Jerry Brown signs new California affordable housing laws


Senate Bill 2, Sen. Toni Atkins, D-San Diego: Imposes a new $75 to $225 fee on real estate transactions. Estimated to generate $250 to $300 million per year to fund affordable housing development, programs to assist homeless people and long-range development planning in cities and counties. For 2018, revenue would be split equally between the state and local government. The state share is specifically aimed at combating homelessness. It’s available for rental assistance, homeless navigation centers and development of housing for homeless people.

Senate Bill 3, Sen. Jim Beall, D-San Jose: Will put a $4 billion housing bond before voters in November 2018. If approved, $1 billion would go to the CalVet home loan program, established in 1921 to help military veterans purchase homes. The remaining $3 billion would help fund low-income housing projects and development near jobs and public transportation.

Senate Bill 35, Sen. Scott Wiener, D-San Francisco: Lets developers bypass the lengthy and often expensive review process for new housing development, which includes extensive environmental analysis and public hearings. If a community has not built enough housing – state law outlines the housing needs, at all income levels, for each city and county in California – developers can bring forth a project without undergoing the process. It mandates higher construction worker pay and benefits on projects with 10 units or more.

Senate Bill 166, Sen. Nancy Skinner, D-Berkeley: Requires local government to have development sites identified, at all times, for all unmet housing needs, from very low-income to market-rate. It also seeks to strengthen state housing law that in most cases prevents cities and counties from reducing zoning densities to ensure there is “no net loss” of building capacity.

Senate Bill 167, Skinner, and Assembly Bill 678, Assemblyman Raul Bocanegra, D-Los Angeles: Strengthens the state’s Housing Accountability Act, which seeks to prevent communities from killing proposed housing projects or homeless shelters. The law aims to make it more difficult for cities and counties to vote down proposals and requires courts to impose fines on them if they do not comply with what is commonly called the “anti-NIMBY law.” That law seeks to limit the “Not-In-My-Back-Yard” backlash from neighbors and anti-development activists that often stalls new development or reduces the size of a project.

Senate Bill 540, Sen. Richard Roth, D-Riverside: Allows cities and counties to create pre-planned zones for affordable housing, helping to speed development in city centers close to jobs and public transit. Proposals that come forward must have: 30 percent of all units sold or rented to moderate-income households, 15 percent sold or rented to low-income households, 5 percent sold or rented to very low-income households and 10 percent of market-rate projects set aside for low-income people.

Assembly Bill 72, Assemblymen David Chiu, D-San Francisco, and Miguel Santiago, D-Los Angeles: Gives state housing officials new authority to report violations to the attorney general if jurisdictions are not complying with their own housing plans or violate state law.

Assembly Bill 73, Chiu: Allows cities and counties to designate so-called “housing sustainability districts,” which streamline the development process for new housing near transit. It seeks to speed any lawsuit challenging an environmental review through the courts and mandates at least 20 percent of housing within a district to be affordable to low-income people.
Assembly Bill 571, Assemblyman Eduardo Garcia, D-Coachella: Expands the state’s low-income tax credit program, which helps fund low-income housing development, to farmworker housing.

Assembly Bill 879, Assemblyman Tim Grayson, D-Concord: Changes California’s housing element law, which requires cities and counties to plan for new development at all income levels. Requires cities and counties to address and, where legally possible, remove hurdles to housing production. For example, it seeks to reduce the amount of time between receiving approval for a housing development and pulling permits to begin construction.

Assembly Bill 1397, Assemblyman Evan Low, D-Campbell: Requires cities and counties to zone land that can realistically support housing development. It requires the residential parcels to have access to sufficient infrastructure for water, sewer and other public utilities.

Assembly Bill 1505, Assemblyman Richard Bloom, D-Santa Monica: Lets cities and counties mandate that a portion – at least 15 percent – of units in market-rate housing be set aside as affordable to low- or moderate-income people.

