



American Planning Association  
**California Chapter**

*Making Great Communities Happen*

## **APA CALIFORNIA LEGISLATIVE UPDATE**

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### **The 2016 Legislative Session Comes to an End**

The 2016 Legislative Session came to an end on August 31<sup>st</sup>. This year's session started with hundreds of planning-related bills, keeping APA California very busy on issues dealing with affordable housing, the density bonus law, and environmental justice, just to name just a few. However many of those bills didn't make it to the end.

### **Bye Bye By Right**

While APA California introduced sponsored by right housing legislation with the goal to make it easier to get affordable and workforce housing built, the by right housing approval issue was elevated when the Governor submitted his own budget trailer bill language proposing a much broader by right process. Unfortunately the Governor's proposal generated strong opposition, including that from labor unions and environmental groups. APA worked with the Governor's staff, HCD and budget committee staff in the hopes of developing a more focused proposal closer to APA's concept in our proposed legislation (an update on that legislation is below). However, after many attempts to put forward a workable proposal, a consensus could not be reached and the proposal didn't go forward.

Along with the loss of a workable by right proposal was the loss of the allocation of \$400 million for affordable housing that the Governor tied to the passage of his by right proposal – a big loss of rare one-time funding for affordable housing.

## Hot Bills

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 letters and positions, please continue to visit the legislative page on APA California’s website at [www.apacalifornia.org](http://www.apacalifornia.org).

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### Hot Bill Directory

[AB 1934](#) Development Bonus for Commercial Development

[AB 2002](#) FPPC Requirements for Communication with the Coastal Commission

[AB 2208](#) Housing Above Local Government Buildings and Underutilized Sites

[AB 2299](#) Accessory Dwelling Units Ordinances and Reduced Parking Requirements

[AB 2501](#) New Density Bonus Requirements

[AB 2502](#) Inclusionary Housing Programs

[AB 2522](#) By Right Housing

[AB 2734](#) Local Control Housing Funding Act

[AB 2788](#) By Right Approval of “Small Cell” Wireless Infrastructure

[SB 1000](#) Mandatory Environmental Justice Element in the General Plan

[SB 1069](#) Accessory Dwelling Units Ordinances and Reduced Parking Requirements

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## [AB 1934](#) (Santiago) – Density Bonus for Commercial Development

This bill would require a city or county to grant to a commercial developer a “development bonus”, similar to a density bonus, when an applicant for commercial development agrees to partner with an affordable housing developer to develop affordable

housing as either a joint project or two separate projects. The affordable housing can be constructed on the site of the commercial development or on a site that is within the boundaries of the local government, in close proximity to public amenities and schools and within one-half mile of a major transit stop. APA discussed our concerns with the author, including APA's opposition to the lack of a definition of "partner" and the concessions that cities and counties would be forced to grant the commercial developer, including a 20% variance on floor area ratio. The bill was amended to both better define the partnership between the housing and commercial developer and was made clear that the concessions would need to be *mutually* agreed upon by the developer and the jurisdiction. With those amendments, APA removed opposition to the bill.

*Position: Neutral as Amended*

*Status: On the Governor's Desk*

### **AB 2002 (Stone) – FPPC Requirements for Communication with the Coastal Commission**

This bill would have required anyone lobbying the Coastal Commission to register with the FPPC as a lobbyist, unless the person is a local government agency employee or lobbies for not more than one action per year. APA California took an oppose unless amended position because the bill did not exempt planning consultants and design professionals hired by local agencies to act on the agencies' behalf with Commission staff. After meeting with the author's office on this issue, the author agreed to amend the bill to clarify that planning consultants and design professionals representing local agencies would not be required to register before having discussions with Commission staff. On the last night of session the bill was moved to the "inactive file" and didn't move forward.

*Position: Neutral as Amended*

*Location: Dead*

**[AB 2208](#) (Santiago) – Housing Above Local Government Buildings**

This bill would have expanded the Housing Element inventory of land suitable for residential development to include buildings owned or under the control of a city or a county, zoned for residential or nonresidential use and capable of having residential developments constructed above the existing building, as well as “underutilized” sites (which was not defined). APA California took an oppose position because such potential sites most likely would be infeasible or could not be guaranteed to be developed within the planning period depending on what the current use of the “underutilized site” is and when it might be available for development. The bill was narrowed to only revise the definition of land suitable for residential development to include air rights on sites owned by a city or county. With that amendment, APA removed its opposition.

*Position: Neutral as Amended*

*Location: On the Governor’s Desk*

**[AB 2299](#) (Bloom) – Mandatory Accessory Dwelling Unit (Second Unit) Ordinances and Reduced Parking Requirements**

This bill would have required a local agency to provide by ordinance for the creation of accessory dwelling units in single-family and multifamily residential zones. It would have also prohibited the imposition of additional parking for an ADU that was located within one-half mile of public transit or shopping – both of which were left undefined. APA California had no concerns with the majority of the bill and supports the use of second units as a source of affordable housing. However, APA requested that the bill be amended to remove “shopping” and use the definition of a “major transit stop” from SB 375 (Steinberg, 2008) and more recently included in AB 744 (Chau,

2015) rather than just “transit”. APA wanted to ensure robust transit would be available near these units if parking could not be required for a car. After attempting to reach an agreement on a suitable definition of “transit”, the author decided to remove the new and more restrictive parking standards altogether from the bill. This keeps existing law in place – no more than one parking spot can be required per bedroom. With that, APA was able to move to a full support position.

