



American Planning Association  
**California Chapter**

*Making Great Communities Happier.*

## **APA CALIFORNIA LEGISLATIVE UPDATE**

**MARCH 2016**

**By John Terell, AICP, Vice President Policy and Legislation**

**Sande George, APA California Lobbyist**

**Lauren De Valencia y Sanchez, APA California Lobbyist**

### **2016: THE YEAR OF PLANNING BILLS**

The 2016 Legislative Session began on January 4<sup>th</sup> and all bills for the year have now been introduced. The Legislative Review Team will be meeting on March 18<sup>th</sup> to take positions on these bills and begin lobbying efforts. Based on our initial review, this appears to be a banner year of planning legislation. There are quite a number of bills introduced dealing with affordable housing, the density bonus law, and homelessness to name just a few.

Importantly, this year APA California will be sponsoring by right housing legislation with the goal to make it easier to get housing built – and to avoid another round of new, additional housing element requirements.

A short list of the most interesting measures and a full discussion of APA California's by right proposal are below.

### **APA-Sponsored By Right Housing Legislation**

To help address the increasing lack of affordable housing in California, APA California is sponsoring legislation this year to focus on building housing identified in local housing elements rather than additional housing element or other procedural/process requirements unlikely to have much effect on the amount of housing produced in the state. Strong economic growth combined with relatively low levels of new construction are resulting in rapid housing cost increases and gentrification of existing low and moderate income neighborhoods.

Authored by Assembly Member Bloom, AB 2522 will mandate that certain attached housing development to be a permitted "use by right". To ensure reasonable local control over by-right sites, the attached housing must meet all of the following criteria:

1. Is either located on a site identified in the housing element inventory, or is located on a site that has been or will be rezoned pursuant to the local jurisdiction's housing element program.
2. Does not contain more dwelling units than were projected by the jurisdiction to be accommodated on the sites and any density bonus for which the development is eligible.

3. Complies with applicable, objective general plan and zoning standards and criteria, including design standards, in effect when the attached housing development was determined to be complete.
4. Is either located in an urbanized area or located on an infill site.
5. Contains 20% of its units for lower income households, or 100% for moderate-income households.

This proposal will be made in conjunction with a recommendation from APA that no new housing element mandates or other process-centric legislation be approved, focusing on building housing rather than continually revised housing element requirements.

### **QUICK LIST OF NEW 2016 PLANNING BILLS**

Below is a list of key planning bills that have been introduced to date. APA California will not finalize positions on these bills until after the Review Team has a chance in March to review these and any new amended bills. To view the full list of hot planning bills (yes – this is only a partial list!), copies of the measures, up-to-the minute status and APA California positions, please continue to visit the legislative page on APA California's website at [www.apacalifornia.org](http://www.apacalifornia.org).

**AB 1569 (Steinorth)** – CEQA exemption for existing transportation infrastructure

**AB 1591 (Frazier)** – Assembly Democrats' transportation funding package

**AB 1648 (Wilk)** – Restricts public records from being disclosed to a private entity in a manner that is not open to the public

**AB 1886 (McCarty)** – Allows CEQA exemption for transit priority projects that are within ½ mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 50%, rather the current 25%, of their area farther than ½ mile from the transit stop or corridor

**AB 1934 (Santiago)** – Amends definition of “housing development” eligible for a density bonus to include a mixed-use project or commercial development with a housing component

**AB 1967 (Gaines)** – Prohibits mental health facility projects from being approved within 2000 feet of a school or childcare facility

**AB 2002 (Stone)** – Requires anyone lobbying the Coastal Commission to register with the FPPC as a lobbyist, unless they are a local government agency employee or lobby for not more than one action per year

**AB 2087 (Levine)** – Authorizes the Department of Fish & Wildlife to adopt a regional conservation framework that identifies wildlife and habitat conservation needs and guides conservation investments, land use and infrastructure planning, mitigation, and the design of public and private projects effecting species and resources

**AB 2140 (Hernandez)** – Redefines farmworker housing to mean housing occupied by 50% of farmworkers and their households rather than the current 100%

**AB 2162 (Chu)** – Prohibits removal of specified oak trees from an oak woodland without a plan and permit approved by the Director of Fish and Wildlife

**AB 2176 (Campos)** – Allows the County of Santa Clara to use transitional housing for the homeless after declaring a shelter crisis and allows the county to enact local building, housing, health and other standards that will be operative during the crisis

**AB 2195 (Bonilla)** – Extends the California Massage Therapy Act sunset date to 2019

**AB 2208 (Santiago)** – Requires the State Public Works Board, before constructing or seismic retrofitting a public building with state funds, to sell the air rights above the building to a private or nonprofit developer to construct affordable housing and to construct the public building with the capability of supporting such affordable housing

