



## HOUSING, COMMUNICATIONS & ECONOMIC DEVELOPMENT POLICY COMMITTEE

Friday, June 5, 2020

9:30 a.m. – 12:30 p.m.

To join the meeting, please register here:

<https://zoom.us/join/zoom/register/tJwqc-ihzropGNbViySI1odY1Ny0mMrSwWLX>

Once you register, you will immediately receive a link to join the meeting.

### AGENDA

#### I. Welcome and Introductions

Speaker: Chair, Blanca Pacheco, Mayor, City of Downey  
Marilyn Ashcraft, Mayor, City of Alameda

#### II. Public Comment

#### III. General Briefing (Handout)

*Informational Item*

#### IV. COVID-19 Update

#### V. Ballot Measure (Attachment A)

*Action Item*

- Schools and Community First (Split-Roll)
- The Rental Affordability Act (Rent Control)
- The Family Home Protection and Fairness in Property Tax Act of 2020 (Realtors Measure)

#### VI. Legislative Agenda (Attachment B)

*Action Item*

- SB 1085 (Skinner) Density Bonus
- SB 1120 (Atkins) Subdivisions. Tentative Maps
- SB 1385 (Caballero) Streamlining. Housing in Commercial Zones
- AB 2580 (Eggman) Conversion of Hotels and Motels. Streamlining

#### VII. Legislative and Budget Update (Attachment C)

*Informational Item*

#### Next Meeting (tent.): Annual Conference, Long Beach, October 7

Staff will notify committee members after August 17 if the policy committee will be meeting in October.

**NOTE:** Policy committee members should be aware that lunch is served at these meetings. The state's Fair Political Practices Commission takes the position that the value of the lunch should be reported on city officials' statement of economic interests form. Because of the service you provide at these meetings, the League takes the position that the value of the lunch should be reported as income (in return for your service to the committee) as opposed to a gift (note that this is not income for state or federal income tax purposes—just Political Reform Act reporting purposes). If you would prefer not to have to report the value of the lunches as income, we will let you know the amount so you may reimburse the League.

**Brown Act Reminder:** The League of California Cities' Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:

1. Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared (**Note:** If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote); or
2. A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.

A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.

**Informational Items:** Any agenda item listed for information purposes may be acted upon by the Policy Committee if the Chair determines such action is warranted and conforms with current League policy. If the committee wishes to revise League policy or adopt new policy for an item listed as informational, committees are encouraged to delay action until the next meeting to allow for preparation of a full analysis of the item.

**HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT**  
**Ballot Measure Agenda**  
**June 5, 2020**

**Staff:** Nick Romo, Legislative Representative, (916) 658-8200  
Johnnie Pina, Legislative Policy Analyst (916) 658-8200

**1. [The California Schools and Local Communities Funding Act of 2020](#)**

**Initiative Summary**

The California Schools and Local Communities Funding Act of 2020, also known as the “Split Roll Initiative”, qualified for the November 2020 ballot. This measure would increase funding for K-12 public schools, community colleges, and local governments by requiring that certain commercial and industrial real property be taxed based on current market value.

There are several exemptions from this change, including:

- Residential properties;
- Agricultural properties; and
- Owners of commercial and industrial properties with combined value of \$3 million or less.

The Legislative Analyst’s Office (LAO) and Director of Finance [estimate a net increase in annual property tax revenues of \\$7.5 billion to \\$12 billion in most years](#), depending on the strength of real estate markets. After backfilling state income tax losses (decreased taxable personal and corporate income) and county administrative costs, the remaining \$6.5 billion to \$11.5 billion would be allocated to schools (40 percent) and other local governments (60 percent). For local government, this means a low of \$3.9 billion and a high of \$ 6.9 billion per year.

**Initiative Description**

The measure would require commercial and industrial properties, as well as vacant land not intended for housing, commercial agriculture, or protected open space to be taxed based on their market value. A property’s market value is what it could be sold for today. The measure would shift to market value assessment over a number of years beginning in 2022-23. Notably, commercial properties would still be taxed at one percent of their value.

*(Under existing law, these properties are protected by Proposition 13. Under Proposition 13, all real property has established base year values, restricted rates of increase on assessment no greater than two percent each year and a one percent limit on property taxes on the current assessed value.)*

### Small Business Exemptions and Delayed Implementation

For properties in which the majority of space is occupied by small businesses, the transition to market value assessment would not begin until 2025-26 or a later date set by the Legislature.

