



American Planning Association
California Chapter

Creating Great Communities for All

July 22, 2020

Speaker Pro Tem Toni Atkins
State Capitol, Room 205
Sacramento, CA 95814

SUBJECT: **Support if Amended for SB 995 (Atkins) – Exention of the Jobs and Economic Improvement Through Environmental Leadership Act of 2011: Housing Projects and Required CEQA Documents When Using State Funds**

Dear Senator Atkins:

The American Planning Association, California Chapter (APA California) would be pleased to support your bill, SB 995, if amended. SB 995 would extend for four years the *Jobs and Economic Improvement Through Environmental Leadership Act of 2011* until 2025 and would allow housing projects that meet certain requirements, including specified affordable housing requirements, eligible for certification under the Act. The bill would also require a lead agency to prepare a Master Environmental Impact Report (EIR) for a general plan, plan amendment, plan element, or specific plan for housing projects where the state has provided funding for the preparation of the Master EIR.

APA California supports efforts to streamline and encourage housing development in a time when California continues to face an unprecedented housing crisis, compounded by the recent and ongoing impacts of the COVID-19 pandemic. In particular, SB 995 provides an incentive for the development of affordable housing projects. APA California fully supports the changes in the *Jobs and Economic Improvement Through Environmental Leadership Act of 2011*, which would extend the sunset and allow infill housing projects that are consistent with a sustainable communities strategy or alternative planning strategy, have at least 15% of the project be dedicated to affordable housing, and must result in a minimum investment of \$15 million in California to qualify for the Act.

SB 995 also imposes a requirement that a Master EIR be prepared for housing projects where the state has provided funding for the preparation of the Master EIR. Currently, jurisdictions use state funds to adopt a variety of plans to promote housing, subject to a Program EIR, which is more beneficial for teiring than a Master EIR. Given this, APA California would suggest that the bill could provide a more efficient streamlining process if amended to allow the use of either a Master EIR or Program EIR. Below is an explanation for this amendment:

- A Master EIR expires after 5 years unless a subsequent EIR is prepared. No other type of EIR has an expiration date. Master EIRs have been successfully used by some cities but the requirement to update them and renew certification every 5 years substantially increases overall cost when compared to a Program EIR.
- The language in SB 995 provides that when a specific project is reviewed for consistency with the Master EIR, the fair argument standard will apply (i.e., a focused EIR would be required if the project *may* result in a significant impact). Creating a Master EIR requirement subjects the project to a stricter standard than if a Program EIR were prepared. Review of the project under a Program EIR is not subject to fair argument. (*Friends of the College of San Mateo Gardens v. San Mateo County Community College District* - this California Supreme Court decision states that fair argument does not apply to the decision to prepare a subsequent EIR).
- A Program EIR followed by a checklist for specific projects, if a housing project is consistent, could lead to a “within the scope” finding which is a high-powered and quick streamlining approach. It is our understanding

that both HCD and OPR are developing CEQA streamlining tools for SB 2 funding now and use of a Program EIR is one approach they are recommending for this reason.

APA California appreciates all your efforts and leadership on the housing crisis in California and are supporting a number of other bills in the Senate housing package this year. We are hopeful that our suggested amendment will be considered so that jurisdictions can use a variety of tools to further streamline housing development. APA California would be pleased to fully support the bill if the amendment outlined above was made to the bill. If you have any questions, please contact Lauren De Valencia, lauren@stefangeorge.com, APA California's lobbyist.

Sincerely,



Eric Phillips
Vice President Policy and Legislation
APA California

cc: Assembly Natural Resources Committee
Assembly Republican Caucus
The Governor
The Office of Planning and Research