American Planning Association
California Chapter

Making Great Communities Happen

APA CALIFORNIA LEGISLATIVE UPDATE

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End of Session

The 2015 Legislative Session ended on September 11, 2015. As always there were a few surprises on the last few nights of session, including the resurrection of the Governor's budget trailer bill revising redevelopment law, which is discussed below. The Governor now has until October 11th to sign or veto all bills that made it to his desk.

The Governor's Office of Planning and Research released a preliminary discussion draft of updates to the CEQA Guidelines. A copy of the draft is available here: http://opr.ca.gov/s_cegaguidelines.php. APA California will be providing comments though our ECAT working group, which will be posted on the APA California website.

Below is a list of key planning bills that APA California actively lobbied this session. To view the full list of hot planning bills, 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.

AB 2 (Alejo) Community Revitalization Authorities: This bill would authorize local agencies to form a Community Revitalization Authority (CRIA) within a community revitalization and investment area. A CRIA would be authorized to invest the property tax increment of consenting local agencies (other than schools) and other available funding to improve conditions leading to increased employment opportunities, including reducing high crime rates, repairing deteriorated and inadequate infrastructure, and developing affordable housing. The language is substantially the same as AB 2280 from last year, which APA California supported. The Governor vetoed the bill last year because the new provisions were within the former redevelopment statutes, so the bill was reintroduced this year in an entirely new area of the code with the hope that the Governor this time would sign this important redevelopment alternative – which he did on the same day he signed SB 107, his redevelopment budget trailer bill.
APA California Position: Support
Location: SIGNED BY THE GOVERNOR

AB 35 (Chiu & Speaker Atkins) Affordable Housing Funding: This bill would increase the amount of the state Low Income Housing Tax Credit by $100 million, which would create access to new federal resources for the state with the goal to create thousands of

new affordable homes and jobs. APA supports new funding sources for affordable housing.
APA California Position: Support
Location: On the Governor's Desk

AB 57 (Quirk) Cell Tower Permitting: This bill references the shot clock section of the 2009 Federal Communications Commission Ruling on wireless infrastructure siting. The shot clock timeframes are 90 days to approve an application for collocations and 150 days to approve an application for brand new sites. However, this bill would go beyond the Ruling by adding a deemed approved provision to brand new sites – something that the FCC denied twice. Also, the bill doesn't clearly state the ability to toll the clock or address how CEQA review completion could affect the timeframe, even though it is referenced in other sections of the Ruling. While the author had committed many times to amending the bill to address CEQA, he never did. If this bill is signed into law, carriers could essentially run the clock out to get permit approval, even if important aspects of the application are not complete. Unfortunately this could force jurisdictions to deny the application in order to meet the shot clock deadline, rather than work with carriers to get to a viable, safe and esthetically appropriate design. The bill did make it to the Governor's desk. APA California met with the Governor's staff to express our concerns and urge that the Governor veto the bill.
APA California Position: Oppose
Location: On the Governor's Desk

AB 266 (Bonta)/AB 243 (Wood)/SB 643 (McGuire) Local Regulation of Medical Marijuana: These bills set up a regulatory framework for the regulation of medical marijuana. The Department of Consumer Affairs along with the Department of Health and Food and Agriculture will create these regulations and oversee the program. These bills still allow a county or city to enforce local zoning and permitting of medical marijuana dispensaries. And local jurisdictions retain the power to assess fees and taxes on facilities that are licensed. Previous legislation in this area has often sought to pre-empt local zoning and planning restrictions. While these bills have been in print and moving since the beginning of session, it has been a work in process. During the last few weeks of session the Department of Consumer affairs along with the authors of the bills worked closely with the Governor's office to finalize the language we now see. APA California supported the bills to ensure that local governments continue to have a prominent role in any framework for medical marijuana in our communities.
APA California Position: Support
Location: On the Governor's Desk