Properties owned either by individuals or businesses with value less than \$3 million (adjusted for inflation biannually beginning in 2025) are exempt from the proposed market value tax assessment.

The measure would exempt the first \$500,000 in value of a business's personal property and would exempt from taxation all personal property of small businesses.

For the purposes of this measure, a small business is defined as a business that owns California property and has 50 or fewer employees.

### Allocation of Revenues

Before allocating funds to local governments, the measure would require a portion of the new revenues be allocated to:

- The state general fund to compensate for any reductions in income tax revenue resulting decreased taxable personal and corporate income; and
- Counties to cover their costs of administering the split roll.

Of the remaining funds, roughly 60 percent is allocated to cities, counties, and special district, with each entity receiving an amount proportional to the share of property tax revenues in their county that they receive under existing law.

The remaining roughly 40 percent would be allocated to schools and community colleges to supplement the existing funds schools and community colleges receive under the state's constitutional minimum funding requirement.

### Market Value Reassessment Phase-In

The Legislature will be required to provide by statute for the phase-in of the reassessment of commercial and industrial real property commencing with the lien date for the 2022-23 fiscal year and extending over two or more lien dates. Property owners will be required to pay taxes based on the new assessed value beginning with the lien date for the fiscal year when the county assessor has completed the reassessment. For properties in which the majority of space is occupied by small businesses the transition to market value assessment would not begin until 2025-26 or a later date set by the Legislature.

After the initial reassessment of a commercial or industrial property, the property shall be periodically reassessed no less frequently than every three years as determined by the Legislature.

## **Background**

California local governments levy property taxes on real property and business personal property based on the value of their property; resulting in a key discretionary revenue source for local governments. Property taxes raise around \$65 billion annually for local governments, about \$2 billion of which is attributable to business personal property.

Specifically, cities receive about \$13 billion in property tax revenues yearly. For the average city, property taxes are about 15 percent of total city revenues, and about 40 percent of general revenue (varies widely). For cities, property tax remains amongst the most stable local and discretionary revenue sources. Cities also depend to varying degrees on locally imposed taxes such as the transient occupancy tax, business license tax, and utility user tax.

Passed in June 1978, Proposition 13 capped local property taxes levied by cities, counties, schools, and special districts at one percent of full cash value which is based on the full cash value at the time a property is sold. The sale of the property establishes a base-year, and the property tax assessment cannot increase by more than two percent annually. Since property values often increase by more than two percent annually, property owners receive an additional benefit when they hold their properties for a longer period. Proposition 13 also treats commercial property the same as residential property.

Additional information about Proposition 13 can be found here:

- [CaliforniaCityFinance.com](http://CaliforniaCityFinance.com)
- [CalMatters: Prop 13](#)
- [The Block that Prop 13 Built](#)

## **Fiscal Impact**

According to the [Legislative Analyst's Office \(LAO\) analysis](#):

Upon full implementation, the net increase in annual property tax revenues as a result of this initiative would be \$7.5 billion to \$12 billion in most years, depending on the strength of real estate markets. After backfilling state income tax losses related to the measure and paying for county administrative costs, the remaining \$6.5 billion to \$11.5 billion would be allocated to schools (40 percent) and other local governments (60 percent). As a result, this new revenue stream would fluctuate more from year to year than property tax revenues have historically.

The increase in revenue for individual cities will depend on the number of commercial businesses in the city and gap between the market value and the base value of that property.

The measure's new business personal property exemptions likely would reduce property tax revenues by several hundred million dollars per year.

From this revenue, the measure first allocates funding to cover:

- Decreased Income Tax Revenues.  
By increasing property tax payments for commercial and industrial properties, the initiative would decrease taxable personal and corporate income and, in turn, decrease state Personal Income Tax (PIT) and corporate tax revenues. This decrease in PIT and corporate tax revenues could be as much as several hundred million dollars annually.
- Increased County Costs for Property Tax Administration.  
The initiative creates significant new administrative responsibilities for counties, particularly county assessors. These new responsibilities could increase county property tax administration costs by hundreds of millions of dollars per year ongoing.
- Short-Term State General Fund Costs.  
Counties likely will incur administrative costs related to the measure before new revenue is available to cover their costs. The initiative requires the state to provide loans to counties to cover these initial costs—possibly in the hundreds of millions of dollars—until new revenue is available, at which time the state loans would be repaid.

