



Legislative Action Committee Meeting Agenda

June 10, 2021 6:00 PM / Virtual Meeting via Zoom

Register for Zoom webinar [\[HERE\]](#) | Meeting also livestreamed on YouTube [\[LINK\]](#)

More info on public comment and accessibility given at the end of the agenda

Board Members

Chair: Hon. Rich Constantine, Morgan Hill

Campbell	Hon. Elizabeth “Liz” Gibbons / Alternate: Hon. Anne Bybee
Cupertino	Hon. Liang Chao / Alternate: Hon. Darcy Paul
Gilroy	Hon. Marie Blankley / Alternate: Hon. Peter Leroé-Muñoz
Los Altos	Hon. Neysa Fligor / Alternate: Hon. Anita Enander
Los Altos Hills	Hon. Stanley Mok / Alternate: Hon. Lisa Schmidt
Los Gatos	Hon. Marico Sayoc / Alternate: Hon. Rob Rennie
Milpitas	Hon. Carmen Montaña / Alternate: Hon. Evelyn Chua
Monte Sereno	Hon. Rowena Turner / Alternate: Hon. Liz Lawler
Morgan Hill	Hon. Rich Constantine / Alternate: Hon. John McKay
Mountain View	Hon. Ellen Kamei / Alternate: Hon. Lucas Ramirez
Palo Alto	Hon. Tom DuBois / Alternate: Hon. Eric Filseth
San Jose	Hon. Chappie Jones / Alternate: Hon. Matt Mahan
Santa Clara	Hon. Kathy Watanabe / Alternate: Hon. Anthony Becker
Saratoga	Hon. Yan Zhao / Alternate: Hon. Tina Walia
Sunnyvale	Hon. Gustave Larsson / Alternate: Hon. Alyssa Cisneros

Discussion & action may be taken on any of the items below. Times are approximate.

1. Consent Agenda
Approval of April Legislative Action Committee Meeting Minutes <i>Attachment:</i> Minutes
2. Consideration of Bills and Actions Before the California State Legislature
<i>Attachments:</i> Housing Legislation Highlights , Synopsis of Bills
2a. <u>SB 612 (Portantino)</u> Electrical corporations and other load-serving entities: allocation of legacy resources <ul style="list-style-type: none">▪ Presentation from Melissa Charles, Silicon Valley Clean Energy and Kari Smith, San José Clean Energy <i>Attachments:</i> Member Fact Sheet , SVCE Fact Sheet , Floor Analyses , Sample Letter
2b. <u>SB 649 (Cortese)</u> Local governments: affordable housing: local tenant preference <ul style="list-style-type: none">▪ Request from Racial Justice Committee to Support▪ Presentation from Joshua Ishimatsu and Asn Ndiaye, San José Housing Department <i>Attachments:</i> Fact Sheet , Press Release
2c. <u>SB 9 (Atkins, Caballero, Rubio, and Wiener)</u> Housing development: approvals <i>Attachments:</i> Floor Analyses , Action Alert , Sample Letter
2d. <u>AB 1401 (Friedman)</u> Residential and commercial development: parking requirements <i>Attachments:</i> Floor Analyses , League of CA Cities Letter

2e. <u>2021-22 State Budget Request for California Cities</u> <i>Attachments:</i> Action Alert , Sample Letter
2f. <u>AB 1091 (Berman)</u> Santa Clara Valley Transportation Authority: board of directors ▪ Discussion and consideration of member survey requesting member interest to work with Assemblymember Berman on modifications to the bill <i>Attachments:</i> Survey Results
2g. Other bills as requested by members to be considered at later date
Public Comment

ADJOURNMENT

PUBLIC COMMENT

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

1. Email comments to audin@citiesassociation.org
 - Emails will be forwarded to the Legislative Action Committee.
 - **IMPORTANT:** identify the Agenda Item number in the subject line of your email. All emails received will be entered into the record for the meeting.

2. Provide oral public comments during the meeting:
 - When the Chair announces the item on which you wish to speak, click the “raise hand” feature in Zoom. Speakers will be notified shortly before they are called to speak.
 - When called to speak, please limit your comments to the time allotted (up to 3 minutes, at the discretion of the Chair).
 - Phone participants:
 - *6 - Toggle mute/unmute
 - *9 - Raise hand

ACCESSIBILITY

We strive for our meetings and materials to be accessible to all members of the public. Those requiring accommodations to participate in this meeting may contact our Clerk at audin@citiesassociation.org. Notification at least three business days prior to the meeting will allow us to best meet your needs.



Legislative Action Committee Meeting Minutes

April 8, 2021 | 6:00 PM
Virtual Meeting via Zoom

Chair: Mayor Rich Constantine, Morgan Hill

Campbell	Hon. Elizabeth “Liz” Gibbons / Alternate: Hon. Anne Bybee
Cupertino	Hon. Liang Chao / Alternate: Hon. Darcy Paul
Gilroy	Hon. Marie Blankley / Alternate: Hon. Peter Leroé-Muñoz
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Sunnyvale	Hon. Gustav Larsson / Alternate: Hon. Alysa Cisneros

Meeting recording available on YouTube [\[LINK\]](#)

WELCOME AND ROLL CALL – (Constantine)	
1.	CONSENT AGENDA
Approval of committee minutes from March 11, 2021 Motion to approve by Jones. Seconded by Gibbons. AYES (14): Gibbons, Paul, Blankley, Fligor, Sayoc, Montaña, Turner, Constantine, Kamei, Filseth, Jones, Watanabe, Zhao, Cisneros NAYES (0) ABTENSIONS (0) ABSENCES (1): Mok	
2.	Presentation on AB1091 Santa Clara Valley Transportation Authority: board of directors.
Presentation from Assemblymember Marc Berman, AB1091 Author and Glenn Hendricks, VTA Board President	
3.	Consideration of legislative recommendations to the Board of Directors
Potential bills include all those from the Bill Tracker: AB14, AB15, AB16, AB17, AB21, AB34, AB41, AB43, AB50, AB51, AB59, AB68, AB71, AB115, AB215, AB339, AB387, AB550, AB571, AB602, AB678, AB816, AB987, AB1091, AB1258, AB1322, AB1401, AB617, AB682, ACA1, SB1, SB3, SB4, SB5, SB6, SB7, SB8, SB10, SB11, SB12, SB15, SB51, SB52, SB55, SB60, SB83, SB290, SB418, SB477, SB478, SB555, SB612, SB649, SB765, SB109, SB45, SB9, SB99, SCA2 The committee will also be open to requests from members to consider other bills not already listed above.	
PUBLIC COMMENT	
Public comment was received from Rob Rennie, Pat Burt, and Roland Lebrun.	
ADJOURNMENT	

Respectfully submitted,

A handwritten signature in black ink, appearing to read "A. Leung". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Audin Leung
Board Clerk

DRAFT



California Housing Legislation Highlights

as of June 6, 2021

WILDFIRES & EARTHQUAKES *SB11 no longer applies to homes*

- SB 11 Insurance coverage for buildings on farms.
- SB 12 Mitigation + limits in very high hazard zones.
- SB 55 Ban on development in very high hazard zones, more height allowed elsewhere.
- SB 63 Defensible space and building hardening.
- AB 880 Loan fund for rebuilding.
- AB 1329 Earthquake-resilient building code.

COASTAL AREAS

- AB 500 Encourage housing near coast, especially if affordable and/or near transit.
- AB 1445 Consider climate change impact in general plans.

SKILLED & TRAINED (UNION) LABOR

- SB 7 Faster approval of projects using S&T workers.
- AB 919 Reduces length of time owners can sue for construction defects from 10 years to 5 years.

PROJECT APPROVALS

- SB 8 Extends & clarifies the Housing Crisis Act of 2019, which speeds up approvals.
- SB 37 Limits project streamlining on hazmat sites.
- AB 59 Reforms impact fee process to reduce delays.

REDUCING PERMIT FEES

- AB 571 Exempts inclusionary units from fees.
- AB 602 Requires fees to be based on size of building rather than number of units.
- SB 695 Limits infrastructure & park impact fees to actual cost of serving the new residents.

GENERAL PLAN HOUSING ELEMENTS

- AB 215 Cities have to be on track to meet their housing goals at midpoint of 8-year cycle.
- AB 617 Allow cities that don't zone for enough housing to pay other cities to do it for them.
- SB 809 Allows multi-city regional agreements to meet housing goals.
- AB 1304 Affirmatively Furthering Fair Housing.
- AB 1322 Allows cities to rezone to meet state housing laws even if local charter prevents it.
- AB 1486 Streamlines the approval of housing elements.

ANTI-DISCRIMINATION

- SB 238 Makes political affiliation a protected class.
- SB 263 Implicit bias training for real estate agents.
- AB 948 Ban on appraisal discrimination, also requires cultural competency training.
- AB 1466 Allows discriminatory language on deed and covenant documents to be removed.

YOUTH *Funding for youth housing added to May budget*

- SB 234 Homes for youth age 12-26.
- AB 413 Homes for former foster youth age 18-24.
- SB 591 Allows some caregivers & age 18-24 youth to live in senior housing.

ACCESSORY DWELLING UNITS

- AB 345 Allows ADUs built by nonprofits to be sold separately.
- AB 561 Loan fund for building ADUs.
- AB 916 Allows 2-story ADUs in all cities.

LOT DIVISION

- SB 9 Duplexes & lot splits.
- AB 803 Allows more lots to be subdivided.

BALLOT MEASURES

- ACA 1 Allows local housing/infrastructure bonds/taxes to pass with 55% majority.
- SCA 2 Eliminates requirement that public housing be approved by ballot measure.
- SB 5 \$6.5 billion affordable housing bond.
- AB 411 \$600 million bond for housing for veterans.

TAXES

- AB 71 Tax on large corporations to fund housing.
- AB 464 Allows Enhanced Infrastructure Financing Districts (EIFD's) to use additional property tax revenue for housing and related services.
- AB 946 Closes loophole for 2nd homes, funds to assist first-time homebuyers.
- AB 1199 Tax on owners of 10 or more houses, funds housing, rent assistance.
- AB 1324 Allows EIFD's to fund affordable housing near transit.

ZONING

- SB 6 Housing in office/retail zones.
- SB 15 Incentives for cities to rezone retail.
- AB 115 Housing in office/retail zones.
- SB 261 Sustainable Communities Strategy for regional transportation plans.
- SB 621 Hotel conversions.
- AB 672 Conversion of golf courses.
- AB 682 Cohousing with shared kitchens.
- AB 1401 Removes minimum parking requirements near transit.
- AB 1551 Conversion of commercial space.

10-PLEXES

- SB 10 Faster rezoning of land for up to 10 homes per lot.
- SB 478 Limits to minimum lot size a city can require.
- AB 1075 Allows up to 10 homes as long as building meets height, yard, etc. requirements.



Signed into law

TENANT PROTECTIONS

- SB 60 Bigger fines for illegal short term rentals.
- SB 64 COVID relief for mobile home residents.
- AB 838 Requires cities and counties to investigate substandard building complaints.
- AB 854 Limits on when the Ellis Act can be used to close an apartment building and evict everyone.
- AB 978 Rent cap + eviction protections for mobile homes.
- AB 1360 Requires cities to ensure that people in Project Roomkey/Homekey don't return to homelessness.
- AB 1487 Legal assistance for eviction defense.

