



APA CALIFORNIA LEGISLATIVE UPDATE

JUNE 2020

By Eric Phillips, Vice President Policy and Legislation
Sande George, APA California Lobbyist
Lauren De Valencia y Sanchez, APA California Lobbyist

Consolidated 2020 Legislative Session

The Legislature returned in person to resume legislative work in early May after their 7-week recess due to efforts to mitigate the spread of COVID-19. Members are accompanied by limited staff and are only allowing limited public participation for hearings in the Capitol. Most public participation in hearings has been conducted remotely and/or by providing comments and letters to staff in advance of these hearings. Because of the longer than expected recess, legislative deadlines to pass bills have been delayed, hearings have been consolidated, and a number of bills were dropped for the year. Members in both houses were advised to limit the number of bills they continue to move, prioritizing those that deal directly with the impacts of COVID-19 and other pressing issues that cannot wait until 2021.

Housing, homelessness and wildfire mitigation remain a priority, though the number of proposals have been trimmed down and consolidated. Senate Pro Tem Toni Atkins is leading an effort to advance several of these housing bills that are intended to accelerate the review and approval of development projects. This year's "Housing Package" includes SB 902, SB 1085, SB 1120, and SB 1385 (APA positions below). Unfortunately, due in part to impacts on the budget resulting from COVID-19 disruptions, no significant funding bills to assist with housing production are included in the current Housing Package.

APA California worked with legislative and administrative staff over the shut down through conference calls, providing direct feedback and written comments on proposed legislation as well as COVID-19 impacts on planning processes and services and tolling for statutes of limitations during the peak of state and local shelter-in-place orders. APA California continues to work closely with the Legislature remotely and has been able to negotiate amendments allowing APA California to remove opposition or move to a support position on a number of major planning-related bills. Below is a list of high priority bills APA California has been lobbying and the position and status of each. Bills in red are no longer active. Position letters on these high priority bills are posted on the APA California website and as always, please visit www.apacalifornia.com to find APA California's hot bill list with up-to-date information on all active legislation APA California is tracking.

AB 5 Reform:

AB 1850 – Gonzalez – Clean up vehicle for AB 5

Position: Working with the author's office to amend independent contractor requirements related to planners and public agencies to allow planners to continue to contract to provide non-employee planning services

Status: Passed to the Senate

Infrastructure, Services and Fees:

AB 1924 – Grayson – Requires fees proportionate to square footage of unit

Position: Oppose

Status: Was not moved upon the Legislature's return – done for 2020

AB 2722 - McCarty – Requires 20-year postponement of development fees for “noncompliant” jurisdictions

Position: Oppose

Status: Was not moved upon the Legislature’s return – done for 2020

AB 3144 – Grayson – Requires reimbursement for fee waivers on affordable projects

Position: Support if Amended

Status: Was not moved upon the Legislature’s return – done for 2020

AB 3145 – Grayson – Caps fees greater than 12% of local median home prices or subject to HCD approval

Position: Oppose

Status: Was not moved upon the Legislature’s return – done for 2020

3147 – Gabriel – Allows developers to continue construction while protesting certain fees

Position: Review

Status: Was not moved upon the Legislature’s return – done for 2020

AB 3148 – Chiu – Reduces fees for affordable units in Density Bonus projects

Position: Support if Amended

Status: Was not moved upon the Legislature’s return – done for 2020

Density Bonus and Development Incentives:

AB 2345 – Gonzalez – Adds other layers of density, incentives, waivers and concessions for moderate-income and other density bonus projects

Position: Oppose Unless Amended

Status: Passed to the Senate

AB 2605 – Chiu – Clarifies density bonus incentives or concessions for 100% affordable development

Position: Support

Status: Was not moved upon the Legislature’s return –changes moved into AB 2345

SB 1085 – Skinner – Increases density bonus benefits for moderate-income, very-low and student housing projects

Position: Support if Amended

Status: Senate Floor

Housing Elements /RHNA Reform/Homelessness:

AB 725 – Wicks – Requires at least 25 percent of RHNA for moderate-income housing and above be allocated to sites with zoning that allows at least two units of housing in larger metropolitan jurisdictions

Position: Neutral as Amended

Status: Senate Rules *Two-Year Bill from 2019*

AB 1860 – Santiago – Authorizes 50% voter approval for sales tax to fund homeless housing and services

Position: Support

Status: Was not moved upon the Legislature’s return – done for 2020

AB 2848 – Santiago – Sets 10% per year homelessness reduction quotas for local governments

Position: Oppose

Status: Was not moved upon the Legislature’s return – done for 2020

AB 3040 – Chiu – Provides incentives to upzone single family sites for 4plexes and allows up to 25% of those developed sites to be counted under RHNA

Position: Support

Status: Passed to the Senate

AB 3122 – Santiago – Requires Housing Element inventory of sites to include a comprehensive plan and analysis for sites available for emergency/temporary/supportive housing

Position: Oppose

Status: Was not moved upon the Legislature's return – done for 2020

AB 3269 – Chiu – Requires jurisdictions to adopt a plan to meet benchmarks to reduce homelessness by 90% by December 31, 2028