### Studies

The Schools and Communities First campaign released [a report on May 4, 2020 of estimated new revenues for cities](#). This report gives the revenue estimates for the following counties and the cities and special districts within those counties: Alameda, Fresno, Kern, Los Angeles, Merced, Orange, Riverside, Sacramento, San Bernardino, San Francisco, San Joaquin, San Diego, Santa Barbra, Santa Clara, and Ventura.

According to the University of Southern California study titled, “[Getting Real about Reform II: Estimating Revenue Gains from Changes to California’s System of Assessing Commercial Real Estate](#)”, if commercial and industrial property were assessed at market value, it would provide an additional \$11.4 billion in property tax revenues. This study also has a breakdown of how the revenue would be allocated by county.

A 2012 study by Pepperdine University School of Public Policy titled, [An Analysis Of Split Roll Property Tax Issues And Impacts](#) details the following key findings:

- Increasing the taxes of businesses...would result in lost economic output and decreased employment. The cost to the California economy of this property tax increase would total \$71.8 billion dollars of lost output and 396,345 lost jobs over the first five years of a split roll property tax regime. These losses would be even greater in succeeding years.
- The introduction of a split roll property tax valuation system would result in increased instability for local government finances, as they would become more

directly susceptible to the value gyrations of the real estate market. For example, in 2008-09 when California property values faced the traumatic decline in the wake of the sub-prime crisis and the market collapse (industrial and commercial values fell 6.5 percent), property taxes collected from these same properties actually rose 5.0 percent.

- A split roll property tax valuation system would also further undermine the attractiveness of the business climate in California. Because small businesses typically lease properties where the cost of property taxes is passed through to the lessee, this research concludes that the employment losses described above would be disproportionately concentrated in small businesses, and especially those owned by women and minorities.

According to the [LAO's analysis of the first version of the split roll ballot measure in 2018](#),

“The measure could have indirect effects on the state’s economy. For example, the measure would increase taxes paid by many businesses, thereby increasing their costs of operating in California relative to other states. This would influence some businesses’ decisions about whether to expand in or move to California. Overall, the measure’s effect on the health of the state’s economy is uncertain.”

### **Existing League Policy**

Related League Revenue and Taxation policies and principles include:

- Additional revenue is required in the state/local revenue structure. There is not enough money generated by the current system or allocated to the local level by the current system to meet the requirements of a growing population and deteriorating services and facilities.
- Meaningful fiscal reform should allow each level of government to adequately finance its service responsibilities, with each being accountable to taxpayers for its own programs.
- Cities require a greater share of the property tax and other reliable, discretionary revenues in order to finance local services to property.
- Counties require additional funding if they are to fulfill their state-mandated and traditional roles.

### Related League Housing, Community and Economic Development policy:

- Support the establishment of a secure, balanced, and discretionary local revenue base necessary to provide the full range of needed services and quality land use decisions.

### Comments

#### Supporter Comments

[The Schools and Communities First Fact Sheet](#) describes the measure by stating: It closes commercial property tax loopholes benefiting a fraction of corporations and wealthy investors, without affecting homeowners or renters, and reclaims \$12 billion every year to fund world-class schools and strengthen local economies to lift up all Californians. The campaign website states:

“The Schools & Communities First initiative, which recently submitted a historic 1.7 million signatures of support, will reclaim \$12 billion every year for essential local services and schools by closing corporate tax loopholes – all while protecting homeowners and renters, small businesses, and agriculture from any changes. Recent polling, both internally and from PPIC, have consistently shown that Schools & Communities First is supported by a majority of likely California voters. According to research conducted by the University of Southern California, **78% of the revenue would come from only 6% of commercial and industrial properties.**”

More information and additional statements of support can be found on their [website](#).

#### Opposition Comments

[Californians to Save Prop 13 and Stop Higher Property Taxes](#) are leading the campaign against this ballot measure. Opponents of this measure state that “special interests qualified a measure for the November 2020 statewide ballot that will destroy Proposition 13’s property tax protections. The measure has too many flaws and will increase the cost of living for all Californians.”

They state that with the increased property tax small businesses would have to absorb the costs and pass them to the customer. They state that the ballot measure has the following flaws:

- “Most food items will face higher property taxes not just once, but several times, as they travel from the farm to processing, packaging, distribution, and the grocery store ultimately driving up the cost of living for all Californians;
- The property tax hike will eliminate the incentive to build solar energy systems which will endanger California’s goal of 100 percent renewable energy by 2045

and increase utility bills for families – ultimately driving our cost of living even higher; and

- The property tax hike will make it even more difficult for small businesses to reopen their doors and stay in business as a result of this economic crisis.”

