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Senate Bill 540, Legislation by Sen. Roth to Increase Housing Production, Overwhelmingly Passes Out of Senate

Bill is part of the League of California Cities' "Blueprint for More Housing" Legislative Package

Today on a bipartisan vote of 33-7, the Senate passed SB 540 by Sen. Richard D. Roth (D-Riverside). SB 540 will streamline the housing approval process and lead to more housing production, particularly in areas near jobs and transit. *For more, see Page 2.*



Sen. Glazer Casts Lone "No" Vote on Wireless Industry Bill Limiting Local Authority and Revenue

SB 649 Protects Corporate Bottom Lines at Expense of Community Standards and Revenue; Local Governments Don't Need this Kind of "Help"

Last night the discussion on the Senate Floor was all about local government and what was being done to help them on [SB 649 \(Hueso\)](#). This bill, sponsored by the wireless industry, restricts the ability of local agencies to control access to their public right-of-ways and caps the ability of local agencies to collect rent related to small cell siting on that public infrastructure. Despite the measure being opposed by over 125 cities, counties and various organizations, and aside from several questions and congratulatory statements, not a single member spoke in opposition to the legislation. City officials should [view the discussion](#) themselves. *For more, see Page 2.*

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Sen. Roth said: "Access to housing is a basic human need, yet California is home to one of the most expensive housing markets in the nation, and many Californians are unable to afford to rent or own a home. That's why I am proud to author Senate Bill 540, a commonsense measure which will incentivize and streamline housing construction to help solve our state's dire housing shortage. I thank my colleagues in the Senate for recognizing the critical need for this measure, and look forward to working with my colleagues in the Assembly and sending this measure to the Governor for his signature."

Specifically, under SB 540 cities and counties would identify priority housing areas — called Workforce Housing Zones — within their boundaries. The local government would conduct enhanced planning, important environmental reviews and public engagement at the front end with specific details as to what type of housing would be built within the zone. Because the local government has fully conducted the extensive environmental reviews at the front-end, no project-specific additional environmental reviews would be necessary.

By some estimates, SB 540 would shave one to two years off the development timeline without compromising environmental protection, public health, local control or the rights of citizens to participate in local land use decisions.

A centerpiece of the "Blueprint for More Housing" legislative package, the League is SB 540's sponsor.

"Local officials recognize their role in planning for and approving housing in our communities," said Carolyn Coleman, executive director of the League of California Cities. "SB 540 will give local governments new tools to plan for housing and create a more streamlined path that eliminates some of the delays and uncertainty that currently impede housing construction."

The League also supports SB 2 (Atkins), the Building Homes and Jobs Act, and SB 3 (Beall), the Affordable Housing Bond Act of 2018. Both bills would increase funding for affordable housing to boost housing supply. SB 2 would generate hundreds of millions of dollars annually through a \$75 fee on some real estate transactions. SB 3 is a \$3 billion housing bond. The Senate passed SB 3 today and SB 2 will be taken up later in the 2017 legislative session as it is not subject to the same house of origin rules.

SB 540 now moves to the Assembly.

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Ultimately, the measure passed on a [32-1 vote count](#).

The League thanks Sen. Steve Glazer (D-Orinda) for casting the lone "No" vote, as well as Sens. Ben Allen (D-Santa Monica), Jim Beall (D-San Jose), Hannah-Beth Jackson (D-Santa Barbara), Bill Monning (D-Carmel), Josh Newman (D-San Dimas), Anthony Portantino (D-La Canada Flintridge), and Bob Wieckowski (D-Fremont) for abstaining. The measure now moves to the Assembly.

Bill Offers Major Benefits to Wireless Industry

There are significant benefits to wireless companies and their shareholders if SB 649 becomes law. Rather than having to negotiate with individual local agencies on siting issues and pay market-rate rents for the privilege of using local public infrastructure, they are seeking to reduce their time and costs with legislative preemption.

Siting Assistance

This industry-sponsored bill would require cities and counties to lease their public property, especially "vertical infrastructure" (i.e. traffic lights, street lights, city poles) in the public right-of-way (PROW), and any public property outside the PROW in a commercial or industrial use zone, such as a city hall for installation of "small cell" antennas and equipment.

The “small cells” are not actually that small — they can be as large as 6 cubic feet for the antennas and 21 cubic feet for its “associated equipment” on the pole structures. There is no size or quantity limitation for the “ancillary equipment,” which includes electric meters, pedestals, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cutoff switches, and vertical cable runs for every small cell installed in your jurisdictions. For these “small cells” to be reliable, they need to be installed in close proximity to one another [likely within 1,000 feet](#). Furthermore, each subject pole/city property would need to be made available to every provider because of the non-discrimination clause in this bill.

Avoiding Market Rate Rents

Currently some local governments are charging wireless carriers up to \$4,000 in annual rent to use the public’s infrastructure. Pending amendments discussed on the Senate floor last night would cap those rents for the average pole at approximately one-tenth of those amounts. This benefits corporate bottom lines, and limits local revenues and opportunities for community amenities.

Carve Outs

The bill preserves full discretionary authority in coastal zones and historic districts, but every other community loses their discretion. Should the become law, [agreements like the one the city of Sacramento was able to negotiate into with Verizon](#) will be unavailable in the future.

Priority Access over Local Needs

Under the bill, “small cells” will have priority access to the public’s infrastructure. Cities would have little or no recourse to take down a small cell, let alone allow for public input or meaningful design review for the initial installation. The bill also requires a city to adopt a public resolution for each of their own street lights or traffic lights if they want to allow other uses such as police cameras or solar panels.

No Guarantees of Technology Benefits

In exchange for this legislative “deal,” local governments are left stranded without much recourse or any real benefits. There is no requirement, as the bill is currently drafted, for the “small cells” to provide 5G, 4G, or any standard level of technology, nor does the bill specify the “small cells” need to provide voice or data service. Additionally, despite promises from the wireless industry that this bill will assist in the rapid deployment of 5G technology, the bill has no deployment requirement and the “fee structure” leaves little incentive for the wireless industry to build anywhere outside of the state’s “population hubs.” Instead of getting 5G technology and broadband deployment to unserved and underserved parts of this state, the legislation forces cities to allow access to their infrastructure at well below market rate, strips away the public’s input and recourse, and deprives cities the ability to negotiate any benefit for the public they serve.

Next Steps:

- Call and meet with your Assembly Member now! Urge them to oppose this giveaway of community control and resources. The wireless industry lobbyists are already working them.
- Schedule this issue for discussion at a community meeting or your next council meeting and invite your Assembly Member to attend to discuss this measure and its impacts. Your community members need to become aware of how this measure will appropriate the use of local infrastructure, affect community aesthetics and reduce revenue that could be used for community services and amenities.
- With your fellow city council members and mayors, make plans to come to Sacramento when this bill gets assigned to a policy committee in the Assembly.