HOMELESSNESS

- AB 258 Low barrier shelters.
- SB 344 Funding for pet facilities, food, & health.
- AB 362 Shelter health & safety standards.
- AB 816 Plan to reduce homelessness 90% by 2029.
- AB 1000 Ban discrimination based on housing status.
- AB 1372 Right to shelter.
- AB 1575 Statewide needs and gaps analysis.

PUBLIC LAND

- SB 51 Offers surplus state-owned homes on I-710 corridor to tenants and low income housing organizations.
- AB 512 Requires Caltrans to sell surplus land from cancelled I-710 for affordable housing at price it was bought at.
- AB 950 Streamlines sale of surplus Caltrans land for housing.
- AB 1271 Prioritizing surplus land on large sites such as former military bases for affordable housing.

ELECTRIFICATION

- SB 31, 32, 68 Building electrification.
- AB 113, 965 Electric vehicle charging.

PRESERVING AFFORDABLE HOUSING

- SB 490 Technical assistance.
- AB 528 Sell tax-defaulted property to nonprofits.
- AB 634 Allows cities to require certain affordable housing stay cheap for over 55 years.
- AB 787 Allows conversion of existing market rate housing to affordable to meet housing goals.
- AB 1029 Encourage affordability preservation policy.
- AB 1516 Tax credits for preserving affordability.

FUNDING

- AB 49, 1135 Merges fund allocation committees.
- AB 605 Prioritizing shovel-ready projects.

AFFORDABLE HOUSING

- AB 387 Mixed income social housing.
- AB 482 Middle income housing pilot program in 3 counties.
- AB 491 Inclusionary units to be distributed throughout bldg.
- SB 649 Preference for local residents.
- AB 721 Affordable housing to ignore covenants & restrictions.
- SB 728 Allow nonprofits to buy for-sale inclusionary units.
- AB 1016 Faster approvals for projects with up to 25 homes.
- AB 1043 Cheaper rents for Acutely Low Income residents. (15% or less of area median income).
- AB 1068 Model plan for reducing costs through innovation.
- AB 1206 Tax break for low-income units in limited equity co-ops.

RE-ENTRY HOUSING

- AB328 Housing for people released from prison or jail.
- AB1241 "Ban the box" on rental applications.

STUDENT HOUSING

- SB 290 Density bonus for low income student housing and moderate income housing.
- SB 330 Allow community colleges to lease land or buildings to developers for building low income student housing.
- AB 777 Transfers land to UC Davis for staff & student housing.
- AB 1277 Faster approvals for student housing.
- AB 1377 Loan fund for public college student housing.

SCHOOL EMPLOYEES

- AB 306 Housing for K-12 and community college staff to be reviewed by local building department instead of state.
- AB 780 Allows housing for school employees to exceed local zoning.

Synopsis of bills for June 10th LAC Meeting

SB 612 (Portantino) - Electrical corporations and other load-serving entities: allocation of legacy resources.

This bill ensures fair and equal access to the benefits of legacy contracts resources for all customer and ensures that IOU portfolios are managed to maximize value and reduce unnecessary costs for all customers. Specifically, this bill:

- Provides customers equal access to the legacy products they are paying for in proportion to what they are paying.
- Requires the CPUC to recognize the value of GHG-free energy in the same way renewable energy or RA products are recognized.
- Requires IOUs to annually sell any remaining excess legacy resource products not taken by former customers to the wholesale market.

Bena Chang, Silicon Valley Clean Energy will give an overview.

AB 649 (Cortese) Affordable Housing Tenant Preference Bill – Request from Racial Justice Committee to Support.

At the Cities Association Racial Justice Committee Meeting of April 9, 2021, this bill was referred to the Legislative Action Committee for review.

Description: Displacement causes lower-income residents, who are disproportionately people of color in many California communities, real tangible problems: physical health problems, mental health problems, and educational deficiencies. SB 649 creates a state policy that supports greater access to affordable housing for underserved populations facing displacement. It aligns anti-displacement tenant preferences with Internal Revenue Code requirements, thereby qualifying affordable housing developments that use tenant preferences for tax credit or bond financing. This allows cities the option to require an anti-displacement tenant preference for affordable housing units, if they desire.

San José Housing Department will give an overview

SB 9 (Atkins, Caballero, Rubio, and Wiener) - California League of Cities Opposes

Requires a local government to ministerially approve a housing development containing two residential units in single-family residential zones.

Requires a local government to ministerially approve an urban lot split, thus creating two independent lots that may contain up to two residential units on each lot, even though it is in a single-family zone.

AB 1401 (Friedman) AB-1401 Residential and commercial development: parking requirements

Would prohibit a local government from imposing a minimum automobile parking requirement, or enforcing a minimum automobile parking requirement, on residential, commercial, or other development if the development is located on a parcel that is within one-half mile walking distance of public transit, as defined. The bill would not preclude a local government from imposing requirements when a project provides parking voluntarily to require spaces for car share vehicles. The bill would prohibit these provisions from reducing, eliminating, or precluding the enforcement of any requirement imposed on a new multifamily or nonresidential development to provide electric vehicle parking spaces or parking spaces that are accessible to persons with disabilities, as specified.

2021-22 State Budget Request for California Cities: The California State Budget must be adopted by midnight on June 15. However, it is likely that additional budget bills, also known as “trailer bills” will advance after June 15th. Final budget negotiations will take place between the Governor and legislative leadership over the next few weeks. It is critical that cities take action and encourage the Governor and the legislature to allocate at least \$10 billion in funding for cities. (Action Alert from the League of California Cities)
















(continued on next page)





AB 1091 (Berman) Santa Clara Valley Transportation Authority: board of directors. Discussion and consideration of member survey requesting interest to work with Asm Berman on modifications to the bill.





Survey: 24 responses

City/Town

[More Details](#)

 Campbell	1
 Cupertino	2
 Gilroy	1
 Los Altos	1
 Los Altos Hills	2
 Los Gatos	2
 Milpitas	1
 Monte Sereno	1
 Morgan Hill	2
 Mountain View	2
 Palo Alto	4
 San José	2
 Santa Clara	2
 Saratoga	0
 Sunnyvale	1

 Mayor	4
 Councilmember	16
 Staff	4
 other	0

 Currently on board	6
 Previously on board	2
 serve on a committee	5
 No	11

SB 612 (Portantino) Ratepayer Equity

PROBLEM

There are electricity policies in California that were put into place long ago that no longer reflect current market realities. One policy area that requires immediate attention due to ratepayer impacts concerns legacy energy resources.

Over the last decade, more than 11 million investor-owned utility (IOU) customers have transitioned from IOU electric service to Community Choice Aggregators (CCAs), local government-owned utilities choosing to purchase electricity on behalf of their communities.

As part of this transition, CCA customers must share in the cost responsibility with IOU customers for the electricity supply contracts entered into by IOUs prior to their departure for CCA service.

While CCA customers must pay their fair share of the contracts, they do not have fair access to the full range of beneficial resources these contracts provide as those benefits are retained by the IOU for their customers.

As a result, CCA customers, unlike IOU customers, must pay more than they would have otherwise, for the resources to meet compliance requirements. There is no good policy rationale for this inequitable treatment of CCA customers versus their IOU counterparts.

BACKGROUND

Early state mandated procurement of renewable energy by IOUs resulted in California's rapid transition to renewable energy. As renewable resources have grown to scale, both prices and market value for renewable energy have declined, leaving a significant portion of the IOU initial renewable contracts underwater. These contracts, often referred to as "legacy contracts" have produced billions of dollars of above-market costs that are recovered from all ratepayers.

While these resources produce high costs, they also produce valuable products such as renewable energy, greenhouse gas free energy, and resource adequacy, products needed by all energy providers to meet their clean energy goals and remain in compliance with reliability requirements. However, under the current structure, these products are retained by the IOU for its own compliance purposes.

SUMMARY

This bill ensures fair and equal access to the benefits of legacy contracts resources for all customers and ensures that IOU portfolios are managed to maximize value and reduce unnecessary costs for all customers. Specifically, this bill:

- 1) Provides customers equal access to the legacy products they are paying for in proportion to what they are paying.
- 2) Requires the CPUC to recognize the value of GHG-free energy in the same way renewable energy or RA products are recognized.

SUPPORT

California Community Choice Association
California Choice Energy Authority
Central Coast Community Energy
Clean Power Alliance
Clean Power SF
Desert Community Energy
East Bay Community Energy
MCE
Peninsula Clean Energy Authority
Pioneer Community Energy
Pico Rivera Innovative Municipal Energy
Redwood Coast Energy Authority
San Jacinto Power
San Jose Clean Energy
San Diego Community Power
Silicon Valley Clean Energy

Office of Senator Anthony J. Portantino
SB 612– Fact Sheet

Contact: Ben Edelstein– (916) 651-4025 or Ben.Edelstein@sen.ca.gov

Sonoma Clean Power Authority
Valley Clean Energy

City of Agoura Hills
City of Arcadia
City of Auburn
City of Baldwin Park
City of Berkeley
City of Beverly Hills
City of Buena Park
City of Camarillo
City of Campbell
City of Carlsbad
City of Carson
City of Chula Vista
City of Claremont
City of Daly City
City of Daville
City of Davis
City of Downey
City of Dublin
City of Encinitas
City of Foster City
City of Fremont
City of Half Moon Bay
City of Hayward
City of Imperial Beach
City of La Mesa
City of Moorpark
City of Mountain View
City of Oakland
City of Palm Springs
City of Palmdale
City of Paramount
City of Pico Rivera
City of Pleasanton
City of Portola Valley
City of Rocklin
City of San Jose
City of San Carlos
City of San Jacinto
City of San Leandro
City of San Rafael
City of Santa Barbara
City of Santa Monica
City of Saratoga
City of South Pasadena
City of Thousand Oaks
City of Walnut Creek
City of West Hollywood

City of Winters
City of Woodland
Town of Colma
Town of Fairfax
Town of Loomis

County of Butte
County of Contra Costa
County of El Dorado
County of Los Angeles
County of Marin
County of Placer
County of San Diego
County of San Mateo
County of Santa Clara
County of Ventura
County of Yolo

League of California Cities
Local Government Commission
San Francisco Public Utilities Commission
Ventura Council of Governments

Councilmember Bill Baber, City of La Mesa
Mayor Libby Schaaf, City of Oakland
Mayor London Breed, City of San Francisco
Mayor Sam Liccardo, City of San Jose
Mayor Sasha Renee Perez, City of Alhambra
Mayor Sue Higgins, City of Oakley
Supervisor Brad Wagenknecht, County of Napa

Climate Action Campaign
Climate Action Santa Monica
eBay, Inc.
EDP Renewables
Elders Climate Action, NorCal Chapter
Elders Climate Action, SoCal Chapter
Green Ideals
San Jose Community Energy Advocates
Silicon Valley Leadership Group
Sustainable Silicon Valley
TerraGen
The Climate Center
Tosdal APC

Version: 5/14/2021

Office of Senator Anthony J. Portantino
SB 612– Fact Sheet

Contact: Ben Edelstein– (916) 651-4025 or Ben.Edelstein@sen.ca.gov

BACKGROUND

In the last decade over 11 million California ratepayers transitioned from investor-owned utilities (IOU) to Community Choice Aggregators (CCAs) for electric service. California's 24 CCAs are not-for-profit, locally governed public agencies purchasing power on behalf of residents and businesses in more than 190 cities and counties. They provide clean, reliable energy; operate under the direction of governing boards comprised of local elected officials that are accountable to the community; and comply with all State and Federal requirements governing power reliability and clean energy purchases.