Position: Review Amendments

Status: Passed to the Senate

AB 3300 – Santiago – Provides competitive grant funding for homeless housing if appropriation provided in the budget

Position: Review Amendments

Status: Passed to the Senate

SB 1138 – Wiener – Adds requirements to sites identified in the Housing Element to accommodate emergency shelters

Position: Support if Amended

Status: Senate Floor

Streamlining / Project Review:

AB 1851 – Wicks – Restricts faith-based organization housing parking requirements

Position: Watch

Status: Assembly Floor

AB 2137 – Wicks – Restricts HAA court orders re other housing approvals

Position: Watch

Status: Was not moved upon the Legislature's return – done for 2020

AB 2470 – Kamlager – Streamlines ministerial review for splitting multi-family units

Position: Oppose

Status: Was not moved upon the Legislature's return – done for 2020

AB 2580 – Eggman – Streamlines approval of conversions of motels and hotels to housing

Position: Support as Amended

Status: Did not reach Assembly Floor - done for 2020

AB 3107 – Bloom – Allows projects with at least 20% affordable housing to be allowed on commercial sites

Position: Support if Amended

Status: Passed to the Senate

AB 3173 – Bloom – Requires microunit buildings to be permitted like multifamily units plus minimum standards

Position: Review

Status: Was not moved upon the Legislature's return – done for 2020

SB 899 – Wiener – Allows by right approval for nonprofit hospital and religious institution housing

Position: Watch

Status: Senate Floor

SB 1120 – Atkins – Allows duplexes in single family zones and streamlines lot splits

Position: Support
Status: Senate Floor

SB 1385 – Caballero – Allows housing in retail and office zones

Position: Support if Amended
Status: Senate Floor

SB 1410 – Gonzalez – Provides COVID-19 rental assistance programs

Position: Watch (Previously set up a state appeals board to challenge local housing decisions)
Status: Senate Rules

Subdivision Map Act:

AB 2666 – Boerner-Horvath – Requires approval of applications for small lot developments on areas zoned for multifamily housing that meet specified requirements

Position: Watch
Status: Did not reach Assembly Floor – done for 2020

AB 3155 – Rivas – Extends SB 35 streamlining to all projects with fewer than 10 units and amends the Subdivision Map Act to require a local agency to issue a building permit for a project that has a tentative map provided that the building will not be occupied until the final map is approved

Position: Watch
Status: Did not reach Assembly Floor – done for 2020

AB 3234 – Gloria – APA-sponsor – Provides an opt-in process for streamlining Subdivision Map Act requirements for small lot subdivisions/requires objective standards for map denials in compliance with HAA

Position: Support
Status: Did not reach Assembly Floor – done for 2020

Wildfire Mitigation and Planning:

AB 3164 – Friedman – Requires CalFire to develop a wildland-urban interface wildfire risk model to determine the risk for a community or parcel in specified wildfire hazard zones

Position: Support
Status: Passed to the Senate

SB 182 – Jackson – Requires new requirements for development approvals in VHFHSZ and updates to the safety element *Two-Year bill from 2019*

Position: Support
Status: Assembly Floor

SB 1199 – McGuire— Creates the Commission on Home Hardening to develop a three-tiered certification system of fire prevention levels for structures in a Wildland-Urban Interface

Position: Support
Status: Senate Floor

CEQA:

AB 1907 – Santiago – Provides CEQA exemption for affordable housing, emergency shelters, supportive housing

Position: Support
Status: Did not reach Assembly Floor – done for 2020

AB 2323 – Friedman – Cleans up current CEQA exemptions for housing development and provides new exemptions for OPR VMT Mapping

Position: Support

Status: Passed to the Senate

SB 288 – Wiener – Provides CEQA statutory exemption for various transportation projects

Position: Support if Amended

Status: Assembly Rules

SB 902 – Wiener – Allows local governments to pass ordinance to zone any parcel up to 10 units of residential density per parcel, at a height specified by the local government, for parcels located in a transit-rich and jobs rich areas or urban infill site, and exempts the ordinance from CEQA

Position: Support as Amended

Status: Senate Floor

SB 950 – Jackson – Makes various changes to CEQA, including an exemption for emergency shelters, supportive housing, and transitional housing projects, changes to translation guidelines of CEQA documents and an optional, alternate process for receiving public comments

Position: Review

Status: Did not reach Senate Floor – done for 2020

SB 995 – Atkins – Extends the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 until 2025, allows smaller housing projects to qualify, requires a lead agency to prepare a master EIR for a general plan, plan amendment, plan element, or specified plan for housing projects where the state has provided funding for the preparation of the master EIR

Position: Support if Amended

Status: Senate Floor

SB 1289 – Chang – Provides CEQA exemption for infill housing projects

Position: Watch

Status: Was not moved upon the Legislature's return – done for 2020

SB 1302 – Morrell – Prohibits more than one CEQA lawsuit on any housing development

Position: Review

Status: Was not moved upon the Legislature's return – done for 2020

Other Planning Related Topics:

