure plan may contain funding amounts different than those listed above. In approving a county's expenditure plan and allocating funds, the entity may adjust the funding amounts to ensure compliance with the overall allocation requirements.

e) If funds provided to a county for administration pursuant are not committed within three years of collection, the county shall return the funds to the entity.

f) The entity may expend up to 3 percent of funds for program administration.

7) Establishes requirements and procedures for ballot measures necessary to generate funding revenues, as follows:

a) The entity is a district, as defined in Section 317 of the Elections Code.

b) If the entity proposes a measure that will generate revenues, the board of supervisors of the county or counties in which the entity has determined to place the measure on the ballot shall call a special election on the measure. The special election shall be consolidated with the next regularly scheduled statewide election and the measure shall be submitted to the voters in the appropriate counties.

c) A measure proposed by the entity that requires voter approval shall be submitted to the voters of the entity in accordance with the provisions of the Elections Code applicable to districts.

d) The entity shall file with the board of supervisors of each county in which the measure shall appear on the ballot a resolution of the entity requesting consolidation, and setting forth the exact form of the ballot question.

e) The legal counsel for the entity shall prepare an impartial analysis of the measure. The impartial analysis prepared by the legal counsel for the entity shall be subject to review and revision by the county counsel of the county that contains the largest population, as determined by the most recent federal decennial census, among those counties in which the measure will be submitted to the voters.

f) Each county included in the measure shall use the exact ballot question, impartial analysis, and ballot language provided by the entity. If two or more counties included in the measure are required to prepare a translation of ballot materials into the same language other than English, the county that contains the largest population, as determined by the most recent federal decennial census, among those counties that are required to prepare a translation of ballot materials into the same language other than

English shall prepare the translation, or authorize the entity to prepare the translation, and that translation shall be used by the other county or counties, as applicable.

g) If a measure proposed by the entity pursuant to this title is submitted to the voters of the entity in two or more counties, the elections officials of those counties shall mutually agree to use the same letter designation for the measure.

h) The county clerk of each county shall report the results of the special election to the entity.

i) For any election at which the entity proposes a measure that would generate revenues, the entity shall reimburse each county in which that measure appears on the ballot only for the incremental costs incurred by the county elections official related to submitting the measure to the voters with any eligible funds transferred to the entity from ABAG or MTC. These "incremental costs" include the cost to prepare, review, and revise the impartial analysis of the measure that is required by subdivision; the cost to prepare a translation of ballot materials into a language other than English by any county; and the additional costs that exceed the costs incurred for other election races or ballot measures, if any, appearing on the same ballot in each county in which the measure appears on the ballot, including the printing and mailing of ballot materials and the canvass of the vote regarding the measure.

j) Because the entity has no revenues as of the effective date of this section, the appropriations limit for the entity shall be originally established based on receipts from the initial measure that would generate revenues for the entity.

8) Requires financial oversight of the entity as follows:

a) The board shall provide for regular audits of the entity's accounts and records and shall maintain accounting records and shall report accounting transactions in accordance with generally accepted accounting principles adopted by the Governmental Accounting Standards Board of the Financial Accounting Foundation for both public reporting purposes and for reporting of activities to the Controller.

b) The board shall provide for annual financial reports. The board shall make copies of the annual financial reports available to the public.

9) The Legislature finds and declares that providing a regional financing mechanism for affordable housing development and preservation in the San Francisco Bay Area, as described in this section and Section 64501, is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this title applies to all cities within the San Francisco Bay area, including charter cities.

10) The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely severe shortage of available funding and

resources for the development and preservation of affordable housing and the particularly acute nature of the housing crisis within the nine counties of the San Francisco Bay area region.

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

EXISTING LAW:

1) Establishes the MTC as the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, and specifies its governance structure, duties, and powers (Government Code Title 7.1).

2) Creates the Bay Area Toll Authority (BATA) as a separate entity governed by the same governing board as the MTC and makes BATA responsible for the programming, administration, and allocation of toll revenues from the state-owned toll bridges in the Bay Area (Streets and Highway Code Section 30950-309050.4).