CCAs have accelerated California's transition to clean energy by purchasing renewable energy in excess of the state's requirements (204% from 2011-2019).

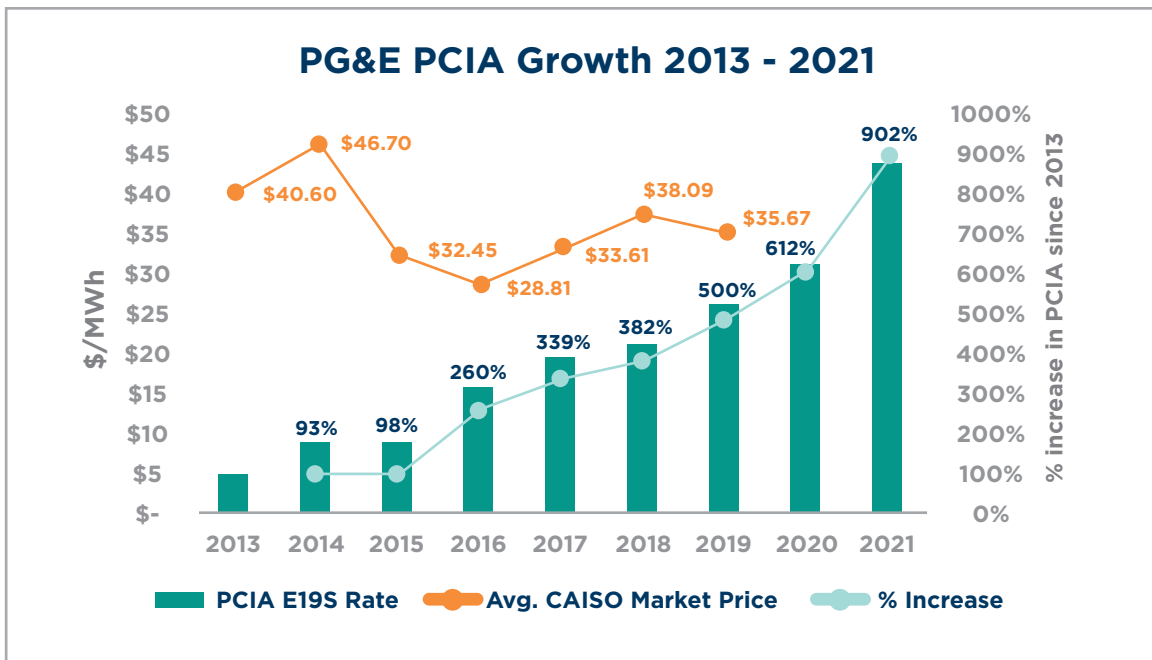
UCLA Luskin Center for innovation report: The Role of Community Choice Aggregators in Advancing Clean Energy Transitions

However, IOUs are not managing their portfolios to achieve the lowest costs possible, leading to higher rates for all ratepayers and inequitable treatment of CCA customers. This is especially problematic when the impacts of COVID-19 continue to exacerbate affordability for many Californians.

THE PROBLEM

IOUs charge customers the **Power Charge Indifference Adjustment (PCIA)** to collect above-market costs of their energy portfolios: legacy energy contracts, related resource products, and power plant operating costs. The PCIA is updated annually by the California Public Utilities Commission (CPUC). While all California ratepayers, including CCA customers, pay the PCIA, only IOU customers benefit from these IOU controlled products used to meet State clean energy and reliability requirements.

In addition, the current regulatory process does not require the IOUs to reduce their above-market portfolio costs, which have grown steadily over the last ten years. In 2021, IOUs are forecasted to collect **\$3.9 billion in above-market costs** for their energy portfolios from California ratepayers. IOUs' lack of incentive to maximize the value of their energy resources, prepare for customer departure to CCAs or other energy service providers, and keep operating costs as low as possible combined with changing regulations has led to significant increases in the PCIA. **This puts an unfair burden on all ratepayers.**



This problem has been long recognized by regulators and stakeholders. It's time we do something to reduce excess IOU above-market costs and the failure to protect all California ratepayers.

SB 612

Goals:

- ✓ Balance customer cost with benefits received.
- ✓ Reduce IOU costs to lower charges for all ratepayers.

Provisions:

1. Provide IOU, CCA, and direct access customers equal right to buy legacy resource products that were procured on their behalf in proportion to their load share.
2. Require the CPUC to recognize the value of greenhouse gas (GHG)-free energy in assigning cost responsibility for above-market legacy resources, in the same way value is recognized for renewable energy and other products.

THIRD READING

Bill No: SB 612
Author: Portantino (D), et al.
Amended: 5/20/21
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 11-1, 4/26/21
AYES: Hueso, Becker, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire,
Min, Rubio, Stern
NOES: Grove
NO VOTE RECORDED: Dahle, Borgeas

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SUBJECT: Electrical corporations and other load-serving entities: allocation of
legacy resources

SOURCE: California Community Choice Association

DIGEST: This bill requires electric investor-owned utilities (IOUs) to offer an allocation of certain electrical resources to other load-serving entities (LSEs), specifically, community choice aggregators (CCAs) and electric service providers (ESPs), that serve departing load customers who bear cost responsibility for those resources. These electrical resources include product attributes to comply with resource adequacy (RA), Renewable Portfolio Standard (RPS) program, and others.

ANALYSIS:

Existing law:

- 1) Establishes the California Public Utilities Commission (CPUC) has regulatory authority over public utilities, including electrical corporations. (Article XII of the California Constitution)

- 2) Authorizes the CPUC to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable. (Public Utilities Code §451)
- 3) Requires the CPUC to authorize and facilitate direct transactions between ESPs and retail end-use customers, but suspends direct transactions except as expressly authorized. (Public Utilities Code §365.1)
- 4) Requires that the bundled retail customers of an electrical corporation not experience any cost increase as a result of retail customers electing service from another provider or from implementation of a CCA program. Requires the CPUC to ensure that the departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load. (Public Utilities Code §§365.2 and 366.3)
- 5) Authorizes a CCA to aggregate the electrical load of interested electricity consumers within its boundaries and requires a CCA to file an implementation plan with the CPUC in order for the CPUC to determine a cost-recovery mechanism to be imposed on the CCA to prevent a shifting of costs to an electrical corporation's bundled customers. (Public Utilities Code §366.2)

This bill:

- 1) Requires an electric IOU, by July 1, 2022, and, not less than once every three years thereafter, to offer an allocation of certain electrical resources to its bundled customers and to other LSEs, including ESPs and CCAs, that serve departing load customers who bear cost responsibility for those resources.
- 2) Authorizes a LSE within the service territory of the electric IOU to elect to receive all or a portion of the vintaged proportional share of products allocated to its end-use customers and, if it so elects, requires it to pay to the electric IOU the CPUC-established market price benchmark for the vintage proportional share of the resources received.
- 3) Requires the CPUC to recognize and account for the value of all products in the electric IOU's legacy resource portfolio in determining the nonbypassable charge to be paid by bundled and departing load customers to recover the costs of legacy resources.
- 4) Defines products as electrical resources that meet the RA requirements of Public Utilities Code Section 380 or RPS program, or those that do not emit GHGs.

- 5) Requires that for electric IOU to offer an allocation of eligible renewable energy resources with a remaining contract or ownership term of at least 10 years to LSEs for a duration equal to the remaining term and authorizes LSEs to apply these resources to the long-term procurement requirement pursuant to Public Utilities Code Section 399.13 (b).

Background

Electric IOU bundled customers. The majority of Californians receive electricity service from electric IOUs, privately owned electrical corporations, such as Southern California Edison (SCE), that provide monopoly electric distribution services in distinct, defined geographic territories. Electric IOUs are rate-regulated by the CPUC to ensure they provide service at a just and reasonable rate and to serve as providers-of-last-resort, with the obligation to offer service to all customers in their service territory.

Unbundled customers served by other LSEs. Customers of electric IOUs whose energy load and distribution services are served by the electric IOU are considered “bundled-customers.” However, several other types of entities, referred to in statute as LSEs, procure electric generation resources and services on behalf of customers within the service territory of electric IOUs. These entities provide energy procurement resources to serve load, but the electric IOU continues to provide distribution, transmission, and billing services to these “unbundled-customers.” California’s LSEs include:

- ESPs, which are entities that procure electricity to end-use customers who choose the energy procurement services of the ESP instead of the incumbent electric IOU. Customers of ESPs are considered direct access (DA) customers. They are often large companies or entities who likely have staff whose responsibility it is to manage the entity’s electricity (such as, a college campus, medical campus, large retail corporation, etc.). Statute directs the CPUC to establish a maximum load cap in each electric IOU’s service territory to limit DA customers.
- CCAs are local government entities, such as Clean Power Alliance, by which local governments choose to procure or generate electricity on behalf of local residents while using the incumbent electric IOU’s transmission and distribution infrastructure and billing services. An individual customer within the territory of a CCA is automatically opted-in to have their energy generation served by the CCA when the customer’s local government elects to join or establish the CCA, based on the CCA’s implementation schedule. However, the customer retains the option to return to the load procurement services of the

electric IOU. Notwithstanding CCA outreach, customers of CCAs may never notice they have been opted-in to the CCA, as the electric IOU manages, processes, and sends the electric utility bill for the energy generation costs, and the distribution and transmission services. However, a close inspection of the utility bill denotes a line item reflecting the generation charges of the specific CCA serving that customer's jurisdiction.

Exit fees for departing load - Power Charge Indifference Adjustment (PCIA).

When customers' energy load departs from the procurement services of the incumbent electric IOU, as either a DA or CCA customer, statute requires the CPUC to ensure that customers leaving the utility do not burden remaining utility customers with costs which were incurred to serve the departing customers. Statute also requires the CPUC to ensure that departing load customers do not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load. In order to ensure this "customer indifference," CCAs and DA customers are required to pay an exit fee – the PCIA – to account for the costs incurred on their behalf and to ensure remaining customers are not affected by the choice of these customers (or, in the case of CCAs, their local governments) to depart their load. The PCIA is the mechanism to ensure that the customers who remain with the utility are not saddled with the long-term financial obligations the utility incurred on behalf of now-departed customers. Examples of such financial obligations include utility expenditures to build power plants and, more commonly, long-term power purchase contracts with independent power producers, including many that were entered into in the early days of the RPS program. These departing load customers may represent a significant fraction of the customers within the electric IOU service territory (roughly 50 percent in the case of Pacific Gas & Electric's (PG&E) service territory). PCIA revenue does not represent a profit to the electric IOU, rather, the PCIA is about allocating costs among bundled and unbundled customers. Additionally, the PCIA will vary depending on when a customer departed from the electric IOU and the procurement portfolio at the time. As such, each customer pays the assigned vintage PCIA, depending on the year when the customer departed.