Assembly Bill 1515, Assemblyman Tom Daly, D-Anaheim: Makes it harder for cities and counties to vote down housing projects or emergency shelters that meet existing zoning and other land-use regulations by strengthening the Housing Accountability Act. Also makes it harder for community groups to kill projects.

Assembly Bill 1521, Bloom: Seeks to preserve existing affordable housing by strengthening state law that requires public notification when low-income housing protections expire and units can be converted to market-rate.
UNFINISHED BUSINESS

Bill No:  SB 35
Author:  Wiener (D), et al.
Amended:  9/1/17
Vote:  21

SENATE TRANS. & HOUSING COMMITTEE: 7-3, 3/7/17
AYES:  Beall, Allen, Atkins, Roth, Skinner, Wieckowski, Wiener
NOES:  Bates, Gaines, Morrell
NO VOTE RECORDED:  Cannella, McGuire, Mendoza

SENATE GOVERNANCE & FIN. COMMITTEE: 4-2, 4/26/17
AYES:  Beall, Hernandez, Hertzberg, Lara
NOES:  McGuire, Moorlach
NO VOTE RECORDED:  Nguyen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/25/17
AYES:  Lara, Beall, Bradford, Hill, Wiener
NOES:  Bates, Nielsen

SENATE FLOOR:  25-12, 6/1/17
NOES:  Bates, Berryhill, Fuller, Gaines, Glazer, Jackson, McGuire, Moorlach, Newman, Nielsen, Portantino, Wilk
NO VOTE RECORDED:  Galgiani, Stern, Wieckowski

ASSEMBLY FLOOR:  47-27, 9/14/17 - See last page for vote

SUBJECT:  Planning and zoning:  affordable housing:  streamlined approval process

SOURCE:  Author
DIGEST: This bill creates a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment (RHNA) numbers.

Assembly Amendments state that this bill applies to a site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster or a site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. Requires in specified circumstances that a skilled and trained workforce be utilized.

ANALYSIS:

Existing law:

1) Requires a local jurisdiction to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.

2) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.

3) Requires cities and counties, to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policy objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing.

4) Requires the housing element to identify adequate sites for housing and to make adequate provision for the existing and projected needs of all economic segments of the community.

This bill:

1) Requires the following additional information to be included in the annual report provided by the planning agency after adoption of the general plan to the legislative body, the Office of Planning and Research (OPR), and the Department of Housing and Community Development (HCD) the number of net new units of housing, including both rental housing and for-sale housing,
that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing, including both rental housing and housing designated for home ownership, satisfies.

2) Allows a development proponent to submit an application for a development that is subject to the streamlined, ministerial approval process pursuant to 4) below, and not subject to a conditional use permit if the development contains two or more residential units and satisfies all of the following objective planning standards:

   a) The development is located on a site that satisfies all of the following:
      
      i) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel of parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the U.S. Census Bureau;
      
      ii) A site in which at least 75% of the perimeter of the site adjoins parcels that are developed with urban uses;
      
      iii) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage designated for residential use; and
      
      iv) If the development contains units that are subsidized, the development proponent already has recorded, or is required by law to record, a land use restriction for 55 years for units that are rented or 45 years for units that are owned.

   b) The development satisfies both of the following:
      
      i) Is located in a locality that HCD has determined, based on the last production report submitted by the locality to HCD, is subject on the basis that the number of units that have been issued building permits is less than the locality’s share of the regional housing needs, by income category, for that reporting period. Specifies that a locality shall remain eligible until HCD’s determination for the next reporting period. Provides that a locality is subject to this if it has not submitted an annual housing element report to HCD for at least two consecutive years before the development submitted an application for approval; and
ii) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on either one of the following:

(1) The locality did not submit its latest production report to HCD by the time period required, or that report reflects that there were fewer units of above moderate-income housing approved than were required for the regional housing needs assessment cycle for that year. Requires, if the project contains more than 10 units of housing, the project seeking approval to dedicate a minimum of 10% of the total number of units to housing affordable to households making below 80% of the area median income, or higher as determined by a local ordinance;

