



American Planning Association  
**California Chapter**

*Creating Great Communities for All*

August 21, 2020

Assembly Member Lorena Gonzalez  
State Capitol, Room 2114  
Sacramento, CA 95814

SUBJECT: **Support as Amended (As of August 21) for AB 2257 (Gonzalez) – AB 5 (2019) Worker Classification Clarification for Independent Contractors Performing Critical Planning Work**

Dear Assembly Member Gonzalez:

The American Planning Association, California Chapter (APA California) is pleased to support your bill, AB 2257, as amended. AB 5 currently exempts certain occupations from the 3-part ABC test for employment status and instead applies the test set forth in the California Supreme Court's *Borello* decision to those occupations. AB 2257 is now the vehicle for other AB 5 clarifications that are critical, including recent amendments that clarify contract relationships between independent contractors and public agencies, other consulting businesses and individuals.

APA California is made up of nearly 7,000 practicing planners. Many planners are either independent consultants with their own planning firms or work as employees for planning-related companies that may be hired for their particular expertise by public agencies, planning businesses, or individuals to provide planning, CEQA, permitting, development project, housing element and other critical planning services necessary to implement various state and local statutes. Last year, APA California focused on using the business-to-business exemption that was inserted into AB 5 for these planning contractors, cities and counties and others who hire them. However, the business-to-business exemption as enacted within the Labor Code, Section 2750.3 (e) did not include many entities *receiving* services such as public agencies and planning contractors. This oversight was creating hurdles preventing the hiring of planning consultants that have been providing these specific services as independent contractors and businesses for years.

Recent amendments included in Section 2750.3 (h) (1) clarify that public agencies are considered “contracting businesses” for purposes of contracting with a “business service provider” to allow agencies to continue to contract for critical planning consulting work and other services. Additional amendments in this section also clarify that the business-to-business exemption would apply for consultants that contract with other planning firms and/or individuals, as long as the person providing consulting work is an employee with at least one of those two businesses. These amendments will assist planners that contract with public agencies and with other planning firms or individuals to remain independent contractors and clearly authorize public agencies to hire professional planning consultants.

APA California appreciates all the time your staff has spent working with our organization to address our concerns. With the amendments made to the bill on August 21, APA California is pleased to support the bill and strongly urges an aye vote. Should you have any questions, please contact APA California’s lobbyist, Lauren De Valencia [lauren@stefangeorge.com](mailto:lauren@stefangeorge.com).

Sincerely,

A handwritten signature in blue ink that reads 'Eric Phillips'.

Eric Phillips  
Vice President Policy and Legislation - APA California