AB 2421 – Quirk – Streamlines permitting for backup generators for cell towers

Position: Neutral as Amended

Status: Passed to the Senate

AB 2894 – McCarty – Requires land use element to address and analyze location/capacity of early childhood ed facilities

Position: Oppose

Status: Was not moved upon the Legislature's return – done for 2020

SB 1363 – Allen – Updates SCS GHG and VMT targets and requires local consistency

Position: Review

Status: Was not moved upon the Legislature's return – done for 2020

Inclusivity and Equity:

AB 2344 – Gonzalez – Requires residents in affordable units in market rate housing projects be allowed to access common areas and other benefits

Position: Support

Status: Was not moved upon the Legislature's return – done for 2020

2020-2021 Proposed Budget and May Revise

On May 14, Governor Newsom released his May Revise to the 2020-2021 proposed budget that was released in January. Since January, fiscal realities have drastically changed with the onset of COVID-19 and California's economic outlook is much different than where the year began. As a result, the May Revise cut many programs the Governor had requested in his original budget and refocused a substantial portion of available resources to COVID-related appropriations. The revisions also attempt to eliminate an estimated \$54 billion deficit.

The Legislature also put forward their own budget proposal that reduced cuts made by the Governor in anticipation of additional federal resources being passed. On June 15 the Legislature passed their own budget proposal as a placeholder budget and will continue negotiations on the details over the coming weeks. Changes will be made to the budget through budget trailer bills.

Below are a few key highlights of interest to planners that will likely move in budget trailer bills after the Legislature returns from their Summer Recess. Although a number of the items budgeted in the Governor's initial 2020-2021 budget have been taken off the table, housing streamlining, funding for homelessness programs and measures to keep people in their homes, as well as wildfire prevention and mitigation strategies, remained in the May Revise budget.

HOUSING:

- Provides funding to leverage federal funds to implement a comprehensive strategy to increase housing supply and to support preservation, protection, and production of housing that includes significant streamlining, upzoning and producing new housing units, especially on excess and surplus lands, in transit-oriented infill areas and on public land.
- Proposes \$750 million in federal funding to continue purchase of hotels and motels through Project Roomkey to be owned and operated by local governments or non-profit providers to address homelessness and provide safe interim housing options during the stay-at-home orders.
- Uses federal funds in the amount of \$250 million in mixed-income development funds over the next three years; \$200 million in infill infrastructure grand funds; and \$115 million in other housing program funds.
- Provides various public housing agencies with at least \$500 million to maintain normal operations of low-income housing units as well as provide rental assistance and support for homeless individuals and families.
- Provides \$450 million to cities from the CARES Act funding for homelessness and public safety.
- Maintains the \$500 million in low-income housing state tax credits to continue to expedite housing development through the state by leveraging federal bonding capacity to create more opportunities for tax-exempt building of affordable housing.
- Continues ongoing investments including a real estate transaction fee (estimated at \$277 million for 2020-21) for affordable housing, ongoing revenue from cap and trade auction proceeds (estimated at \$452 million for 2020-21) for infill development that also reduces VMT and greenhouse gas emissions.
- Forecasts that due to lower demand, residential units authorized by permits would not begin growing until 2022 and would not recover to 2019 levels within the forecast period. Also forecasts that by 2023, total residential permits would be about 28,000 units below the baseline scenario.

WILDFIRES AND DISASTER PREPAREDNESS:

- Maintains \$2 million General Fund forecasts for tracking and predicting critical fire weather systems.
- Includes \$1.1 billion in available federal funds through the Community Development Block Grant Programs for critical infrastructure and disaster relief related to the 2017 and 2018 wildfires.

- Prioritizes the state’s limited resources on emergency preparedness and protection for vulnerable populations related to climate change and environmental pollution.
- Allocates \$2.8 million to enhance broadband mapping activities to increase the state’s ability to compete for federal broadband funding.
- Provides \$30 million for the CPUC to address issues related to utility--caused wildfires.

Judicial Council Emergency Rules in Light of Covid-19 Stay at Home Orders

In April, the California Judicial Council issued Emergency Rules in response to the ongoing COVID-19 pandemic. Emergency Rule No. 9 tolled the statutes of limitation for all civil actions until 90 days after the Governor lifts his COVID-19 Emergency Order. APA California and AEP submitted a joint letter to urge the Judicial Council to make modifications to the Rule to accommodate actions with shorter statutes of limitation, such as causes of action under CEQA, to avoid subjecting housing and other projects to ongoing threat of litigation. Similar requests were submitted by the League of Cities, CSAC, RCRC, and the California Building Industry Association. The California Judicial Council has in response approved an amendment to Emergency Rule No. 9, effective as of May 29, 2020, as follows:

- Statutes of limitations that are 180 days or less are tolled from April 6, 2020 until August 3, 2020.
- Statutes of limitations that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.
- The Rule includes an Advisory Committee Comment noting the intent of the rule.

As a reminder, Executive Order N-54-20 allows certain CEQA public filing, posting, notice, and public access requirements to be satisfied electronically during this emergency period. For more information, please visit <https://jcc.legistar.com/View.ashx?M=M&ID=790621&GUID=A0ED0998-D827-4792-9BD1-A3A4FCF939AA>.