In this [Op-Ed, Willie Brown](#), former San Francisco mayor and Speaker of the California Assembly, states that while the proponents of this measure claim that this ballot measure is small business friendly, in reality it is not. Brown goes on to say, “This demonstrates a general lack of awareness of how most small businesses operate. Most small businesses rent the property where they operate and have what’s called a “triple net lease,” where property taxes, insurance and maintenance costs are passed directly onto tenants.”

### Additional Comments

- According to the Legislative Analyst’s Office (LAO), long-tenured properties are less likely to be developed, which Proposition 13 may have played in part in explaining this pattern. The split-roll measure can encourage California’s under-assessed commercial lands such as car lots, strip malls, and sprawls to be made available for more intensive use.

This measure may benefit startup companies in California. In the 1992 case, *Nordlinger v. Hahn*, Supreme Court Justice John Stevens said “as Proposition 13 controls the taxation of commercial property as well as residential property, the regime greatly favors the commercial enterprises of the [wealthiest], placing new businesses at a substantial disadvantage.”

- There is raised concern that increasing the tax revenue generation of commercial property would further the ‘fiscalization of land use’ towards incentivizing commercial development over residential development. However, existing laws governing the zoning and approval of housing development may limit this effect.
- Large corporations residing in California have highly benefited from Prop 13. For example, according to an article entitled, [Should Businesses Pay More?](#), Intel’s plot of land in the heart of Silicon Valley has a current value of about \$2.50 per square foot, while a professional office center just across the street was recently assessed with a value of roughly \$126 per square foot.

### Key Policy Questions for the Committee to Consider

- Does the proposed measure provide a more *equitable* property tax structure?
- Does the increased revenue for cities, schools, and other local governments outweigh/offset potential impacts on California businesses?



- Does this measure advance the League's strategic priorities, particularly in the areas of fiscal sustainability, housing supply/affordability, and supporting individuals experiencing homelessness?
- Timing and context matter - given the phase-in provisions and legislative controls, does this measure properly balance concerns regarding the current economic outlook with potential long-term benefits for local governments?

**Support-Opposition: (as of May 25, 2020)**

**Support**

A full list of supporters can be found on [The Schools and Community First Coalition](#) website.

**Opposition**

A full list of supporters can be found the on the [Californians to Save Prop 13 and Stop Higher Property Taxes](#) website.

**Staff Recommendation:**

**Committee Recommendation:**

**Board Action:**

## **2. Family Home Protection and Fairness in Property Tax Reassessments Act**

**Staff:** Nick Romo, Legislative Representative  
Johnnie Pina, Legislative Policy Analyst

### **Initiative Summary:**

The measure would make the following changes:

1. This measure would allow those over 55 years old, severely disabled, displaced by a natural disaster, or moving from contaminated housing to take their base year property value with them when moving to a home of equal or lesser value and would give them a property tax break when moving to a replacement dwelling of greater value.
2. This measure would narrow the tax breaks on inherited properties.
3. This measure would amend the law to clarify when commercial property has a “change in ownership” in order to reassess the commercial property.

The Legislative Analyst’s Office (LAO) and Department of Finance specify that the fiscal impact on state and local governments is as follows:

Local governments could gain tens of millions of dollars of property tax revenue per year, likely growing over time to a few hundred million dollars per year. Schools could receive similar property tax revenue gains. Other local and state revenues each could increase by tens of millions of dollars per year. County property tax administration costs likely would increase by tens of millions of dollars per year.

### **Initiative Description:**

1. **This measure would allow those over 55 years old, severely disabled, displaced by a natural disaster, or moving from contaminated housing to:**
  - Take their base year property value with them when moving to a home of equal or lesser value; and
  - Receive property tax break when moving to a replacement dwelling of greater value.
    - These tax breaks would be allowed in all counties; and
    - Individuals would be allowed to make such a transfer up to three times a year.

Below are examples of how the property base value transfer would work in both possible scenarios.