3) Authorizes BATA to increase the toll rates for certain purposes, including to meet its bond obligations, provide funding for certain costs associated with the Bay Area state-owned toll bridges, including for the seismic retrofit of those bridges, and provide funding to meet the requirements of certain voter-approved regional measures (Streets and Highway Code Section 30914.7).

4) Established the San Francisco Bay Restoration Authority and specifies its governance structure, duties, and powers. These powers include the ability to place revenue measures on the ballot in all of the Bay Area counties and to issue bonds based on the proceeds of the revenue measures (Government Code Title 7.25).

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the Bill: According to the author, "Housing is a regional issue that requires policy and funding coordination across jurisdictions. AB 1487 creates the Housing Alliance for the Bay Area, the first public entity focused entirely on the region's housing needs. This bill empowers the Bay Area to help address its affordable housing needs by enabling the region to raise new revenue and support local jurisdictions, and thereby ensure that the entire Bay Area is on track to end the housing crisis by providing affordable housing efficiently and effectively to all residents.

Background: Bay Area housing prices have long exceeded that of the state and county. This situation has been exacerbated during the economic expansion since the Great Recession ended in 2010, as the Bay Area has added seven times as many jobs as housing units. The mismatch of supply and demand has resulted in an increase in housing prices such that average rents are

$2,400 (an increase of 60% since 2010) and average home prices are $790,000 (also an increase of 60% since 2010).

From the middle of 2017 to the end of 2018, the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) convened a series of structured discussions with local government officials, developers, major employers, labor interests, housing and policy experts, social equity advocates and non-profit housing providers. This group was deemed the Committee to House the Bay Area, and nicknamed CASA. CASA identified that, to make housing in the region more affordable, 35,000 new housing units would need to be built annually, including 14,000 new subsidized affordable housing units. Additionally, the region has 30,000 units at risk of losing their affordability, and 300,000 lower-income households who are paying more than 50% of their income in rent.

The Bay Area already has substantial resources to fund the production, preservation, and protection of affordable housing; however, CASA's analysis is that there is still a $2.5 billion funding gap annually between existing resources and what is needed. CASA proposes to meet $1.5 billion of this deficit with regional and local self-help measures, with the remainder being funded from additional state and federal sources.

The Housing Alliance for the Bay Area: This bill establishes the Housing Alliance for the Bay Area (HABA). The entity's purpose is to increase affordable housing in the San Francisco Bay Area by providing for enhanced funding and technical assistance at a regional level for new affordable housing production, affordable housing preservation, and tenant protection. The stated intent of HABA is to complement existing efforts by cities, counties, districts, and other local, regional, and state entities. HABA would create a new district with jurisdiction extending throughout the Bay Area, including the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma and the City and County of San Francisco.

The bill specifies the governance process for HABA, including that it would be governed by a board composed of 18 voting members, including nine from MTC and nine from ABAG. The entity must also form an advisory body comprised of nine representatives with knowledge and experience in the areas of affordable housing finance and development, tenant protection, resident service provision, and housing preservation. It would be staffed by MTC staff, recognizing that the agency would need additional staff with expertise in affordable housing finance and other related skills.

Powers and Limitations of HABA: The bill establishes HABA's powers, including that it may:

- Raise new revenue;
- Allocate funds to the various cities, counties, and other public agencies and affordable housing projects within its jurisdiction;
- Provide support and technical assistance to local governments in relation to producing and preserving affordable housing;
- Assemble parcels and lease or acquire land for affordable housing development;
- Collect data on housing production and monitoring progress on meeting regional and state housing goals; and
- Provide public information about the entity's housing programs and policies.

The bill also specifically states that HABA may not regulate or enforce local land use decisions, or acquire property by eminent domain.