**AB 2281 (Calderon)** – Provides incentives to home sellers to sell their homes to buyers who intend to live in the home

**AB 2281 (Calderon)** – Restricts the total percentage of single family rental homes in one ZIP code

**AB 2292 (Gordon)** – Adds population density as a population characteristic in Cal Enviroscreen

**AB 2299 (Bloom)** – Eliminates the ability of cities and counties to adopt an ordinance prohibiting second units with findings, mandating that every local agency adopt an ordinance allowing second units in specific areas of the jurisdiction; prohibits the ordinance from imposing parking standards for a second unit located within ½ mile of public transit or shopping or is within an architecturally and historically significant historic district

**AB 2311 (Brown)** – Requires every local agency to use a state-certified sign language interpreter at every media or public briefing related to emergencies

**AB 2319 (Gordon)** – Adds affordable housing to the types of projects eligible for financial assistance from the CA Infrastructure and Economic Development Bank

**AB 2351 (Hernandez)** – Authorizes rent control in mobilehome parks where the rent charged residents is above average rents in mobilehome parks in the same area

**AB 2388 (Gipson)** – Requires local agencies to adopt a mortgage program that allocates 10% of all single-family family residences that the local government agency owns and leases to become eligible for current tenants of those units, limited to low and moderate income persons

**AB 2391 (Steinorth)** – Allows all cities and counties that opt into the program to use a fast track process to remove unauthorized residences from vacant properties

**AB 2403 (Bloom)** – Requires the State Department of Health Care Services to issue a single license to a residential alcoholism or drug abuse recovery or treatment “integral facilities” if there are two or more facilities located in the same or different parcels that collectively serve 7 or more persons and are controlled by the same entity

**AB 2406 (Thurmond)** – Authorizes local agencies to adopt ordinances allowing for “junior accessory dwelling units” defined as units that are no more than 500 square feet in size and contained entirely within an existing single-family structure, but imposes specific requirements and restrictions on the ordinances

**AB 2442 (Holden)** – Requires a density bonus if a housing development includes at least 5% of the total units for transitional foster youth

**AB 2452 (Quirk)** – Prohibits a court in a CEQA action from staying or enjoining transportation infrastructure projects based solely on the project’s potential contribution to the emissions of greenhouse gases

**AB 2475 (Gordon)** – Establishes a forgivable loan program administered by the CA Infrastructure and Economic Development Bank for local governments providing matching funds for affordable housing projects consistent with the region’s SCS

**AB 2500 (Daly)** – Authorizes HCD to “rescind the adoption” of a housing element

**AB 2501 (Bloom)** – Makes a number of substantial changes to the density bonus law, including requiring that the local agency make a written determination on whether the applicant’s application is complete within 30 calendar days of receipt, and determination of an application for a density bonus with 60 calendar days; providing the applicant with appeal rights; requiring any density calculation that results in fractional units to be rounded up to the next whole number; allowing the developer to accept no density bonus; requiring the local government to provide requested concessions or incentives unless it finds, based on substantial evidence, that the concession or incentive does not reduce the cost of development; and additionally requiring the local government to provide the applicant with a waiver or reduction of development standards

**AB 2502 (Mullin)** – Authorizes cities and counties to impose inclusionary housing requirements

**AB 2522 (Bloom)** – APA California’s sponsored by right housing bill

**AB 2593 (Brown)** – Exempts from the definition of a food facility requiring licensing a private home that is not open to the public where the cook directly sells food to the consumer

**AB 2697 (Bonilla)** – Requires successor agencies, before disposing of former redevelopment land, to send a written offer to sell for purposes of developing low- and moderate-income housing to any local public entity in the jurisdiction

**AB 2734 (Atkins)** – Requires the Department of Finance to calculate the savings to the state attributable to the elimination of redevelopment agencies and provide 50% of that amount to HCD to provide funding to local agencies for housing

**AB 2853 (Gatto)** – Clarifies that “public record” includes writings kept on the private cell phone or other electronic device of an elected official, official, or employee of a public agency if those records relate to the public’s business

**SB 879 (Beall)** – Authorizes bonds to finance low-income and homeless housing

**SB 885 (Wolk)** – Further restricts construction contract indemnity clauses

**SB 901 (Bates)** – Authorizes Caltrans to implement environmental mitigation measures in advance of future transportation projects

**SB 970 (Leyva)** – Requires The Department of Resources to develop a pilot program to encourage cost-effective and efficient integrated organic food waste diversion projects

**SB 1000 (Leyva)** – Requires a new environmental justice element in the General Plan law that identifies and appraises the burdens of undesirable land uses within disadvantaged communities or that disproportionately impact a particular population