CPUC PCIA Rulemaking Proceeding (R. 17-06-026). In 2017, the CPUC opened a proceeding to consider alternatives to the amount that CCA and DA customers pay in order to achieve the required customer indifference to departing load. In a 2018 CPUC Phase 1 Decision (D.18-10-019), the CPUC addressed the central cost allocation question, established a PCIA cap on rate increases, established an annual true-up, made several adjustments to the methodology to better achieve the indifference policy, and opened a Phase 2 of the proceeding to address issues left

unresolved in Phase 1, including electric IOUs' portfolio optimization. Many of the parties, including the sponsors of this bill proposed a phased approach to the proceeding with the first phase focused on correcting the PCIA methodology in the near-term and "transitioning over the next two to three years to a more durable framework for the future." (p. 19 of D. 18-10-019).

CPUC tasks Working Group 3 to develop proposals. In February 2019, a Scoping Memo and Ruling was released which established a working group process, scope, and schedule for Phase 2 of the proceeding. The memo organized Phase 2 into three working groups, including Working Group 3 focused on portfolio optimization. Working Group 3 designated SCE (an electric IOU), California Community Choice Association (CalCCA) (representing CCAs), and Commercial Energy (an ESP) as co-chairs and listed tasks for the working group to complete. Specifically, the CPUC tasked Working Group 3 to propose an approach to the electric IOUs portfolio optimization "in order to address excess resources in utility portfolios" in a manner that is "structured so as to be compatible" with the CPUC's ongoing compliance programs.

Working Group 3 issues a report. The Working Group began meeting in March 2019 and, on February 21, 2020, filed a 350+ pages report with specific proposals of the co-chairs, including adopting a Voluntary Allocation and Market Offer (VAMO) framework for disposition of the utilities' PCIA-eligible products – Local RA, System and Flexible RA, GHG-free energy, and RPS-eligible energy. The co-chairs proposed that electric IOUs offer PCIA-eligible LSEs voluntary allocations of PCIA-eligible resources, and then sell any unallocated resources through an annual market offer process. Parties to the proceeding provided comments to the Working Group's report with many parties expressing significant concerns or outright opposition to the proposals in the report, including several parties that argue that the Working Group's proposal for portfolio optimization does not comply with the direction to the Working Group in the Scoping Memo regarding excess resources.

CPUC issues Proposed Decision (PD). April 5th of this year, a PD was issued to address many of the recommendations in the report and the multitude of comments from parties. The PD seeks to adopt only some of the recommendations from the Working Group 3 report, in some cases outright declining to approve specific proposals, and in other cases recommending further review with other related proceedings. The PD raises overall concerns that "CalCCA's interpretation of the 'excess resources' conflicts with the plain language of our decision [previous decision]." Parties and the CPUC argued that the CPUC had previously specifically declined to create a long-term claim on low-cost utility owned

generation by DA customers simply because those resources were included in the indifference portfolio.” (p. 13 of the PD).

CPUC Adopts Decision (D.21-05-030). At the May 20, 2021 CPUC Business Meeting, the CPUC voted 5-0 to adopt the PD, including some minor modifications.

SB 612. This bill seeks to adopt, in principle, the overall nature of the Working Group 3 proposals. SB 612 requires the CPUC to require electric IOUs, by July 1, 2022, and not less than once every three years, to offer an allocation of each product from legacy resources to its bundled customers and to other LSEs serving departing load who bear cost responsibility for those resources. The specific products, as defined in this bill, include: renewable energy resources that help satisfy RPS program requirements, including the requirement for long-term contracts, resources to meet RA, and GHG-free resources. This bill also includes additional direction to the CPUC and electric IOUs regarding the approach to allocating these products in relation to satisfying the long-term procurement requirement in the RPS.

SB 612 v. CPUC Decision. SB 612 was introduced in early March, prior to the CPUC issuing a PD, which has now been adopted by the CPUC. Currently, key provisions of this bill run counter to the CPUC Decision. These include mandating electric IOUs to offer allocations related to resource adequacy, GHG-free, and elements of RPS products.

With regards to RA: the CPUC Decision expresses concerns that there is no expectation that “any of the [electric] IOUs will have excess RA in the near future,” citing the pending retirement of Diablo Canyon Nuclear Power Plant as a significant factor in the need to preserve RA resources. The Decision also notes that based on the CPUC’s review of Integrated Resource Plan (IRP) filings, they “find that each of the electric IOUs will need to procure additional resources to meet 2024-2026 reliability needs.” Additionally, the Decision expresses the need to ensure compatibility with the ongoing efforts to ensure reliable access to electricity and the many existing CPUC RA compliance proceedings. Moreover, the Decision states that the Working Group “proposal is not properly tailored to minimize the risks that [electric] IOUs will not be able to comply with RA requirements, or that the allocations would create market inefficiencies for RA.”

With regards to RPS products: the CPUC Decision approves the Working Group’s proposal for a voluntary allocation and market offers of PCIA-eligible RPS resources to the extent that it is consistent with CPUC’s compliance program and proceedings and tailored to mitigate risks. However, the Decision declines to

adopt some of the specific elements of the Working Group 3 proposal. Parties acknowledge that electric IOUs' RPS portfolios include significant amounts of uneconomic RPS resources that were contracted for in the early days of the RPS program when contract prices were much higher. As a result, the market values for the RPS portfolios have declined over time as the market price of renewable energy has decreased. The unsold RPS results in a zero valuation and, consequently, associated PCIA increases. In the case of long-term sales, the Decision declines to direct electric IOUs to structure long-term sales in a particular manner and suggested market offers would be reviewed in the RPS proceeding.

With regards to GHG-free resources: the Decision acknowledges the potential of undervaluing of GHG-free resources in the PCIA methodology, but stated it was "outside the scope of this phase of the proceeding as set forth in the 2019 Scoping Memo and 2020 Scoping Memo." However, the Decision proposes to incorporate the issue into a later point of the proceeding. The Decision recommends in the interim that the CPUC extend, through the end of 2023, SCE's approach to GHG-free resources approved in a previous resolution.

Comments

CalCCA does not agree with the CPUC's legal interpretation in the proceeding. Additionally, CalCCA would like the CPUC to resolve all the RPS issues in the PCIA proceeding, instead of punting to the RPS proceeding. CalCCA expresses frustration with the delays of the CPUC PCIA proceeding to resolve the issues related to allocation of attributes from PCIA-products. In that regard, CalCCA may not be alone. However, as noted above, many of the parties, including CalCCA, supported a phased process of the PCIA proceeding. Nonetheless, there was an expectation that once the Working Group 3 report was issued, in February 2020, it would be months, not over a year, before the CPUC would issue a proposed decision for that portion of the proceeding. It is noteworthy that the release of the report occurred just weeks prior to the COVID-19 pandemic shelter-at-home orders and related impacts of the pandemic which likely affected the workload and pace of the CPUC proceeding. However, there is validity to the concerns that the lack of resolution on these issues poses challenges for all customers, both bundled and unbundled, as LSEs make decisions about procuring energy resources to meet their compliance obligations for RA, RPS, and GHG-free resources and, most importantly, to best serve their customers. While there had been no pending decision prior to the introduction of this bill, the CPUC has now adopted a Decision on several of these issues. As a result, this bill now overturns the CPUC Decision. In that respect, Legislature should proceed with caution as these decisions involve numerous complexities and intricacies that may have unintended

consequences for customers – both bundled and departing load customers. In this respect, these decisions may be better addressed at the CPUC which is tasked with ensuring affordable, safe, and reliable service and can consider the full implications of these decisions.

Related/Prior Legislation

SB 520 (Hertzberg, Chapter 408, Statutes of 2019) provided that the electric IOU is the provider of last resort, as defined, in its electric utility service territory unless provided otherwise in a service territory boundary agreement approved by the CPUC or unless the CPUC designates a LSE, as defined, for all or a portion of that service territory.

SB 237 (Hertzberg, Chapter 600, Statutes of 2018) directed the CPUC to make changes to the existing DA service program, which authorizes direct energy transactions between electricity suppliers and retail end-use customers, including: (1) a specified increase of the annual maximum allowable limit of the DA service program for non-residential customers, and (2) the CPUC is required to provide recommendations to the Legislature on the adoption of a second direct service transactions reopening schedule.

SB 350 (De León, Chapter 547, Statutes of 2015), among other provisions, increased the RPS and directed the CPUC to develop a process by which LSEs submit IRPs to the CPUC for review or for certification.

AB 117 (Migden, Chapter 838, Statutes of 2002) allowed cities and counties to aggregate their electric loads and provide service directly to their residents through formation of CCAs.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, the CPUC estimates ongoing costs of about \$1.2 million annually (PUC Utilities Reimbursement Account) to develop and implement a new Voluntary Allocation/Market Offer program, including holding workshops, issuing rulings and decisions, providing additional program administration and oversight, and performing complex compliance review.

SUPPORT: (Verified 5/20/21)

California Community Choice Association (source)
350 Silicon Valley
American Clean Power - California

Butte Choice Energy Authority
California Choice Energy Authority
Central Coast Community Energy
Cities of Agoura Hills, Arcadia, Auburn, Berkeley, Beverly Hills, Buena Park,
Camarillo, Campbell, Carlsbad, Carson, Chula Vista, Cotati, Culver City, Daly
City, Davis, Del Mar, Downey, Encinitas, Foster City, Fremont, Half Moon Bay,
Hayward, Huntington Beach, Imperial Beach, La Mesa, Los Altos, Moorpark,
Morgan Hill, Mountain View, Palm Springs, Paramount, Pleasanton, Rancho
Mirage, Redondo Beach, Rocklin, San Carlos, San Jose, San Mateo, San Rafael,
Santa Barbara, Santa Monica, South Pasadena, Sunnyvale, Thousand Oaks,
Walnut Creek, West Hollywood, Winters, and Woodland
Clean Energy Alliance
Clean Power Alliance
Climate Action Campaign
Contra Costa County Board of Supervisors
Councilmember Bill Baber, La Mesa
Counties of Butte, El Dorado, San Diego, Santa Clara, and Yolo
Desert Community Energy
East Bay Community Energy
eBay
Elders Climate Action, NorCal Chapter
Elders Climate Action, SoCal Chapter
International Children Assistance Network
Joint Venture Silicon Valley
League of California Cities
Local Government Commission
Los Angeles County Board of Supervisors
Marin Clean Energy
Marin County Board of Supervisors
Mayor Libby Schaaf, Oakland
Mayor London Breed, San Francisco
Mayor Sam Liccardo, San Jose
Mayor Sasha Renée Pérez, Alhambra
Mayor Sue Higgins, Oakley
Mayor, Yan Zhao, Saratoga
Peninsula Clean Energy Authority
Pioneer Community Energy
Placer County Board of Supervisors
San Diego Community Power
San Francisco Public Utilities Commission

San Jose Community Energy Advocates
San Mateo County Board of Supervisors
Silicon Valley Clean Energy
Silicon Valley Democratic Club
Silicon Valley Leadership Group
Solana Energy Alliance
Sonoma Clean Power Authority
Supervisor Brad Wagenknecht, Napa County District 1
Sustainable Silicon Valley
TechNet
The Climate Center
Towns of Apple Valley, Colma, Danville, Fairfax, and Loomis
Valley Clean Energy
Ventura Council of Governments
Ventura County Board of Supervisors
12 individuals

OPPOSITION: (Verified 5/20/21)

Pacific Gas and Electric Company
Southern California Edison
The Utility Reform Network

ARGUMENTS IN SUPPORT: As sponsors of this bill, CalCCA states:

While CCA customers must pay their fair share of the contracts, they do not have fair access to the full range of beneficial resources these contracts provide as those benefits are retained by the IOU for their customers. As a result, CCA customers must turn to increasingly scarce markets to procure resources to serve their customers while IOU customers have a full portfolio of resources at their disposal. There is no good policy rationale for this inequitable treatment of CCA customers versus their IOU counterparts.