Sources of potential revenue: The bill specifies that HABA may raise new revenue by authorizing the entity to place on the ballot in all or a subset of the nine counties in the San Francisco Bay area. The bill lists the following as potential funding strategies:

- A parcel tax;
- A commercial linkage fee that is either of the following:
- A variable rate fee assessed on new construction, providing a credit for a project in a local jurisdiction with an existing linkage fee program; or
- A flat rate fee assessed on new construction.
- A gross receipts tax with variable rates according to business sector with an exemption for small businesses;
- A business tax based upon the number of employees assessed at a variable rate with an exemption for small businesses;
- One-half of one cent increase in sales tax;
- A general obligation bond to be funded by an ad valorem tax on the assessed value of local properties; and
- A revenue bond.

If HABA proposes a ballot measure that will generate revenues, the board of supervisors of the county or counties in which the entity has determined to place the measure on the ballot must call a special election on the measure, consolidated with the next regularly scheduled statewide election. HABA would reimburse the counties for the incremental cost of the election.

Distribution of funding: The bill establishes the targets for expenditure of any revenues received through these fundraising measures, as follows:

- At least 60% must go towards production of housing units affordable to lower income households;
- From 15-20% for preservation of housing affordable to low- or moderate-income households;
- From 5-10% for tenant protection programs; and
- From 5-10% for general funds awarded to a local government that achieves affordable housing benchmarks established by the entity.
- The entity may expend up to 3% of funds for program administration.

The bill also establishes that at least 75% of the revenue received must return to the county of origin. The counties must submit expenditure plans to HABA for its approval. Based on county's plan, capacity, and track record, HABA may allow a county to administer all or a portion its funds directly. HABA may also allocate funds directly to a city, a public entity, or a private project sponsor.

Double referred: This bill was also referred to the Assembly Committee on Local Government where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
Burbank Housing
California Community Builders
California YIMBY
Chan Zuckerberg Initiative
Enterprise Community Partners
Greenbelt Alliance
Habitat for Humanity East Bay/Silicon Valley
Non-Profit Housing Association of Northern California
PICO California
SV@Home
TMG Partners

Support If Amended

Community Legal Services in East Palo Alto
Genesis
Monument Impact
Public Advocates
San Francisco Foundation

Opposition

California Taxpayers Association (as amended on 4/4/19)
Howard Jarvis Taxpayers Association

Analysis Prepared by: Steve Wertheim / H. & C.D. / (916) 319-2085

AB-1487 San Francisco Bay area: housing development: financing. (2019-2020)

Date Published: 04/04/2019 09:00 PM

AMENDED IN ASSEMBLY APRIL 04, 2019

AMENDED IN ASSEMBLY MARCH 26, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL No. 1487

Introduced by Assembly Member Chiu
(Coauthors: Assembly Members Mullin and Wicks)
(Coauthor: Senator Wiener)

February 22, 2019

An act to add Title 6.8 (commencing with Section 64500) to the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1487, as amended, Chiu. San Francisco Bay area: housing development: financing.

Existing law provides for the establishment of various special districts that may support and finance housing development, including affordable housing special beneficiary districts that are authorized to promote affordable housing development with certain property tax revenues that a city or county would otherwise be entitled to receive.

This bill, the San Francisco Bay Area Regional Housing Finance Act, would establish the Housing Alliance for the Bay Area (hereafter "the entity") and would state that the entity's purpose is to increase affordable housing in the San Francisco Bay area, as defined, by providing for enhanced funding and technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production. The bill would establish a governing board of the entity, composed of members appointed by the

Metropolitan Transportation ~~Commission,~~ *Commission and* the Association of Bay Area ~~Governments, and the Governor.~~ *Governments.* The bill would authorize the entity to exercise various specified powers, including the power to raise revenue and allocate funds throughout the San Francisco Bay area, subject to applicable voter approval requirements and other specified procedures, as provided. The bill would also require the board to provide for annual audits of the entity and financial reports, as provided. The bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities within the San Francisco Bay ~~Area,~~ *area,* including charter cities.

The bill would ~~state the intent of the Legislature to~~ authorize the entity to, among other things, raise and allocate new revenue by placing funding measures on the ballot in the 9 San Francisco Bay area counties, incur and issue indebtedness, and allocate funds to the various cities, counties, and other public agencies and affordable housing projects within its jurisdiction to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs, *as specified,* in accordance with applicable constitutional requirements.