AB 718 (Chu) Right to Use Vehicles for Human Habitation: This bill would have prohibited local governments from prohibiting or otherwise penalizing by impoundment or other method, the act of sleeping or resting in a lawfully parked motor vehicle as a way of dealing with the absence of adequate shelter beds in California. It would have provided specific exemptions to still allow a law enforcement officer to arrest, cite, or otherwise penalize an occupant of a motor vehicle for any criminal activity or violation of the vehicle code; enforce any criminal activity or violation of the vehicle code by the occupant of the motor vehicle; and enforce local ordinances that restrict the use of public streets for vehicle storage. Because the bill stated that the vehicle must be "a lawfully parked motor vehicle", the bill did <u>not</u> prevent local governments from establishing local parking regulations to address the hours a vehicle can be parked on the street, or from prohibiting overnight parking unless a vehicle obtains a residential permit. The bill did

appear however to prohibit local ordinances that prohibit people from using a vehicle parked or standing on any city street or parking lot as living quarters either overnight, or day-by-day, consistent with the US Court of Appeals for the Ninth Circuit in June 2014 in *Desertrain v. City of Los Angeles*. In that case, the court found that LA's ordinance paved the way for law enforcement to target the homeless and was therefore unconstitutionally vague. The bill was not able to get enough votes on the Senate floor to pass, and did not move forward this year. As a two-year bill, it could be taken up again in January. However, it looks like the focus of legislation next year will be on the broader issue of how to deal specifically with homelessness – APA California will be involved with those discussions.

APA California Position: Oppose
Location: Two-Year Bill

AB 744 (Chau) Elimination of Parking Minimums: AB 744 as originally drafted would have eliminated parking minimum requirements for density bonus housing projects, special needs housing and senior housing if the housing is near a transit rich area. APA shared the author's goal to encourage infill housing by not overburdening development near active transit. However, APA requested several amendments to target the no minimum parking mandate in the bill to 100% affordable housing projects where studies have shown residents do have fewer cars, ensure the housing had parking alternatives available to residents and access to unobstructed transit near the housing so reduced parking would not negatively impact surrounding uses with spillover parking, and allow cities and counties to still require parking minimums up to the current Density Bonus parking minimums based on a recent traffic study. However, the Legislature pushed the author to include some parking minimum for even 100% affordable projects to ensure projects would not be entitled to "no parking", which the author and sponsors agreed to accept. As a result, the bill as it went to the Governor includes APA's suggested amendments except for alternative parking requirements, and prohibits local governments from requiring minimum parking ratios:

- Greater than 0.5 spaces **per bedroom** for a development that includes, at least 20% low income or 11% very low income housing units and is within one-half mile of a major transit stop.
- Greater than 0.5 spaces **per unit** for a development that is entirely composed of low or very low income rental housing units and is within ½ mile of a major transit stop.
- Greater than 0.5 spaces **per unit** for a development that:
    1. Is a senior citizen development renting to individuals 62 years of age or older;
    2. Is entirely composed of low or very low income rental housing units, and;
    3. Has paratransit or is located within one-half mile of a bus line that runs at least eight times per day.
- Greater than 0.3 spaces **per unit** for a development that:
    1. Is a special needs housing development, defined as a development for the benefit of persons with mental health needs, physical or developmental disabilities, or those at risk of homelessness;
    2. Is entirely composed of low or very low income rental housing units, and;
    3. Has paratransit or is located within one-half mile of a bus line that runs at least eight times per day.