SB 612 is simply about fairness by ensuring that both IOU and CCA customers are treated equally.

ARGUMENTS IN OPPOSITION: Southern California Edison (SCE) expresses the following concerns regarding this bill: (1) it interferes and undermines an ongoing CPUC proceeding, (2) it conflicts with and leaves out key provisions of the existing working group joint proposal from the proceeding, and (3) this bill attempts to reopen issues that have already been decided.

SCE specifically notes:

SB 612 ignores the nuances of issues that have already been decided and circumvents the compromises that have already been agreed to... SB 612 would undermine the extensive time and resources devoted to this issue and tie the CPUC's hands on key customer protection issues, that will – and must – require input from all relevant stakeholders. To achieve the state's clean energy goals and protect California's electric customers, the State should allow these discussions to continue at the regulatory level.

Prepared by: Nidia Bautista / E., U., & C. / (916) 651-4107
5/25/21 10:40:32

****** END ******



SENATOR DAVE CORTESE

SB 649

ISSUE

COVID-19 has amplified the displacement pressures experienced by California’s most vulnerable populations. Lower-income Californians living in overcrowded homes – threatening their health – and facing pressures forcing them to move farther and farther away from their employment, friends, families, and the communities they once called home. **Displacement causes lower-income residents, who are disproportionately people of color in many California communities, real tangible problems:** physical health problems, mental health problems, and educational deficiencies. Studies show displaced low-income people have increased commutes, move to areas with fewer economic opportunities, and increase discretionary spending on non-housing costs such as food, daycare, clothes, and medications. Displacement pressure is robbing California’s higher-cost communities of their service employees, daycare workers, nonprofit employees, and medical support workers. **Displacement is hurting our State’s economy, our environment, and our people.**

Local Tenant Preferences are a critical tool many cities have used to help stabilize neighborhoods and to keep people from being uprooted from their homes, families, and networks. They can help prioritize efficient use of scarce affordable housing resources. However, preferences that help local residents rather than a specific type of person, like a teacher or a veteran, lack Statewide legislative support needed to incorporate them into affordable housing developments funded with tax credits and bonds.

BACKGROUND

Tenant Preferences enable apartment owners to prioritize a portion of restricted affordable homes for the general public to those who are most in need of affordable and stable housing. **Preferences set aside a percentage of affordable apartments for people who meet certain preference criteria and all other leasing criteria.** To ensure equity and access, Tenant Preferences must be consistent with fair housing law. Two examples of such Tenant Preferences that help to

keep people in place, prevent their displacement from their home cities, and further housing choice include:

- **Anti-Displacement Tenant Preference:** Sets aside a portion of affordable apartments for lower-income residents living in areas with a high likelihood of displacement. Eligible residents live in census tracts categorized as ‘susceptible to displacement’ or having ‘ongoing displacement’ by a credible, authoritative external source, or in tracts evidencing a combination of displacing conditions.
- **Neighborhood Tenant Preference:** Sets aside a portion of affordable apartments for lower-income residents who live in the vicinity of the new affordable apartments. It increases the likelihood that residents can remain in their neighborhoods, retain their existing networks, and improve their housing stability and costs.

THIS BILL

SB 649 creates a State policy that supports greater access to affordable housing for those populations facing displacement. It aligns tenant preferences with Internal Revenue Code requirements, thereby qualifying affordable housing developments that use tenant preferences for tax credit or bond financing. With these changes, the Legislature can help communities to target the benefits of scarce affordable housing, limit displacement, and reduce the many harms that result from displacement. Local tenant preferences can help reduce opposition to affordable housing development and enhance the predictability of development. This legislation is in keeping with State and federal fair housing law, supporting local policies and programs that foster diversity and housing choice.

SUPPORT

**City of San José
Housing Action Coalition
SOMOS Mayfair**

FOR MORE INFORMATION

Ryan Mickle
Office of Senator Dave Cortese
(916) 651-4015
Ryan.Mickle@sen.ca.gov

FOR IMMEDIATE RELEASE

February 23, 2021

Contact:

Tara Sreekrishnan

Deputy Chief of Staff & Press Secretary

Office of Senator Dave Cortese | District 15

State Capitol Room 3070 | Phone: 408 480 7833 | Email:

tara.sreekrishnan@sen.ca.gov



**Senator Cortese Introduces Legislation Supporting
Tenant Preferences to Fight Displacement**

Senator Dave Cortese (D-San Jose) has introduced SB 649 to make policy findings that allow the use of tenant preferences to prevent residential displacement and stabilize neighborhoods. The bill permits developers that receive local or state funds as well as tax credits designated for affordable housing to prioritize those at the highest risk of displacement and most in need of stable housing.

“Nobody deserves to be forced out of their community because they can’t find stable and affordable housing, especially during a time when families are already facing extreme financial hardship,” says Senator Cortese.

Cortese co-chaired the campaign that led to the \$950 million “Measure A” Affordable Housing bond in Santa Clara County. Measure A has produced 27 projects in Santa Clara County with many more in the pipeline and is projected to create approximately 4,800 affordable housing units across the County.

“This policy will play a vital role in bolstering the state’s efforts to protect our most vulnerable residents from displacement and addressing the homelessness crisis ravaging our cities,” Cortese added.

Even before COVID-19, rising rents and development pressures were threatening to displace thousands of households in California. The pandemic has only magnified immeasurably the displacement pressure in the Bay Area and State as a whole. These pressures are forcing low-income Californians, who are disproportionately people of color, to overcrowd in their homes and move farther away from their employment, friends, families, and communities they once called home. Displacement also poses environmental harm by increasing commutes, which would cause an upsurge in greenhouse gas emissions.

In response to this crisis, the Legislature has implemented policies, such as the Tenant Housing Act of 2016, that allow developers to prioritize certain groups of tenants who are particularly impacted. In order for an affordable housing project to set aside units for these tenants, the Internal Revenue Code requires that they be members of a specified group under a State program or policy. However, the state currently lacks a state policy supporting housing for tenants who are at risk of or have experienced displacement.

SB 649 creates a State policy that supports housing for those populations, aligning tenant preferences with Internal Revenue Code requirements and thereby qualifying affordable housing projects that use tenant preferences for tax credit or bond financing. With these changes, the Legislature can help communities to target the benefits of scarce affordable housing, limit displacement, and reduce the physical, mental, educational, and environmental harms that result from displacement.

"Neighborhood preference is key to stabilizing neighborhoods and protecting tenants at risk of displacement, which is why the Housing Action Coalition strongly supports SB 649," says Todd David, Executive Director of the Housing Action Coalition.

"This legislation will empower local governments to effectively implement tenant preference policies, which can help families facing displacement to get a better chance at finding a safe and affordable home in their communities," says Jacky Morales-Ferrand, Director of Housing for the City of San José.

The bill creates two types of tenant preferences to help keep people in place and prevent displacement:

The first, Anti-Displacement Tenant preference, sets aside a portion of affordable apartments for low-income applicants who live in areas with a high likelihood of displacement. Eligible residents would live in census tracts categorized as "high-risk" or "undergoing displacement by a credible, authoritative external source" such as the Urban Displacement Project at the University of California, Berkeley.

The second, Neighborhood Tenant Preference, sets aside some newly available affordable apartments for low-income applicants who already live in the vicinity of the newly-available

affordable homes. This increases the likelihood that low-income renters can remain in their neighborhoods while improving their housing and stability costs.

For more information, contact Tara Sreekrishnan, Office of Senator Dave Cortese, at 408 480 7833 or tara.sreekrishnan@sen.ca.gov.

THIRD READING

Bill No: SB 9
Author: Atkins (D), Caballero (D), Rubio (D) and Wiener (D), et al.
Amended: 4/27/21
Vote: 21

SENATE HOUSING COMMITTEE: 7-2, 4/15/21
AYES: Wiener, Caballero, Cortese, McGuire, Skinner, Umberg, Wieckowski
NOES: Bates, Ochoa Bogh

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/22/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SUBJECT: Housing development: approvals

SOURCE: Author

DIGEST: This bill requires ministerial approval of a housing development of no more than two units in a single-family zone (duplex), the subdivision of a parcel zoned for residential use into two parcels (lot split), or both.

ANALYSIS:

Existing law:

- 1) Governs, pursuant to the Subdivision Map Act, how local officials regulate the division of real property into smaller parcels for sale, lease, or financing.
- 2) Authorizes local governments to impose a wide variety of conditions on subdivision maps.

- 3) Requires a local jurisdiction to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.
- 4) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.
- 5) Establishes the California Environmental Quality Act (CEQA), which generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those impacts to the extent feasible. CEQA applies when a development project requires discretionary approval from a local government. (See “Comments” below for more information.)
- 6) Requires ministerial approval by a local agency for a building permit to create an accessory dwelling unit (ADU) provided the ADU was contained within an existing single-family home and met other specified requirements. Requires a local agency to ministerially approve an ADU or junior accessory dwelling unit (JADU), or both, as specified, within a proposed or existing structure or within the same footprint of the existing structure, provided certain requirements are met.
- 7) Requires each city and county to submit an annual progress report (APR) to the Department of Housing and Community Development (HDC) and the Office of Planning and Research (OPR) that provides specified data related to housing development.

This bill:

- 1) Requires a city or county to ministerially approve either or both of the following, as specified:
 - a) A housing development of no more than two units (duplex) in a single-family zone.
 - b) The subdivision of a parcel zoned for residential use, into two approximately equal parcels (lot split), as specified.
- 2) Requires that a development or parcel to be subdivided must be located within an urbanized area or urban cluster and prohibits it from being located on any of the following:
 - a) Prime farmland or farmland of statewide importance;

- b) Wetlands;
 - c) Land within the very high fire hazard severity zone, unless the development complies with state mitigation requirements;
 - d) A hazardous waste site;
 - e) An earthquake fault zone;
 - f) Land within the 100-year floodplain or a floodway;
 - g) Land identified for conservation under a natural community conservation plan, or lands under conservation easement;
 - h) Habitat for protected species; or
 - i) A site located within a historic or landmark district, or a site that has a historic property or landmark under state or local law, as specified.
- 3) Prohibits demolition or alteration of an existing unit of rent-restricted housing, housing that has been the subject of an Ellis Act eviction within the past 15 years, or that has been occupied by a tenant in the last three years.
- 4) Prohibits demolition of more than 25% of the exterior walls of an existing structure unless the local ordinance allows greater demolition or if the site has not been occupied by a tenant in the last three years.
- 5) Authorizes a city or county to impose objective zoning, subdivision, and design review standards that do not conflict with this bill, except:
- a) A city or county shall not impose objective standards that would physically preclude the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area. A city or county may, however, require a setback of up to four feet from the side and rear lot lines.
 - b) A city or county shall not require a setback for an existing structure or a structure constructed in the same location and to the same dimensions as the existing structure.
- 6) Prohibits a city or county from requiring more than one parking space per unit for either a proposed duplex or a proposed lot split. Prohibits a city or county from imposing any parking requirements if the parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop, or if there is a car share vehicle located within one block of the parcel.
- 7) Authorizes a city or county to require a percolation test completed within the last five years or, if the test has been recertified, within the last 10 years, as part of the application for a permit to create a duplex connected to an onsite wastewater treatment system.