This bill would make legislative findings and declarations as to the necessity of a special statute for the San Francisco Bay area.

By adding to the duties of local officials with respect to (1) membership on the governing board of the entity and (2) elections procedures for revenue measures on behalf of the entity, this bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Title 6.8 (commencing with Section 64500) is added to the Government Code, to read:

TITLE 6.8. San Francisco Bay Area Regional Housing Finance
PART 1. Formation of the Housing Alliance for the Bay Area and General Powers
CHAPTER 1. General Provisions

64500. This title shall be known, and may be cited, as the San Francisco Bay Area Regional Housing Finance Act.

64501. The Legislature finds and declares the following:

(a) The San Francisco Bay area is facing the most significant housing crisis in the region's history, as countless residents are contemplating moving, spend hours driving every day, are one paycheck away from an eviction, or experience homelessness.

(b) The San Francisco Bay area faces this crisis because, as a region, it has failed to produce enough housing at all income levels, preserve affordable housing, protect existing residents from displacement, and address the housing issue regionally.

(c) The housing crisis in the San Francisco Bay area is regional in nature and too great to be addressed individually by the region's 101 cities and 9 counties.

(d) However, the current process is anything but regional; instead each city and county is each responsible for their own decisions around housing.

(e) The San Francisco Bay area faces an annual funding shortfall of two billion five hundred million dollars ($2,500,000,000) in its efforts to address the affordable housing crisis.

(f) A regional entity is necessary to help address the housing crisis in the San Francisco Bay area by delivering resources and technical assistance at a regional scale, including:

(1) Providing ~~up to one billion five hundred million dollars ($1,500,000,000) from regional funding measures for critical~~ *critically needed* funding to affordable housing projects across the San Francisco Bay area.

(2) Providing staff support to local jurisdictions that require capacity or technical assistance to expedite the preservation and production of housing.

(3) Funding tenant services, such as emergency rental assistance and access to counsel, thereby relieving local jurisdictions of this cost and responsibility.

(4) Assembling parcels and acquiring land for the purpose of building affordable housing.

(5) Monitoring and reporting on progress at a regional scale.

64502. For purposes of this title:

(a) "Board" means the governing board of the Housing Alliance for the Bay Area created pursuant to Section 64511.

(b) "Entity" means the Housing Alliance for the Bay Area established pursuant to Section 64510.

(c) "San Francisco Bay area" means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma and the City and County of San Francisco.

(d) "Lower income households" has the same meaning as that term is defined in Section 50079.5 of the Health and Safety Code.

(e) "Low or moderate income households" has the same meaning as "persons and families of low or moderate income," as defined in Section 50093 of the Health and Safety Code.

64503. The Legislature finds and declares that providing a regional financing mechanism for affordable housing development and preservation in the San Francisco Bay ~~Area,~~ *area,* as described in this section and Section 64501, is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this title applies to all cities within the San Francisco Bay area, including charter cities.

CHAPTER 2. The Housing Alliance for the Bay Area and Governing Board

64510. (a) The Housing Alliance for the Bay Area is hereby established with jurisdiction extending throughout the San Francisco Bay area.

(b) The formation and jurisdictional boundaries of the entity are not subject to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5).

(c) The entity's purpose is to increase affordable housing in the San Francisco Bay area by providing for enhanced funding and technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production.

(d) It is the intent of the Legislature that the entity complement existing efforts by cities, counties, districts, and other local, regional, and state entities, related to addressing the goals described in this title.

(e) It is the intent of the Legislature that the entity be staffed by the existing staff of the Metropolitan Transportation Commission, or any successor agency, with the understanding that additional staff with expertise in affordable housing finance and other aspects of the entity's work will be needed.