These ratios include parking set aside for guests and handicapped spaces. AB 744 also allows a local government to impose a parking ratio up to the ratios allowed in current

law, for developments that receive density bonuses if the local government makes findings that a higher parking ratio is needed, based on findings in any parking study conducted for the area in the past seven years that demonstrates the need.
With these amendments APA withdrew our request for parking alternatives for these projects, and supported the bill as amended by the author.
APA California Position: Support
Location: On the Governor's Desk

AB 771 (Speaker Atkins) Historic Preservation Tax Credit: This bill would allow a 20% - 25% tax credit for expenses incurred for rehabilitation of a certified historic structure or a qualified residence. APA California supports incentives to preserve historic buildings in California.
APA California Position: Support
Location: Two-Year Bill

AB 806 (Dodd) Wireless Antenna Permitting Exemptions: This bill was recently gutted and amended to exempt strand mounted antennas used for video, voice or data service from additional permitting requirements as long as they are attached to communications infrastructure constructed with state permitting requirements. The author amended the bill right before the policy deadline so it will be a two-year bill. He stated that the bill is needed because local governments are considering adopting regulations to require additional permits for this equipment. APA California has reached out to the author to understand the issue and asked the Legislative Review Teams for feedback on the bill.
APA California Position: Review
Location: Two-Year Bill

AB 1303 (Gray) Map Act Extension for Disadvantaged Cities and Counties: This bill, an urgency measure, would provide for an automatic 24-month extension for unexpired subdivision maps approved after January 1, 2002, and not later than July 11, 2013. It would also require the extension of an approved or conditionally approved subdivision map approved on or before December 31, 2001, upon application by the subdivider at least 90 days prior to the expiration of the map, authorizing the extension to be approved, conditionally approved, or denied if the map is determined not to be consistent with applicable zoning and general plan requirements in effect when the application is filed. These extensions however would only apply to counties that meet the following criteria: The annual mean household income within the county is less than 80% of the statewide annual mean income; the county's annual non-seasonal unemployment rate is at least 3% higher than the statewide annual non-seasonal unemployment rate; or the poverty rate within the county's population is at least 4% higher than the statewide median poverty rate.
APA California Position: No Position
Location: On the Governor's Desk

AB 1344 (Jones) Charter School Siting: This bill would establish a process for school districts to override local zoning ordinances in the siting of charter schools at the charter school's request. While public schools are able to do this under current law, charter schools don't go through the same state oversight as public schools when applying for permits. Charter schools also are not required to notify the local jurisdiction that they plan to override local zoning. If this bill moves in 2016, it will need to be amended to

ensure that the city or county is notified of the process and is part of the discussion with the school district and charter schools before such overrides are authorized.
APA California Position: Oppose
Location: Two-Year Bill

AB 1335 (Speaker Atkins) Building Homes and Jobs Act: This bill would enact the Building Homes and Jobs Act. The bill would impose a fee of $75 to be paid at the time of the recording of every real estate transaction, except housing purchases, to be used as an ongoing source of funding for affordable housing. Given the loss of redevelopment and federal housing funding, APA California is supportive of the Speaker's efforts to find a permanent source of funding for the construction of affordable housing. She has expressed support for including a bill to provide a permanent source of affordable housing funding as part of any package approved pursuant to the Special Session on Transportation and Health Funding. (The Special Session did not result in legislation before the Legislature broke for interim, but a joint Senate and Assembly Conference Committee is expected to begin hearings this fall on potential components of any special session legislative solutions.)
APA California Position: Support
Location: Two-Year Bill

AB 1500 (Maienschein) CEQA Exemptions for Homeless Complex Projects: This bill would have exempted "homeless complex projects" from CEQA. While APA is supportive of streamlining approval of projects that would assist the homeless population, especially given that there are very few emergency shelters in California, the original definition of "homeless complex" in the bill went far beyond emergency shelters. The bill did not require other facilities, affordable housing or other undefined related projects providing services to the shelters -- that would have also been exempted from CEQA -- to be on the same property, within close proximity, or tied exclusively to the emergency homeless shelters – they could have been stand-alone projects. Nor were there any requirements that such facilities remain in service to the emergency shelters for any specific length of time in order to receive the CEQA exemption. APA California made suggestions to the author to help narrow the definitions in the bill. The bill was amended to change "homeless complex projects" to "priority housing project", remove from the CEQA exemption buildings that provide services to the homeless, narrow the definition of low-income housing, and require the projects requesting the CEQA exemption to retain their original uses and services to receive the exemption.
APA California Position: Support as Amended
Location: Two-Year Bill