- Moving to a home of equal or lesser value:  
For the purposes of this example:
  - *Full Cash Value of Replacement Property = \$600,000*
  - *Full Cash Value of Original Property = \$700,000*
  - *Base Year Value of Original Property = \$300,000*

In this example, a qualified homeowner who transfers their base year of \$300,000 to a replacement property, would keep their base year value of \$300,000. In this example for purposes of calculating their new property tax, they would be assessed at half of what they would have otherwise been assessed on.

- Formula applicable to moving to a home of greater value:  
(Full cash value of replacement property – Full cash value of original property) + Base year of original property = the base year value of the replacement dwelling

For the purposes of this example:

- *Full Cash Value of Replacement Property = \$800,000*
- *Full Cash Value of Original Property = \$600,000*
- *Base Year Value of Original Property = \$300,000*

$$(\$800,000 - \$600,000) + \$300,000 = \$500,000.$$

The base year value of the replacement dwelling = \$500,000

In this example, the qualified homeowner would now be paying a property tax based on a value that is \$300,000 less than the current market value of the replacement home.

## 2. **Narrows the Special Rules for Inherited Properties.**

The measure would narrow the special rules for inherited properties. Specifically, effective January 1, 2021, the measure would:

- **Eliminate Exclusion for Properties Not Used as Primary Residence.**  
The inheritance exclusion would apply *only* to properties used as the *inheritor's primary residence*. Inherited property used for any other purpose than the inheritor's primary residence—such as rental homes or business properties—would be reassessed to market value.
- **Cap Amount of the Tax Benefit for Primary Residences.**  
The assessor would exclude only the first \$1 million of value that would be added upon reassessment. If a property is inherited by a child or a grandchild in certain circumstances, the person inheriting the property would also inherit the taxable value.

Under existing law if a home with a taxable value of \$500,000 was sold for \$2 million its taxable value would have increased by \$1.5 million if the home were reassessed.

Under this measure, \$1 million of this increase would be excluded. Upon inheritance, the home's taxable value in this example would be \$1 million.

For example:

- Market Value of the Property = \$2,000,000
- Original Taxable Value of the Property = \$500,000
- (Original taxable value) + [gap between original taxable value and market value] - \$1 million (inheritance exclusion) = New Taxable Value).
  - $\$500,000 + [\$2,000,000 - \$500,000] - \$1,000,000 =$
  - New Taxable Value for the Inherited Property used as a Primary Residence = \$1,000,000
- **Increases the Annual Adjustment to an Inherited Property's Taxable Value.**

The taxable value of an inherited property would increase each year at the same rate as the price of a typical California home. This rate will be based on the [House Price Index for California](#) (HPI) for the first three quarters of the prior calendar year, as determined by the Federal Housing Finance Agency (FHFA). The intent and impact of this provision remains ambiguous. The committee may wish to question the supporters and opponents of this measure about how this provision would impact the existing Proposition 13 protections for homeowners and what the rationale may be for loosening these protections on inherited property by children or grandchildren used as a principal residence. The Committee may also wish to consider whether this change should apply to all homeowners who primarily reside in an inherited home indiscriminate of income level or home value.

### 3. **Broadens Scope of Legal Entity Ownership Changes.**

In addition to the existing circumstances defined in current law, the measure would broaden the types of legal entity ownership changes that trigger reassessment. Specifically, effective January 1, 2021, the measure would require properties owned by a legal entity to be reassessed if 90 percent or more of the ownership of the legal entity is transferred, *even if no single person or entity gains more than 50 percent ownership*. The transfer of 90 percent of the ownership could occur in a single transaction or over time as part of multiple transactions. The sale of stock in a publicly traded company through an established stock market would not count as a change of ownership.

### **Background**

Property taxes are a major revenue source for local governments, raising nearly \$60 billion annually. Although the state receives no property tax revenue, property tax collections also affect the state's budget, because state law guarantees schools and community colleges (schools) a minimum amount of funding each year through a combination of property taxes and state funds. If property taxes received by schools decrease, state funding generally must increase.

Specifically, cities receive about \$13 billion in property tax revenues yearly. For the average city, property taxes are about 15 percent of total city revenues, and about 40 percent of general revenue (varies widely). For cities, property tax remains amongst the

most stable local and discretionary revenue sources. Cities also depend to varying degrees on locally imposed taxes such as the transient occupancy tax, business license tax, and utility user tax.