- 8) Requires a city or county to prohibit rentals of less than 30 days.
- 9) Prohibits a city or county from rejecting an application solely because it proposes adjacent or connected structures, provided the structures meet building code safety standards and are sufficient to allow separate conveyance.
- 10) Provides that a city or county shall not be required to permit an ADU or JADU in addition to units approved under this bill.
- 11) Requires a city or county to include the number of units constructed and the number of applications for lot splits under this bill, in its APR.
- 12) Requires a city or county to ministerially approve a parcel map for a lot split only if the local agency determines that the parcel map for the urban lot split meets the following requirements, in addition to the requirements for eligible parcels that apply to both duplexes and lot splits:
 - a) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal size, provided that one parcel shall not be smaller than 40% of the lot area of the original parcel.
 - b) Both newly created parcels are at least 1,200 square feet, unless the city or county adopts a small minimum lot size by ordinance.
 - c) The parcel does not contain rent-restricted housing, housing where an owner has exercised their rights under the Ellis Act within the past 15 years, or has been occupied by tenants in the past three years.
 - d) The parcel has not been established through prior exercise of an urban lot split.
 - e) Neither the owner of the parcel, or any person acting in concert with the owner, has previously subdivided an adjacent parcel using an urban lot split.
- 13) Requires a city or county to approve a lot split if it conforms to all applicable objective requirements of the Subdivision Map Act not except as otherwise expressly provided in this bill. Prohibits a city or county from imposing regulations that require dedicated rights-of-way or the construction of offsite improvements for the parcels being created, as a condition of approval.
- 14) Authorizes a city or county to impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this bill. A city or county may, however, require easements or that the parcel have access to, provide access to, or adjoin the public right-of-way.

- 15) Provides that a local government shall not be required to permit more than two units on a parcel.
- 16) Prohibits a city or county from requiring, as a condition for ministerial approval of a lot split, the correction of nonconforming zoning conditions.
- 17) Allows a local government to impose owner occupancy requirements on a lot split if it meets either of the following requirements:
 - a) The applicant intends to live in the unit for a minimum of one year from the date of the approval of the lot split, or
 - b) The applicant is a “qualified non-profit”.
- 18) Provides that no additional owner occupancy standards may be imposed other than those contained within 17) above, and that requirement expires after five years.
- 19) Allows a city or county to adopt an ordinance to implement the urban lot split requirements and duplex provisions, and provides that those ordinances are not a project under CEQA.
- 20) Allows a city or county to extend the life of subdivision maps by one year, up to a total of four years.
- 21) Provides that nothing in this bill shall be construed to supersede the California Coastal Act of 1976, except that a local government shall not be required to hold public hearings for a coastal development permit applications under this bill.

Background

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

review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

Comments

- 1) *Modest density can result in large-scale housing production.* This bill could lead to up to four homes on lots where currently only one exists. It would do so by allowing existing single-family homes to be converted into duplexes; it would also allow single-family parcels to be subdivided into two lots, while allowing for a new two-unit building to be constructed on the newly formed lot. According to the University of California, Berkeley Turner Center for Housing Innovation, this bill has the potential to allow for the development of nearly 6 million new housing units. Assuming only five percent of the parcels impacted by this bill created new two-unit structures, this bill would result in nearly 600,000 new homes.
- 2) *Historic preservation versus housing production.* As part of their general police powers, local governments have the authority to designate historic districts, which set specific regulations and conditions to protect property and areas of historical and aesthetic significance. While well-intentioned, academics and others have pointed out that there are negative impacts of historic districts on housing supply and racial equity. For example, in 2017, the Sightline Institute noted that, in relation to Seattle’s historic preservation efforts, “rules for historic preservation can sabotage housing affordability just like any other cost, red tape, permitting delay, or capacity limits imposed on homebuilding.” It made recommendations such as educating historic preservation board members on how the historic review process and resulting preservation mandates can impede homebuilding and harm affordability; raising the bar for justifying landmark designations in order to counteract local anti-development sentiment; and even prohibiting historic preservation restrictions from limiting new construction to less than the height or capacity that zoning allows.

Sites within a historic district are categorically exempt from the provisions of this bill. While the committee understands the desire to protect the integrity of historic districts from an aesthetic perspective, it is unclear that allowing small multi-unit construction in historic districts — which would be subject to objective historic design standards — would undermine the integrity of the historic districts. In addition, exempting historic districts from bills designed to increase multi-unit housing supply could lead to fair housing challenges. This committee is aware of several California cities — including neighborhoods in

Eastern San Francisco, Los Angeles, and San Jose — that have not excluded historic districts when performing rezonings.

This bill also contains a very broad definition of what kinds of historic districts are automatically exempt from this bill. The historic district exemption, similar to exemptions included in other pending bills in the Senate, does not require a historic district to be on a federal or state historic registry. Instead, a city can designate a zone as historic without the typical rigorous historic designation process required for a historic district to be placed on a federal or state registry. Certain NIMBY groups are already discussing use of this broad exemption as a tool to exempt communities from state housing laws. If a historic district exemption is needed, a more focused and rigorous exemption — for example, similar to what the Governance and Finance Committee placed in SB 50 (Wiener, 2019) — should be considered.

- 3) *Senate's 2021 Housing Production Package.* This bill has been included in the Senate's 2021 Housing Production Package and is virtually identical to SB 1120 (Atkins, 2020). For key differences, see the Senate Housing Committee analysis.
- 4) *Triple Referral.* This bill was also referred to the Senate Governance and Finance Committee and the Environmental Quality Committee. Due to the COVID-19 Pandemic and the unprecedented nature of the 2021 Legislative Session, all Senate Policy Committees are working under a compressed timeline. This timeline does not allow this bill to be referred and heard by more than two committees as a typical timeline would allow. For comments from the Environmental Quality Committee, see the Senate Housing Committee analysis.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- The Department of Housing and Community Development estimates it would incur costs of \$87,000 annually for 0.5 PY of staff time to update the Streamlined Ministerial Approval Guidelines, and provide technical assistance and outreach education to local agencies and affordable housing developers. (General Fund)
- Unknown local costs to establish streamlined project review processes for proposed duplex housing developments and tentative maps for urban lot splits, and to conduct expedited design reviews of these proposals. These costs are not state-reimbursable because local agencies have general authority to charge and

adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates. (local funds).

SUPPORT: (Verified 5/20/21)

AARP

Abundant Housing LA

ADU Task Force East Bay

All Home

American Planning Association, California Chapter

Bay Area Council

Bridge Housing Corporation

California Apartment Association

California Asian Pacific Chamber of Commerce

California Building Industry Association

California Chamber of Commerce

California Hispanic Chamber of Commerce

California YIMBY

Casita Coalition

Chan Zuckerberg Initiative

Circulate San Diego

City of Oakland

City of San Diego

Council Member Jon Wizard, City of Seaside

Council Member Zach Hilton, City of Gilroy

Council of Infill Builders

County of Monterey

East Bay for Everyone

Eden Housing

Facebook, INC.

Fieldstead and Company, INC.

Generation Housing

Greenbelt Alliance

Habitat for Humanity California

Hello Housing

Hollywood Chamber of Commerce

Housing Action Coalition

Innecity Struggle

LISC (Local Initiatives Support Corporation) San Diego

Livable Sunnyvale

Local Government Commission

Long Beach YIMBY
Los Angeles Business Council
Mayor Darrell Steinberg, City of Sacramento
MidPen Housing Corporation
Modular Building Institute
Mountain View YIMBY
National Association of Hispanic Real Estate Professionals
Non-Profit Housing Association of Northern California
North Bay Leadership Council
Northern Neighbors
Peninsula for Everyone
People for Housing - Orange County
San Diego Regional Chamber of Commerce
San Fernando Valley YIMBY
San Francisco Bay Area Planning and Research Association
San Francisco YIMBY
Sand Hill Property Company
Santa Cruz YIMBY
Schneider Electric
Share Sonoma County
Silicon Valley @ Home
Silicon Valley Leadership Group
South Bay YIMBY
South Pasadena Residents for Responsible Growth
Streets for People Bay Area
TechEquity Collaborative
Tent Makers
Terner Center for Housing Innovation At the University of California, Berkeley
The Two Hundred
TMG Partners
United Way of Greater Los Angeles
Urban Environmentalists
YIMBY Action
YIMBY Democrats of San Diego County
Zillow Group
92 Individuals

OPPOSITION: (Verified 5/20/21)

Adams Hill Neighborhood Association
Aids Healthcare Foundation

Alameda Citizens Task Force
Albany Neighbors United
Berkeley Associated Neighbors Against Non-affordable Housing
Brentwood Homeowners Association
Burton Valley Neighborhoods Group
California Alliance of Local Electeds
California Cities for Local Control
California Contract Cities Association
Catalysts
Cities of Arcata, Azusa, Bellflower, Belmont, Beverly Hills, Brea, Brentwood, Burbank, Camarillo, Carpinteria, Carson, Cerritos, Chino, Chino Hills, Clayton, Clearlake, Clovis, Colton, Corona, Cupertino, Cypress, Diamond Bar, Dorris, Downey, Dublin, Eastvale, El Segundo, Escalon, Fortuna, Foster City, Fountain Valley, Garden Grove, Glendora, Grand Terrace, Half Moon Bay, Hesperia, Hidden Hills, Huntington Beach, Indian Wells, Inglewood, Irvine, Irwindale, Kerman, King, La Canada Flintridge, La Mirada, La Palma, La Quinta, La Verne, Lafayette, Laguna Beach, Laguna Niguel, Lakeport, Lakewood, Lancaster, Lomita, Los Alamitos, Los Altos, Martinez, Maywood, Menifee, Merced, Mission Viejo, Montclair, Monterey, Moorpark, Murrieta, Newman, Newport Beach, Norwalk, Novato, Oakdale, Ontario, Orinda, Palo Alto, Palos Verdes Estates, Paramount, Pasadena, Pinole, Pismo Beach, Placentia, Pleasanton, Poway, Rancho Cucamonga, Rancho Palos Verdes, Rancho Santa Margarita, Redding, Redondo Beach, Rohnert Park, Rolling Hills, Rolling Hills Estates, San Carlos, San Clemente, San Dimas, San Gabriel, San Jacinto, San Marcos, San Marino, Santa Clara, Santa Clarita, Santa Monica, Saratoga, Signal Hill, South Pasadena, Stanton, Sunnyvale, Temecula, Thousand Oaks, Torrance, Tracy, Vacaville, Ventura, Vista, Westlake Village, Whittier, and Yorba Linda
Citizens Preserving Venice
Coalition for San Francisco Neighborhoods
Coalition to Save Ocean Beach
College Street Neighborhood Group
College Terrace Residents Association
Committee to Save the Hollywoodland Specific Plan
Community Associations Institute - California Legislative Action Committee
Comstock Hills Homeowners Association
D4ward
Durand Ridge United
Encinitas Neighbors Coalition
Friends of Sutro Park
Hidden Hill Community Association