64511. (a) (1) The entity shall be governed by a board composed of ~~__~~ *18* voting members, including ~~__~~ *9* from the Metropolitan Transportation ~~Commission, __~~ *Commission and 9* from the Association of Bay Area

~~Governments and __ appointees of the Governor reflecting stakeholders from the San Francisco Bay area~~ *Governments. The entity shall form an advisory committee comprised of nine representatives* with knowledge and experience in the~~ area~~ *areas* of *affordable* housing finance and~~ development.~~ *development, tenant protection, resident service provision, and housing preservation.*

(2) Each member shall serve at the pleasure of the appointing authority.

(3) The appointing authority shall fill any vacancy on the board within 90 days from the date on which the vacancy occurs.

(b) The board shall select from its members a chair, who shall preside over meetings of the board, and a vice chair from its members, who shall preside in the absence of the chair.

(c) (1) A member appointed pursuant to this section may receive a per diem for each board meeting that the member attends. The board shall set the amount of that per diem for a member's attendance, but that amount shall not exceed one hundred dollars ($100) per meeting. A member shall not receive a payment for more than two meetings in a calendar month.

(2) A member may waive a payment of per diem authorized by this subdivision.

(d) (1) Members of the board are subject to Article 2.4 (commencing with Section 53234) of Chapter 2 of Part 1 of Division 2 of Title 5.

(2) The entity shall be subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

64512. A member shall exercise independent judgment on behalf of the interests of the residents, the property owners, and the public as a whole in furthering the intent and purposes of this title.

64513. (a) The time and place of the first meeting of the board shall be at a time and place within the San Francisco Bay area fixed by the chair of the board.

(b) After the first meeting described in subdivision (a), the board shall hold meetings at times and places determined by the board.

64514. (a) The board may make and enforce rules and regulations necessary for the government of the board, the preservation of order, and the transaction of business.

(b) In exercising the powers and duties conferred on the entity by this title, the board may act either by ordinance or resolution.

CHAPTER 3. Powers of the Housing Alliance for the Bay Area

64520. In implementing this title, the entity may do all of the following:

(a) Raise revenue and allocate funds throughout the San Francisco Bay area, as provided in Part 2 (commencing with Section 64600).

(b) Apply for and receive grants from federal and state agencies.

(c) Solicit and accept gifts, fees, grants, and allocations from public and private entities.

(d) Deposit or invest moneys of the entity in banks or financial institutions in the state, as provided in Chapter 4 (commencing with Section 53600) of Part 1 of Division 2 of Title 5.

(e) Sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

(f) Engage counsel and other professional services.

(g) Enter into and perform all necessary contracts.

(h) Enter into joint powers agreements pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1).

(i) Hire staff, define their qualifications and duties, and provide a schedule of compensation for the performance of their duties.

(j) Use staff provided by the Metropolitan Transportation Commission. A person who performs duties as interim or temporary staff pursuant to this subdivision shall not be considered an employee of the entity.

(k) Assemble parcels and *lease or* acquire land for *affordable* housing development.

(l) Collect data on housing production and monitor progress on meeting regional and state housing goals.

(m) Provide support and technical assistance to local governments in relation to producing and preserving affordable housing.

(n) Provide public information about the entity's housing programs and policies.

~~(l)~~

(o) Any other express or implied power necessary to carry out the intent and purposes of this title.

64521. (a) If the entity proposes a measure pursuant to subdivision (a) of Section 64520 that will generate revenues, the board of supervisors of the county or counties in which the entity has determined to place the measure on the ballot shall call a special election on the measure. The special election shall be consolidated with the next regularly scheduled statewide election and the measure shall be submitted to the voters in the appropriate counties, consistent with the requirements of Articles XIII A, XIII C, and XIII D of the California Constitution, as applicable.

(b) (1) The entity is a district, as defined in Section 317 of the Elections Code. Except as otherwise provided in this section, a measure proposed by the entity that requires voter approval shall be submitted to the voters of the entity in accordance with the provisions of the Elections Code applicable to districts, including the provisions of Chapter 4 (commencing with Section 9300) of Division 9 of the Elections Code.

(2) Because the entity has no revenues as of the effective date of this section, the appropriations limit for the entity shall be originally established based on receipts from the initial measure that would generate revenues for the entity pursuant to subdivision (a), and that establishment of an appropriations limit shall not be deemed a change in an appropriations limit for purposes of Section 4 of Article XIII B of the California Constitution.