Proposition 13 of 1978 capped local property taxes levied by cities, counties, schools, and special districts at one percent of full cash value which is based on the full cash value at the time a property is sold. The sale of the property establishes a base year, and the property tax assessment cannot increase by more than two percent annually. Since home values often increase by more than two percent annually, homeowners and other property owners receive an additional benefit when they hold their properties for a longer period. Examples of these scenarios can be drastic in regions like the Bay Area where homes purchased years ago for \$100,000 are now valued in the millions.

The California Constitution offers a one-time property tax saving opportunity for four categories of homeowners (those over 55 years old, the severely disabled, individuals displaced by a natural disaster, or moving from contaminated housing) who move to another home. All of these individuals have the ability to transfer their Proposition 13 property tax base year value from their current dwelling to a replacement dwelling of equal or lesser value within the same county. Transfers to other counties are prohibited unless the county agrees to allow such transfers.

The policy rationale behind this subsidy is to assist seniors looking to downsize because they are retiring and living on lower incomes, assist the disabled and others who have had homes destroyed by disaster or had to move from a contaminated property. The policy rationale in letting counties decide whether to accept out-of-county transfers is in recognition of the potential financial impacts on “destination” counties where retirees may move to because local services, including medical, library, parks, and other services that support retirees, must be paid for. Currently, 11 counties (Alameda, El Dorado, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Tuolumne, and Ventura) allow these transfers. Whether within a county or across counties, a homeowner can transfer their assessed value only once in their lifetime.

Some cities and counties also impose taxes on the transfer of homes and other real estate. These transfer taxes are based on the value of the property being transferred. Transfer taxes are equal to \$1.10 per \$1,000 of property value in most locations but exceed \$20 per \$1,000 of property in some cities. Statewide, transfer taxes raise around \$1.1 billion for cities and counties. Additionally, the state collects a personal income tax on income earned within the state, which includes profits from selling real estate. The personal income tax raises over \$90 billion each year.

#### Inherited Properties

According to the LAO:

Under existing law... “Special rules also exclude from reassessment certain property transfers between parents and children. These rules also apply to

grandparents and grandchildren if the grandchildren's parents are deceased. The rules apply to all types of property including primary residences, vacation homes, and business properties.”

This was highlighted in an L.A. Times article titled, [\*California homeowners get to pass low property taxes to their kids. It's proved highly profitable to an elite group.\*](#)

#### Change in Ownership of a Business Property

Under existing law, properties owned by a legal entity are not always reassessed when ownership of the legal entity changes. This is because while the owners of the legal entity change, the legal entity remains the owner of the property. Reassessment can occur, however, if any person or entity obtains more than 50 percent ownership of the legal entity, the legal entity's properties are reassessed. Currently,

#### **Fiscal Impact:**

In 2017, the LAO estimated that Proposition 5 would decrease revenue for local governments and school districts by \$2 billion or more per year in the long-term. However, this year's measure would have a net positive increase on local and school revenue.

According to the [LAO Analysis of this measure](#), this measure would have the following major impacts on state and local governments:

- Local governments could gain tens of millions of dollars of property tax revenue per year, likely growing over time to a few hundred million dollars per year. Schools could receive similar property tax revenue gains.
- Other local and state revenues each could increase by tens of millions of dollars per year.
- County property tax administration costs likely would increase by tens of millions of dollars per year.

The analysis continues by stating the following:

#### “Potentially Higher Revenues from Higher Home Prices and More Home Building

The measure could cause more people to sell their homes and buy different homes because it gives them a tax break to do so. More people being interested in buying and selling homes would have some effect on home prices and home building. Increases in home prices and home building would lead to more property tax revenue.

#### Inherited Property Rules.

As the measure would narrow the inheritance reassessment exclusion, it would result in more properties being reassessed at the time of inheritance. Under current law, between 60,000 and 80,000 inherited properties statewide are excluded from reassessment each year. Somewhere around two-thirds of these properties are not used as primary residences. Further, it appears that roughly

one-fifth of the tax benefit on inherited primary residences went to those who received a benefit greater than \$1 million. Both of these types of inherited properties would see an increase in their taxable value under the measure. This suggests the measure could lead to increases in property tax payments for 40,000 to 60,000 properties each year. This, in turn, would increase property tax revenues for local governments. In the first few years, schools and other local governments each probably would gain over \$100 million per year. Over time, these gains would grow resulting in schools and other local governments each gaining about \$1 billion per year (in today's dollars).