**SB 1191 (Berryhill)** – Mandates the Department of Fish and Wildlife to develop a new wildlife resources master plan to manage wildlife resources

**SB 1248 (Moorlach)** – Requires a plaintiff or petitioner in a CEQA action to disclose the identity of a person or entity with a business interest, or that contributes, in excess of \$100 toward the plaintiff’s or petitioner’s costs of the action

**SB 1262 (Pavley)** – Expands the “show me the water” requirements to include whether a water source for a project is of sufficient quality to meet drinking water standards

**SB 1283 (Bates)** – Expands the licensure and regulation of alcoholism or drug abuse recovery or treatment facilities to also include adult recovery maintenance facilities

**SB 1317 (Wolk)** – Requires a city or county overlying a high- or medium-priority groundwater basin to issue conditional use permits for groundwater extraction facilities to prevent contributing to the low groundwater

**SB 1318 (Wolk)** – Prohibits LAFCO’s from authorizing a city or district to update a sphere of influence or extend drinking water or wastewater infrastructure or services related to annexation until it has extended those services to all disadvantaged communities within or adjacent to its sphere of influence or has agreed to extend those services to those disadvantaged communities unless specified conditions are met

**SB 1380 (Mitchell)** – Creates a coordinating council on homelessness

**SB 1386 (Wolk)** – Requires all state agencies and departments to consider the state’s goal to protect and manage natural and working lands to meet GHG reduction goals when revising or adopting policies, regulations and grant criteria relating to the protection and management of natural and working lands

**SB 1413 (Leno)** – Authorizes school districts to sell or lease any school district property that is not or will not be needed for classrooms to develop and provide housing to employees of the school district

**SB 1415 (Bates)** – Exempts from CEQA public or public/private drought-oriented projects

**SB 1440 (Cannella)** – Requires water storage projects funded in part or in whole by Prop 1 to comply with new CEQA procedures, authorizes the lead agency for the project to concurrently prepare the record of proceedings for the project, requires Judicial Council to establish procedures applicable to actions or proceedings seeking judicial review of a lead agency’s action in certifying the EIR and in granting approval for those projects including any appeals be resolved to the extent feasible within 370 days of the certification of the record of proceedings, and prohibits a court from staying or enjoining those projects unless the court makes specified findings

## **GOVERNOR’S BUDGET TRAILER BILLS**

The Governor introduced the 2016-17 Budget on January 10<sup>th</sup>. To implement the budget, so far he has included seven budget trailer bills of interest to planners:

**CLEANUP LANGUAGE FOR MEDICAL MARIJUANA REGULATION:** A placeholder measure that “will solidify the regulatory framework for the licensing and enforcement of the cultivation, manufacture, transportation, storage, and distribution of medical marijuana in California.”

**GOVERNOR’S TRANSPORTATION FUNDING & CEQA EXEMPTION PACKAGE:** The Governor’s transportation funding proposal that includes a gas tax increase plus annual inflation adjustments to pay for deferred maintenance on state highways and local streets and roads. Also provides that CEQA does not apply to a project, or the issuance of a permit for a project, that consists of the inspection, maintenance, repair, rehabilitation, replacement, or removal of existing transportation infrastructure or to the addition of an auxiliary lane or bikeway to existing transportation infrastructure under certain conditions. It is an urgency bill requiring 2/3 vote.

**RESTRICT USE OF MOTOR VEHICLE FEE EXPENDITURES:** Requires revenues, from state fees and taxes on vehicles, that are transferred to the Road Maintenance and Rehabilitation Account to be used solely for street, highway, and mass transit purposes. 2/3 vote required.

**INCENTIVE GRANTS FOR HARD-TO-SITE FACILITIES:** Placeholder for a new program to incentivize cities and counties to permit facilities that provide mental health treatment, drug abuse treatment, and reentry services.

**CHANGES TO CESA:** Amends the California Endangered Species Act, specifying that fines will be allocated 50% to the Endangered Species Permitting Account, and 50% to the county treasury of the county in which the violation occurs.

**CAP & TRADE FUNDS FOR HEALTHY FORESTS:** Provides grants to public agencies, private entities or tribes for programs that achieve forest health and greenhouse gas reduction.

**CAP & TRADE FUNDS FOR PROJECTS REDUCING ORGANIC WASTE:** Expands existing recycling programs eligible for cap & trade funds to projects that reduce organic waste.

For a copy of the budget trailer bills, go to:

[http://www.dof.ca.gov/budgeting/trailer\\_bill\\_language](http://www.dof.ca.gov/budgeting/trailer_bill_language)