(c) The entity shall file with the board of supervisors of each county in which the measure shall appear on the ballot a resolution of the entity requesting consolidation, and setting forth the exact form of the ballot question, in accordance with Section 10403 of the Elections Code.

(d) The legal counsel for the entity shall prepare an impartial analysis of the measure. The impartial analysis prepared by the legal counsel for the entity shall be subject to review and revision by the county counsel of the county that contains the largest population, as determined by the most recent federal decennial census, among those counties in which the measure will be submitted to the voters.

(e) Each county included in the measure shall use the exact ballot question, impartial analysis, and ballot language provided by the entity. If two or more counties included in the measure are required to prepare a translation of ballot materials into the same language other than English, the county that contains the largest population, as determined by the most recent federal decennial census, among those counties that are required to prepare a translation of ballot materials into the same language other than English shall prepare the translation, or authorize the entity to prepare the translation, and that translation shall be used by the other county or counties, as applicable.

(f) Notwithstanding Section 13116 of the Elections Code, if a measure proposed by the entity pursuant to this title is submitted to the voters of the entity in two or more counties, the elections officials of those counties

shall mutually agree to use the same letter designation for the measure.

(g) The county clerk of each county shall report the results of the special election to the entity.

(h) (1) Notwithstanding Section 10520 of the Elections Code, for any election at which the entity proposes a measure pursuant to subdivision (a) of Section 64520 that would generate revenues, the entity shall reimburse each county in which that measure appears on the ballot only for the incremental costs incurred by the county elections official related to submitting the measure to the voters with any eligible funds transferred to the entity from the Association of Bay Area Governments or the Metropolitan Transportation Commission.

(2) For purposes of this subdivision, "incremental costs" include all of the following:

(A) The cost to prepare, review, and revise the impartial analysis of the measure that is required by subdivision (d).

(B) The cost to prepare a translation of ballot materials into a language other than English by any county, as described in subdivision (e).

(C) The additional costs that exceed the costs incurred for other election races or ballot measures, if any, appearing on the same ballot in each county in which the measure appears on the ballot, including both of the following:

(i) The printing and mailing of ballot materials.

(ii) The canvass of the vote regarding the measure pursuant to Division 15 (commencing with Section 15000) of the Elections Code.

64522. The entity shall not do either of the following:

(a) Regulate or enforce local land use decisions.

(b) Acquire property by eminent domain.

CHAPTER 4. Financial Provisions

64530. The board shall provide for regular audits of the entity's accounts and records and shall maintain accounting records and shall report accounting transactions in accordance with generally accepted accounting principles adopted by the Governmental Accounting Standards Board of the Financial Accounting Foundation for both public reporting purposes and for reporting of activities to the Controller.

64531. The board shall provide for annual financial reports. The board shall make copies of the annual financial reports available to the public.

PART 2. Financing Activities of the Housing Alliance for the Bay Area
CHAPTER 1. General Provisions

64600. ~~It is the intent of the Legislature to authorize the~~ *The* entity ~~to~~ *may* do all of the following:

(a) *(1)* Raise and allocate new revenue by ~~authorizing the entity to place~~ *placing* on the ballot in all or a subset of the nine counties in the San Francisco Bay area various funding ~~measures that distribute the responsibility across commercial developers, businesses above a certain size, taxpayers, and property owners within its jurisdiction.~~ *measures, including through the following funding mechanisms:*

(A) A parcel tax.

(B) A commercial linkage fee that is either of the following:

(i) A variable rate fee assessed on new construction, providing a credit for a project in a local jurisdiction with an existing linkage fee program.

(ii) A flat rate fee assessed on new construction.

(C) A gross receipts tax with variable rates according to business sector with an exemption for small businesses.

(D) A business tax based upon the number of employees assessed at a variable rate with an exemption for small businesses.

(E) One-half of one cent ($0.005) increase in sales tax.

(F) A general obligation bond to be funded by an ad valorem tax on the assessed value of local properties.