SB 107 (Leno – Governor's Budget Trailer Bill) Redevelopment Law Changes: This bill includes additional provisions to clarify and amend existing law governing the dissolution of redevelopment agencies (RDAs) and the wind-down of their existing activities and obligations. In addition, the measure addresses several ongoing issues relating to state-local fiscal disputes. This bill was amended on the second to the last day of session and is the Governor's/Department of Finance's redevelopment "clean up" measure. The late amendments made it difficult for many cities and counties to determine the actual impact in time for the votes on the floor. However, there is general agreement that the bill will result in winners and losers, which has placed differing cities and counties on both sides of the bill. Senator Leno, the bill's author, agreed to put in a letter to the Journal clarifying that the $5 million infrastructure loan repayment cap in the amended bill would apply per each loan, not per jurisdiction (it isn't cumulative). It will

also clarify that the bill will not result in denial of a loan previously approved prior to the effective date of the bill, or impact the Watsonville and Glendale lawsuit decisions. And, the bill will not prohibit a nonprofit from collecting attorney fees if it is successful in any action against a successor agency.
APA California Position: Watch
Location: SIGNED BY THE GOVERNOR

SB 122 (Jackson and Hill) CEQA Reform: This bill would have allowed for a concurrent preparation of the administrative record at the request of a project applicant and with the consent of the lead agency. APA California supported this option but suggested that the bill be amended to exclude emails that could eventually become part of an administrative record from the requirement to be posted on-line, as this would require a huge amount of staff and lawyer time to stay on pace. That amendment was not accepted, but given that this process is at the discretion of the lead agency, feasible processes for posting should be able to be put in place that are directly related to the administrative record. SB 122 would have also required lead agencies to submit environmental documents to OPR and require that those documents be available on-line to the public. This would have improved public access to these documents, although APA suggested to the author further streamlining strategies that could be accomplished once the website is up and running. The bill also originally stated the intent of the Legislature to enact legislation establishing a public review period for a final environmental impact report – an extra 30-day review. To eliminate opposition to this proposal, the bill was amended to remove this intent language. However, APA would support a remedy that will address the problem of written comments submitted to the lead agency late in the CEQA process or during the final hearing. These late comments do not allow adequate time for the lead agency to review and analyze what can be volumes of material that in many cases could have been provided much earlier in the process. Unfortunately, the bill was held in the Assembly Appropriations Committee. The author believes she will be able to successfully move the bill to the Governor in early 2016.
APA California Position: Support if Amended
Location: Two-Year Bill

SB 379 (Jackson) Climate Adaptation in General Plan: SB 379 requires cities and counties to review and update their safety elements to address climate adaptation and resiliency strategies applicable to the city or county. APA worked with the author and stakeholders to ensure that applicable climate adaptation and resiliency strategies are addressed at the local level. We suggested that rather than starting with a brand new process, however, that the bill be amended to allow cities and counties to tier off of the existing Hazard Mitigation Plan (HMP) process when it is amended every five years, adding planning-related strategies in the Safety Element as appropriate and including the HMP as a reference. The bill was amended to make that change, and for cities and counties that do not have an HMP, the bill was amended to require the Safety Element to be reviewed and updated as necessary beginning on or before January 1, 2022, rather than tying it to the next Housing Element revision. Equivalent local Climate Action Plans or other climate adaptation documents or plans were also added to the types of documents that can be used to meet the SB 379 requirements. In addition, this bill has sparked a parallel effort with the Office of Emergency Services to ensure that planning and building departments will be at the table when the HMP's are being updated or adopted to better coordinate this process in the future.
APA California Position: Support as Amended

Location: On the Governor's Desk