Hills 2000 Friends of The Hills
Hollywood Knolls Community Club
Hollywoodland Homeowners Association
Howard Jarvis Taxpayers Association
Kensington Property Owners Association
La Brea Hancock Homeowners Association
Lafayette Homeowners Council
Lakewood Village Neighborhood Association
Las Virgenes-Malibu Council of Governments
Latino Alliance for Community Engagement
League of California Cities
League of California Cities Central Valley Division
Linda Vista-Annandale Association
Livable California
Livable Pasadena
Los Altos Residents
Los Angeles County Division, League of California Cities
Los Feliz Improvement Association
Marin County Council of Mayors and Councilmembers
Miracle Mile Residential Association
Miraloma Park Improvement Club
Mission Street Neighbors
Montecito Association
Neighborhood Council Sustainability Alliance Trees Committee
North of Montana Association
Northeast Neighbors of Santa Monica
Pacific Palisades Community Council
Planning Association for The Richmond
Riviera Homeowners Association
San Gabriel Valley Council of Governments (UNREG)
Save Lafayette
Seaside Neighborhood Association
Shadow Hills Property Owners Association
Sherman Oaks Homeowners Association
South Bay Cities Council of Governments
South Bay Residents for Responsible Development
South Shores Community Association
Southwood Homeowners Association
Sunnyvale United Neighbors
Sunset-Parkside Education and Action Committee

Sustainable Tamalmon
Tahoe Donner Association
Temecula Valley Neighborhood Coalition
Towns of Apple Valley, Colma, Fairfax, Mammoth Lakes, Ross, and Truckee
Ventura Council of Governments
Verdugo Woodlands West Homeowners Association
West Pasadena Residents' Association
West Torrance Homeowners Association
West Wood Highlands Neighborhood Association
Westside Regional Alliance of Councils
Westwood Hills Property Owners Association
Westwood Homeowners Association
Wilshire Montana Neighborhood Coalition
Windsor Square Association
236 individuals

ARGUMENTS IN SUPPORT: According to the author, “Senate Bill 9 promotes small-scale neighborhood residential development by streamlining the process for a homeowner to create a duplex or subdivide an existing lot. SB 9 strikes an appropriate balance between respecting local control and creating an environment and opportunity for neighborhood scale development that benefits the broader community. To that end, the bill includes numerous safeguards to ensure that it responsibly creates duplexes and strategically increases housing opportunities for homeowners, renters, and families alike. At a time when many Californians are experiencing economic insecurity caused by the pandemic, this bill will provide more options for families to maintain and build intergenerational wealth – a currency we know is crucial to combatting inequity and creating social mobility. SB 9 provides flexibility for multigenerational housing by allowing homeowners to build a modest unit on their property so that their aging parent or adult child can have an affordable place to live. Building off the successes of ADU law, SB 9 offers solutions that work in partnership with a number bills included in the Senate’s Housing Package, ‘Building Opportunities For All’ aimed at combating the State’s housing crisis.”

ARGUMENTS IN OPPOSITION: According to the League of California Cities, “SB 9 as currently drafted will not spur much needed housing construction in a manner that supports local flexibility, decision making, and community input. State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning

ordinances and housing elements that are certified by the [HCD].”

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
5/22/21 14:52:20

**** **END** ****

ACTION ALERT

SB 9 (Atkins) Increased Density in Single-Family Zones

OPPOSE

Background: California is a geographically and demographically diverse state, and that is reflected in its 482 cities and 58 counties. Local elected officials 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 balance the need for additional housing against the concerns and desires of their constituents. Where appropriate, those officials enact ordinances to shape their communities based on local conditions and desires. Moreover, these planning actions and decisions take place within the confines of state laws that require local governments to plan and zone for new housing, subject to certification by the California Housing and Community Development Department (HCD), and under threat of fines for improper denial as a result of recent legislation.

What Does SB 9 Specifically Do?

- Requires a local government to ministerially approve a housing development containing two residential units in single-family residential zones.
- Requires a local government to ministerially approve an urban lot split, thus creating two independent lots that may contain up to two residential units on each lot, even though it is in a single-family zone.

ACTION:

SB 9 will be heard in the Assembly Local Government Committee on Wednesday, June 9.

- 1) **First Priority:** If your Assembly Member serves on this committee, please CALL your Assembly Member and urge them to oppose SB 9 and uphold local government decision-making and community involvement in housing plans.

ASSEMBLY LOCAL GOVERNMENT			
Member	District	Room	Phone
Aguiar-Curry, Cecilia (Chair)	4	5144	916 319 2004
Bloom, Richard	50	2003	916 319 2050
Boerner Horvath, Tasha	76	4130	916 319 2076
Lackey, Tom (Vice-Chair)	36	2174	916 319 2036
Ramos, James	40	2176	916 319 2040
Rivas, Luz	39	3126	916 319 2039
Rivas, Robert	30	5158	916 319 2030
Voepel, Randy	71	4009	916 319 2071

- 2) **Second Priority:** All Assembly Members need to hear from their cities. If you do not have an Assembly Member on the committee, please send a letter to your member. Please note: If your city has already submitted a letter, please submit a new letter as soon as possible to the Assembly Local Government Committee, sample attached.

Talking Points:

- Housing supply and affordability are among the most critical issues facing California cities. The COVID-19 pandemic has only intensified and highlighted this urgent issue.
- Cities are committed to planning and zoning for more housing in a manner that acknowledges state housing goals, but also respects community input and involvement. SB 9 is a top-down, one-size-fits-all approach to land use policy that fails to recognize or incorporate local flexibility, decision-making, and community input.
- Nearly all cities are currently updating their housing plans to identify sites for more than two million additional homes. SB 9 would disregard this process and mandate more housing in existing single-family zones.
- Lawmakers must avoid pushing new, unproven policies that would undermine local planning, change the rules mid-stream, or conflict with the myriad of new housing laws recently passed that cities are now implementing.
- We ask you to oppose SB 9 to uphold local government decision-making and community involvement in the housing planning and approval process.

ASSEMBLY THIRD READING

AB 1401 (Friedman)

As Amended April 19, 2021

Majority vote

SUMMARY

Prohibits local governments from enforcing minimum automobile parking requirements for developments located close to public transit.

Major Provisions

- 1) Prohibits local governments from imposing or enforcing a minimum automobile parking requirement for residential, commercial and other developments if the parcel is located within one-half mile walking distance of either of the following:
 - a) A high-quality transit corridor, as defined; and,
 - b) A major transit stop, as defined.
- 2) Provides that nothing in this bill reduces, eliminates, or precludes the enforcement of any requirement to provide electric vehicle parking spaces or parking spaces that are accessible to persons with disabilities that would have otherwise applied to a development eligible for the parking reductions authorized in this bill.

COMMENTS

Cities and counties generally establish parking standards that capture various types of facilities and uses. Parking standards are commonly indexed to conditions related to the building or facility they are associated with. For example, shopping centers may have parking requirements linked to total floor space, restaurants may be linked to the total number of seats, and hotels may have parking spaces linked to the number of beds or rooms present at the facility.

In 2019, California Air Resources Board (CARB) staff reviewed over 200 municipal codes and found that for nonresidential construction, an average of at least one parking space is installed for every 275 square feet of nonresidential building floor space. Accounting for the fact that approximately 60% of reviewed municipal codes already allow developers to reduce parking by an average of 30%, CARB staff estimated that between 1.4 million and 1.7 million new nonresidential parking spaces may be constructed from 2021-2024.

There is a significant body of academic research regarding the potential impact minimum parking ratios have on car ownership, VMT, use of public transit, and transportation trends generally. In a recent journal article (*What do Residential Lotteries Show us About Transportation Choices?*), researchers from the University of California found that data from affordable housing lotteries in San Francisco provided a unique setting that effectively randomized housing assignments for housing lottery applicants. The study found "that a building's parking ratio not only influences car ownership, vehicle travel and public transport use, but has a stronger effect than public transport accessibility. Buildings with at least one parking space per unit (as required by zoning codes in most United States cities, and in San Francisco until circa 2010) have more than twice the car ownership rate of buildings that have no parking." Specifically, the study found, "In buildings with no on-site parking, only 38% of

households own a car. In buildings with at least one parking space per unit, more than 81% of households own automobiles."

According to the Author

According to the author, "Mandatory parking requirements have led to an oversupply of parking spaces; Los Angeles County alone has 18.6 million parking spaces, or almost two for every resident. Experts believe that this policy encourages car dependence and discourages mass transit usage, increasing vehicle miles traveled. California needs to reduce vehicle miles traveled by 15% in order to meet its SB 32 climate goals, even in a scenario with full vehicle electrification.

Arguments in Support

The California Apartment Association writes in support, "We appreciate the intent of the bill to reduce car dependence, lower carbon emissions, and encourage more housing production near transit. These one-size-fits-all mandates are often imposed even in areas that are close to transit. As you know, mandatory parking requirements have led to an oversupply of parking spaces. These mandatory parking requirements hinder California's severe housing shortage by raising the cost of housing production. CAA believes that eliminating these spaces will allow for more construction of apartment units."

Arguments in Opposition

The League of California Cities writes in opposition, "AB 1401 could negatively impact the State's Density Bonus Law by providing developers parking concessions without also requiring developers to include affordable housing units in the project. The purpose of Density Bonus Law is to provide concessions and waivers to developers in exchange for affordable housing units."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, "Minor and absorbable costs to the Department of Housing and Community Development (HCD). Local costs are not reimbursable by the state because local agencies have authority to levy fees to cover their costs."

VOTES

ASM LOCAL GOVERNMENT: 6-1-1

YES: Aguiar-Curry, Bloom, Ramos, Luz Rivas, Robert Rivas, Voepel

NO: Boerner Horvath

ABS, ABST OR NV: Lackey

ASM HOUSING AND COMMUNITY DEVELOPMENT: 7-1-0

YES: Chiu, Gabriel, Kalra, Kiley, Ward, Quirk-Silva, Wicks

NO: Seyarto

ASM APPROPRIATIONS: 11-4-1

YES: Lorena Gonzalez, Calderon, Carrillo, Chau, Fong, Gabriel, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

NO: Bigelow, Megan Dahle, Davies, Levine

ABS, ABST OR NV: Eduardo Garcia

UPDATED

VERSION: April 19, 2021

CONSULTANT: Hank Brady / L. GOV. / (916) 319-3958

FN: 0000380

2020-2021

CAL CITIES OFFICERS

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Ali Taj
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John F. Dunbar
Mayor, Yountville

Executive Director and CEO

Carolyn M. Coleman

April 7, 2021

The Honorable Laura Friedman
Member, California State Assembly
State Capitol, Room 6011
Sacramento, CA 95814

RE: AB 1401 (Friedman) Residential and Commercial Development. Parking Requirements. Notice of Opposition (As Amended 4/5/2021)

Dear Assembly Member Friedman:

The League of California Cities (Cal Cities) must respectfully oppose your AB 1401 (Friedman), which would prohibit a local government from imposing a minimum automobile parking requirement, or enforcing a minimum automobile parking requirement, on residential, commercial, or other development if the development is located on a parcel within one-half mile walking distance of public transit.