(G) A revenue bond.

(2) It is the intent of the Legislature that the funding measures authorized by this subdivision distribute the responsibility of addressing the affordable housing needs of the region across commercial developers, businesses above a certain size, taxpayers, and property owners within the region.

(b) Incur and issue indebtedness and assess fees on any debt issuance and loan products for reinvestment of fees and loan repayments in affordable housing production and preservation.

(c) Allocate funds to the various cities, counties, and other public agencies and affordable housing projects within its jurisdiction to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs, pursuant to this title, in accordance with applicable constitutional requirements.

~~(d)Assemble parcels and lease or purchase land for housing development.~~

~~(e)Collect data on housing production and monitor progress on meeting regional and state housing goals.~~

~~(f)Provide support and technical assistance to local governments in relation to producing and preserving affordable housing.~~

~~(g)Provide public information about the entity's housing programs and policies.~~

CHAPTER 2. ***Expenditures***

64610*. (a) Revenue generated pursuant to Section 64600 shall be used for the construction of new affordable housing, affordable housing preservation, tenant protection programs, and general funds made available to local jurisdictions as an incentive to achieve affordable housing benchmarks to be established by the entity. Subject to funding eligibility and subject to adjustment pursuant to subdivision (b), the entity shall distribute the total funds for the region over a five-year period commencing after revenue is approved by voters as follows:*

(1) A minimum of 60 percent for production of housing units affordable to lower income households.

(2) A minimum of 5 percent and a maximum of 10 percent for tenant protection programs. The entity shall give priority to tenant protection programs that have flexible funding sources. Funding for tenant protection programs may be used for any of the following:

(A) Providing access to counsel for tenants facing eviction.

(B) Providing emergency rental assistance for lower income households.

(C) Providing relocation assistance for lower income households.

(D) Collection and tracking of information related to displacement risk and evictions in the region.

(3) A minimum of 15 percent and a maximum of 20 percent for preservation of housing affordable to low- or moderate-income households.

(4) A minimum of 5 percent and a maximum of 10 percent for general funds awarded to a local government that achieves affordable housing benchmarks established by the entity.

(b) The entity may lower the minimum distribution in paragraph (1), (2), (3) or (4) of subdivision (a) if it

adopts a finding pursuant to this subdivision that the minium funding amount exceeds the region's needs. The finding shall be placed on a meeting agenda for discussion at least 30 days before the entity adopts the finding.

(c) The entity may allocate funds directly to a city, a county, a public entity, or a private project sponsor.

(d) (1) Subject to paragraph (2), the entity shall distribute funds so that an amount equal to or greater than 75 percent of the revenue received from a county over a five-year period through funding measures authorized by subdivision (a) of Section 64600 is expended in the county.

(2) (A) A county may request to administer all or a portion of the funds required to be expended in the county pursuant to paragraph (1). The entity shall approve, deny, or conditionally approve the request based on factors, including, but not limited to, whether the county has a demonstrated track record of successfully administering funds for the purposes listed in subdivision (a) and has sufficient staffing capacity to conduct the work effectively.

(B) The entity shall distribute funds to a county based on an expenditure plan submitted by the county and approved by the entity. A county's proposed expenditure plan may contain funding amounts different than those listed in subdivision (a). In approving a county's expenditure plan and allocating funds, the entity may adjust the funding amounts to ensure compliance with subdivision (a).

(C) If funds provided to a county for administration pursuant to this subparagraph (A) are not committed within three years of collection, the county shall return the funds to the entity.

(e) The entity may expend up to 3 percent of funds for program administration.

***64611.** The entity shall monitor expenditures in coordination with local jurisdictions.*

***64612.** To ensure oversight and accountability, the entity shall provide an annual report on expenditures which shall include a tracking of projects funded and the extent to which the minimum targets in subdivision (a) of Section 64610 were achieved.*

SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely severe shortage of available funding and resources for the development and preservation of affordable housing and the particularly acute nature of the housing crisis within the nine counties of the San Francisco Bay area region.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.