*Position: Support as Amended*

*Location: On the Governor’s Desk*

### **AB 2501 (Bloom) – New Density Bonus Requirements**

AB 2501 makes a number of substantial changes to the density bonus law. A number of provisions opposed by APA in the original version of the bill have been removed, including a requirement that the local agency approve an application for a density bonus and any concessions and incentives within 60 calendar days. Recently, remaining issues were addressed in negotiated amendments that reinstate the ability of cities and counties to request information from a developer who is seeking a density bonus, concessions, incentives, waivers and parking reductions for a project. As amended, the developer can be required to provide reasonable documentation to demonstrate that the project conforms with the numerous requirements of density bonus law and is eligible for any bonus, concession, waiver, or parking reduction requested, and that any concession or incentive will specifically result in identifiable and actual cost reductions required for the affordable housing units. With those amendments, APA removed its opposition.

*Position: Neutral as Amended*

*Location: On the Governor’s Desk*

### [AB 2502](#) (Mullin) – Inclusionary Housing Programs

This bill would have amended that state’s Planning and Zoning Law to make it clear that inclusionary zoning is a permitted land use power for both for-sale and rental housing, in light of the *Palmer* decision. APA California supported the bill but unfortunately it had substantial opposition and an agreement could not be made to keep the bill alive.

*Position: Support*

*Location: Dead*

### [AB 2522](#) (Bloom) – APA-Sponsored By Right Housing Proposal

To help address the increasing lack of affordable housing in California, APA California sponsored AB 2522 to speed up approvals of attached housing projects. AB 2522 would have mandated that attached housing developments be a permitted use “by right” if the projects meet all of the following ministerial 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.

As mentioned above, the Governor put forward a broader by right proposal just after APA's AB 2522 was launched, taking over the by right discussion and superseding AB 2522 itself. APA supported the Governor's proposal in concept, but submitted substantial recommendations for amendments to allow APA to fully support the budget trailer bill. Unfortunately, given the conflicting and substantial opposition to the Governor's by right proposal, it is unclear whether any by right proposal, even APA's more targeted approach, could succeed if APA decided to move a bill similar to AB 2522 next year.

*Position: Support*

*Location: Dead*

#### **[AB 2734](#) (Atkins) – Local Control Housing Funding Act**

This bill would have required the Department of Finance to calculate the savings to the state attributable to the elimination of redevelopment agencies and provide 50% of that amount, or \$1 billion, whichever is less, to HCD to provide funding to local agencies for housing. This is Assembly Member Atkins' third attempt to establish a permanent source of funding for affordable housing. APA California continued to support her efforts as we have in the past. APA also supported the Senate's proposal to redirect mental health funding for supportive housing, and other budget proposals providing various sources of funding for affordable housing. Unfortunately the third time wasn't a charm and the bill was held on the Appropriations Suspense file.

*Position: Support*

*Location: Dead*

#### **[AB 2788](#) (Gatto) - By Right Approval of "Small Cell" Wireless Infrastructure**

With less than three weeks left before a major policy deadline in the legislature, Assembly Member Gatto "gut and amended" AB

2788, which would have unnecessarily preempted local authority on the permitting of “small cell” wireless infrastructure, shut out public input by eliminating consideration of the aesthetic and environmental impacts of “small cells,” required cities and counties to lease or license publicly-owned facilities for the installation of such facilities, and imposed arbitrary time limits for the issuance of permits. APA California along with the California State Association of Counties, the League of California Cities, the Urban Counties of California and the Rural County Representatives of California quickly formed a joint opposition coalition and began lobbying members of the Senate Energy, Utilities & Communication Committee, where the bill was to be heard just 4 business days after the bill was in print. However, after extensive efforts by the coalition, the author decided not to move the bill forward. While we can assume that language in this bill will be back next year, APA California is pleased that this last minute attempt was stopped.

*Position: Oppose*

*Location: Dead*

### **[SB 1000](#) (Leyva) – Mandatory Environmental Justice Element in the General Plan**

As introduced, SB 1000 would have added a new Environmental Justice Element to the already existing seven elements in the General Plan law. The bill would have required that the new element identify disadvantaged communities within the jurisdiction and include objectives and policies to reduce health risks. After working closely with the author’s office, Senator Leyva agreed to accept amendments suggested by APA California that ensure local jurisdictions have the flexibility to determine where in the General Plan or other documents the new environmental justice additions should be placed to fit the needs of the community.

SB 1000, as amended, now requires a local jurisdiction to either adopt a new Environmental Justice Element or develop related goals, policies and objectives integrated in other existing elements that would identify disadvantaged communities. The bill would only apply if the local jurisdiction has a disadvantaged community. And finally, the bill now requires review or adoption upon the next revision of two or more elements on or after January 1, 2018. Original language tied the adoption to the next revision of the housing element.

*Position: Support as Amended*

*Location: On the Governor's Desk*

### **SB 1069 (Wieckowski) Accessory Dwelling Unit (Second Unit) Ordinances and Reduced Parking Requirements**

This bill would require a local agency to provide by ordinance for the creation of accessory dwelling units in single-family and multifamily residential zones. It would also prohibit the imposition of additional parking for an accessory dwelling unit that is located within one-half mile of public transit or shopping. APA California originally had a support if amended position on the bill, supporting second units as a key source of affordable housing. However, like AB 2299, APA asked that the bill be amended to remove “shopping” and use the definition of a “major transit stop” from SB 375 (Steinberg, 2008) or more recently included in AB 744 (Chau, 2015), rather than just “transit”. While the bill was amended to remove “shopping”, the author was unwilling to define “transit”, so APA moved to an oppose position.

*Position: Oppose*

*Location: On the Governor's Desk*