(2) The locality did not submit its latest production report to HCD by the time period required, or that report reflects that there were fewer units of housing affordable to households making below 80% of the area median income that were issued building permits than were required for the regional housing needs assessment cycle for that year, and the project seeking approval dedicates 50% of the total number of units to housing affordable to households making below 80% of the area median income, or higher as determined by a local ordinance; or,

(3) The locality did not submit its latest production report to HCD by the time period required, or if the production report reflects that there were fewer units of housing affordable to any income level described in clause (1) or (2) above, that were issued building permits than were required for the regional housing needs assessment cycle for that reporting period, the project seeking approval may choose between utilizing clause (1) or (2), above.

c) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law, is consistent with objective zoning standards and objective design review standards in effect at the time that the development is submitted to the local government.

d) The development is not located on a site that is any of the following:

i) A coastal zone;
ii) Either prime farmland or farmland of statewide importance or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction;

iii) Wetlands;

iv) Within a very high fire hazard severity zone or within a high or very high fire hazard severity zone;

v) A hazardous waste site, unless otherwise specified;

vi) Within a delineated earthquake fault zone, unless otherwise specified;

vii) Within a flood plain, unless otherwise specified;

viii) Within a floodway, unless otherwise specified;

ix) Lands identified for conservation in an adopted natural community conservation plan;

x) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies;

xi) Lands under conservation easement.

e) The development proponent has done both of the following, as applicable:

i) Certified to the locality that either of the following is true:

(1) The entirety of the development is a public work or,

(2) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as specified, except that apprentices registered in programs approved by the chief of the division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

ii) For specified developments, a skilled and trained workforce shall be used to complete the development.

3) Specifies, if a local government determines that a development submitted pursuant to the bill’s provisions is in conflict with any of the objective planning standards listed in 2) above, that it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

a) Within 60 days of submittal of the development to the local government if the development contains 150 or fewer housing units; or,
b) Within 90 days of submittal of the development to the local government if the development contains more than 150 housing units.

4) Provides that the development shall be deemed to satisfy the objective planning standards listed in 3) above, if the local government fails to provide the required documentation pursuant to 3) above.

5) Provides that any design review or public oversight of the development may be conducted by the local government’s planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. Requires that design review or public oversight to be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. Provides that design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

a) Within 90 days of submittal of the development to the local government if the development contains 150 or fewer housing units; or,
b) Within 180 days of submittal of the development to the local government if the development contains more than 150 housing units.

6) Prohibits a local government, whether or not it has adopted an ordinance governing parking requirements in multifamily developments, from imposing parking standards for a streamlined development that was approved in any of the following instances:

a) The development is located within one-half mile of public transit;
b) The development is located within an architecturally and historically significant historic district;
c) When on-street parking permits are required but not offered to the occupants of the development; or,
d) When there is a car share vehicle located within one block of the development.

7) Specifies that this bill shall remain in effect only until January 1, 2026, and as of that date is repealed.
8) Finds and declares that ensuring access to affordable housing is a matter of statewide concern, and not a municipal affair, and therefore is applicable to a charter city, charter county, and a charter city and county.

**Background**

1) **Housing approvals generally.** Each community’s general plan must include a housing element, which outlines a long-term plan for meeting the community’s existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its “fair share” of its region’s housing needs. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Communities also identify regulatory barriers to housing development and propose strategies to address those barriers. State law requires cities and counties to update their housing elements every eight years. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to California Environmental Quality Act review, while projects permitted ministerially generally are not.

2) **Creating streamlined approvals for infill projects.** This bill creates a streamlined approval process for infill projects with two or more residential units in localities that have failed to produce sufficient housing to meet their RHNA numbers. The streamlined approval process requires some level of affordable housing to be included in the housing development. To receive the streamlined process for housing developments, the developer must demonstrate that the development meets a number of requirements. Localities must provide written documentation to the developer if there is a failure to meet the specifications for streamlined approval, within specified periods of time. If the locality does not meet those deadlines, the development shall be deemed to satisfy the requirements for streamlined approval.