AB 1401 would essentially allow developers to dictate parking requirements in vast areas of many cities because the definition of public transit includes entire bus corridors, not just high frequency bus stops or major transit stops. Restricting parking requirements within one half-mile walking distance of a high-quality transit corridor does not guarantee individuals living, working, or shopping on those parcels will have access to public transit since proximity to a corridor does not equate to a convenient bus stop.

AB 1401 would give both developers and transit agencies, who are unaccountable to local voters, the power to determine parking requirements. Transit agencies would be able to dramatically alter local parking standards by shifting transit routes and adjusting service intervals.

As the state aspires to reach its climate goals, the move to electric vehicles will be a part of the solution. However, much like gasoline-fueled automobiles, electric vehicles need parking spaces too. If there are not enough spots to park and charge these vehicles, individuals will remain reluctant to own an electric vehicle.

Additionally, AB 1401 could negatively impact the State's Density Bonus Law by providing developers parking concessions without also requiring developers to include affordable housing units in the project. The purpose of Density Bonus Law is to provide concessions and waivers to developers in exchange for affordable housing units.



While AB 1401 may be well intended, parking requirements are most appropriately established at the local level based on community needs. A one-size fits all approach to an issue that is project specific just does not work. For these reasons, Cal Cities opposes AB 1401. If you have any questions, please contact me at (916) 658-8264.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Rhine".

Jason Rhine
Assistant Legislative Director

cc. Members, Assembly Local Government Committee

ACTION ALERT!!

2021-22 State Budget Request for California Cities

BACKGROUND: The Legislature’s proposed budget deal provides significant resources for cities to address generational crises, but more resources are needed to support recovery from COVID-19 in all cities. City leaders should continue to urge lawmakers to appropriate at least \$10 billion to help cities recover from the pandemic, bolster investment towards meaningful solutions to homelessness, improve housing affordability, and advance critical infrastructure.

The fiscal consequences of the pandemic have had real world impacts on the city services Californians depend on daily. Nine out of 10 cities are currently experiencing a revenue shortfall due to the pandemic and 3 out of 4 cities will not, or are unsure if they can, balance their next budget without cutting services and staff.

The state budget surplus of at least \$38 billion and the \$26 billion in COVID-19 assistance provides the Legislature and Governor with the resources to invest in cities, to ensure an equitable and comprehensive recovery, and address generational crises that were exacerbated by the pandemic. Cal Cities is recommending the State appropriate at least \$10 billion to cities, specifically:

- **\$2 BILLION IN DIRECT AND FLEXIBLE STATE AID.** To address local budget gaps left by the American Rescue Plan Coronavirus State and Local Fiscal Recovery Fund and to prevent sustained cuts to good government jobs and jumpstart core services including the easing of municipal hiring freezes.
- **\$5 BILLION FOR EVIDENCE-BASED HOMELESSNESS AND HOUSING SOLUTIONS.** To support cities in their efforts towards ending homelessness and increasing the construction of housing that is affordable to all Californians. These funds would be used to expand programs such as Homekey; Homeless Housing, Assistance and Prevention (HHAP); and Homeless Emergency Aid Program that deliver rapid rehousing, rental subsidies, and subsidies for new and existing housing and emergency shelters.
- **AT LEAST \$3 BILLION FOR BROADBAND INFRASTRUCTURE.** To support expansion and related infrastructure upgrades in unserved and underserved communities to help cities catalyze projects statewide. This will ensure an equitable recovery for Californians in rural, isolated communities, as well as urban and suburban ones.
- **\$225 MILLION TO HELP FUND THE MANDATES TO DIVERT ORGANIC WASTE FROM LANDFILLS.** To enable cities and the State stay on course to meet our ambitious goals to reduce landfill disposal, including providing local governments additional implementation flexibility.

ACTION: The California State Budget must be adopted by midnight on June 15. However, it is likely that additional budget bills, also known as “trailer bills” will advance after June 15th. Final budget negotiations will take place between the Governor and legislative leadership over the next few weeks. It is critical that cities take action and encourage the Governor and the legislature to allocate at least \$10 billion in funding for cities:

1. **Please submit a city letter to your Senator and Assembly Member with a CC to the Governor, Assembly Speaker and the Senate President pro Tempore (sample attached)**
2. **Please place a phone call to your Senator and Assembly Member asking them to support the \$10 billion in funding for cities.**

TALKING POINTS

- The historic \$38 billion state budget surplus and the \$26 billion in federal COVID-19 assistance provides the Legislature and Governor a generational opportunity to uplift all cities, invest in much needed affordable housing, expand homelessness programs, support broadband deployment, and divert organic waste from landfills.
- While cities are slated to receive federal funding under the American Rescue Plan (ARP), budget shortfalls remain. Local economies, particularly those that rely upon domestic and international tourism, hit the hardest by the pandemic continue to face down budget shortfalls not met by recent federal aid – hindering statewide recovery efforts.
- We ask for \$10 billion in funding to cities to help with COVID-19 recovery, address housing and homelessness, enhance broadband infrastructure, and divert organic waste from landfills.

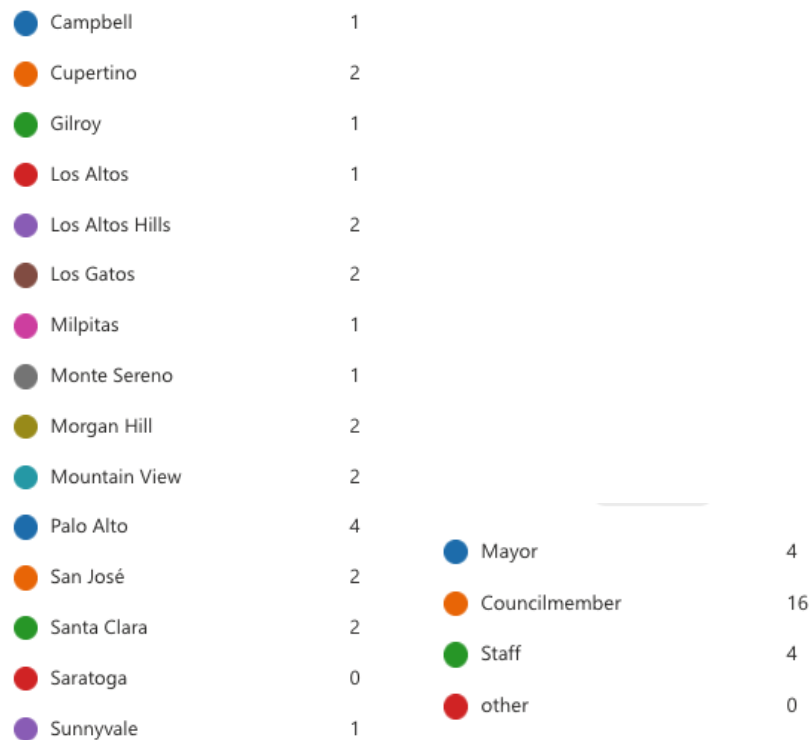
Survey of CASCC members regarding AB 1091

AB 1091 (Berman) Santa Clara Valley Transportation Authority: board of directors. Discussion and consideration of member survey requesting interest to work with Asm Berman on modifications to the bill.

Survey: 24 responses

City/Town

[More Details](#)



Are you or have you served on the VTA board or committee

[More Details](#)

● Currently on board	6
● Previously on board	2
● serve on a committee	5
● No	11



Do you think the current structure of the VTA Board of Directors should be revised?

[More Details](#)

 Insights

● Yes	19
● No	2
● Maybe	3



Who should be on the Board?

● 9 members is adequate for th...	15
● The Board should have less th...	0
● The Board should have more t...	1
● write your own answer	6



Blue - 9 members on the board is adequate. (68%)
Orange – The Board should have less than 9 members. (0%)
Green – the Board should have more than 9 members. (5%)
Red – write your own answer (survey glitch) (27%)

Own Answers:

Medium and small cities need greater representation than what is called for in the bill currently.

I feel that there should be a representative of each city to serve for four years. All cities in the county, small or big are taxed, and all cities in the county should have equal representation and have a voice in public mass transit in the present and future.
Something that ensures the South Santa Clara County is represented.

Composition of the Board

Only of elected officials – 3

Only of appointed officials – 9

The Board should be a hybrid – 10

Select what baseline concepts that must be included in the bill:

Board must have expertise in transportation – 10

Adequate regional representation – 16

Smaller Board with regional perspective – 6

Representational voting per population – 3

Clear understanding of Boardmanship & Governance – 12

Use this bill to consolidate regional transportation agencies – 6

The member should be elected officials – 2

The members should be appointed – 6

Other – 4

Did your Council take action on the bill?

Support – 0

Opposed – 4

Oppose unless amended – 0

NO- 18

Please share your Council's reasoning behind position or other information:

- The nearest public transportation to the City is more than half a mile away.
- Has not been agendaized
- I don't feel that as staff I can represent my agency's view.
- There simply has not yet been an opportunity to discuss this bill.
- My Survey question answers represent staff opinion only.
- Our State lobbyist recommended not taking a position on this bill. However, as a Councilmember who served with former Councilmember Teresa O'Neill, who was supportive of this change and also served as Chair of the VTA, I understood her position on wanting to see a change to the make up of the VTA board in an effort to see it be successful.
- Waiting to see evolution of language

- Cupertino City Council's Legislative Review Committee, composed of two Council members, voted to oppose AB1091, which is within the Legislative Review Committee's authority. As an individual Cupertino City Councilmember, I disagree with this opposing action. The main reason listed to oppose AB1091 was to preserve board representation of elected officials. Current structure of VTA Board comprised of elected officials has proven not only ineffective but also without a regional transit vision. Most elected officials don't have transit expertise and/or time needed to provide visionary and regional transit strategies. The constant changing of elected officials also contributes to continuity and long-term planning issues. We need people who have knowledge, expertise, passion, and commitment to plan strategically with regional transit vision in order to resolve our traffic woes and transit solutions.
- Loss of accountability and no improvement to management of VTA. Ripe for abuse by board to political power particularly if appointed and want to keep appointment, Not all in letter.....
- San Jose would lose equitable representation on the board with the new proposal.
- Basically have not got to it yet. But unequivocal dissatisfaction with VTA both governance and operations.
- Have not yet taken a position. Note: question 6 has a button for "write your own answer" but doesn't have any place to do so. Here's my answer: Medium and small cities need greater representation than what is called for in the bill currently.
- It is on our May 17th agenda for discussion.
- Was not brought to our council by the mayor. I should not guess why not.
- Waiting to see
- I'm not sure why we haven't taken action and will investigate!
- # 7 I feel that there should be a representative of each city to serve for four years. All cities in the county, small or big are taxed, and all cities in the county should have equal representation and have a voice in public mass transit in the present and future.
- Council took a No Position action, waiting to see how the legislation plays out
- VTA provides very little service in our town. We are rural and residential except for Foothill college so the level of current service seems appropriate. I would hope to see VTA be more creative in solving local transportation problems. There must be something beyond large buses on a limited number of busy corridors that can be considered.
- As proposed, it was very possible that South Santa Clara County would be unrepresented.
- We have not taken action yet. I don't think anyone has asked our Council to take action yet.