#### Legal Entity Ownership Change Rules

By expanding the scope of legal entities ownership changes that can result in reassessment, the measure would result in more legal entities' properties being reassessed each year. This, in turn, would increase property tax payments by legal entities. Very little information is available about ownership changes of legal entities throughout the state. Because of this, the magnitude of the potential increase in property taxes paid by legal entities is unclear."

#### SB 2 (Atkins) Building Jobs and Homes Act Funding

If there are increased real estate transactions there will be an increase in the number of \$75 recording fees on real estate documents. This would lead to an increase in the SB 2 pot of money allocated to cities to increase the supply of affordable homes in California.

Because the number of real estate transactions recorded in each county will vary from year to year, the revenues collected will fluctuate.

#### **Existing League Policy:**

Over recent years the League has joined with the California State Association of Counties in opposing similar proposals to this one when they have been proposed in the Legislature, primarily out of a concern for the impacts on local revenue.

Related League Revenue and Taxation policies and principles include:

- Additional revenue is required in the state/local revenue structure. There is not enough money generated by the current system or allocated to the local level by the current system to meet the requirements of a growing population and deteriorating services and facilities.
- Meaningful fiscal reform should allow each level of government to adequately finance its service responsibilities, with each being accountable to taxpayers for its own programs.
- Cities require a greater share of the property tax and other reliable, discretionary revenues in order to finance local services to property.
- Counties require additional funding if they are to fulfill their state-mandated and traditional roles.

Related League Housing, Community and Economic Development policy:

- Support the establishment of a secure, balanced, and discretionary local revenue base necessary to provide the full range of needed services and quality land use decisions.

**Comments:**

- In 2018, in support of the “The People's Initiative to Protect Proposition 13 Savings”, the California Association of Realtors (Realtors) stated that existing law results in the following problems:
  - Seniors cannot afford to move, because they would face increases in their property taxes compared to what they currently pay.
  - Many disabled people are trapped in inadequate homes and efforts to move to a more suitable property are often impossible due to the prospect of paying increased property taxes.
  - Disaster victims are penalized when they seek to move out of their disaster-stricken county, because many counties have opted to not accept out-of-county transfers.
  - The existing process results arbitrary and limited property tax protections from a confusing patchwork of county laws (where only 11 out of 58 counties have opted to accept out-of-county transfers).

The Realtors maintained that is measure will produce the following benefits:

- Seniors will have the freedom to downsize and move closer to family.
- The severely disabled can move to more practical homes.
- Disaster victims will have an opportunity to move anywhere in the state.

They also stated that additional policy benefits include:

- Unlocking the existing housing market by providing more opportunities for home ownership when seniors and others sell their existing properties.
- Increased property taxes to jurisdictions where the properties are sold.
- Increased economic activity and additional local revenue triggered by other actions that occur in conjunction with a home sale, including additional household spending like building renovations, new furniture, carpeting and other purchases.

According to a 2017 [Legislative Analyst's Office \(LAO\) Analysis](#):

“Some research suggests that the existing property tax benefit does affect the timing of when seniors may move. For example, California homeowners who were 55 years old were around 20 percent more likely to move in 2014 than 54-year-old homeowners. This suggests that some homeowners who were interested in moving delayed doing so to avoid paying higher property taxes.”

- The League currently supports SB 1319 (Bates), which would further clarify a “change in ownership” of commercial property to include when at least 90 percent of direct or indirect ownership interests in a legal entity are sold or transferred in a single transaction, similarly to what this ballot measure seeks to do.



- When the League has opposed similar property tax base transfer proposals in the Legislature, the following additional policy arguments were made:
  - Prop. 13 already gives all Californian's a significant property tax break by capping property taxes at one percent of assessed value. Thirty-three other states have higher property tax levels. Also, most other states also annually reassess property values, but in California increases cannot exceed two percent.
  - Local governments already do not receive enough property tax revenue from housing to offset service costs, this would make it even harder for housing to "pencil out" for cities.
  - Property taxes are not the only financial reason affecting a decision to move. Other costs associated with selling and buying property need to be factored in. Property tax is capped at one percent of home value, but Realtor fees associated with the same transaction average six times that (six percent).

In 2018, the League remained neutral on "The People's Initiative to Protect Proposition 13 Savings" which would have expanded property tax breaks for certain categories of individual homeowners when they move. In their analysis of the 2018 measure, the LAO projected that while the reassessments from more homes sold could offset some impacts—overall property taxes would decrease for local governments. In the first few years, property tax losses would be a few hundred million dollars per year, with schools and other local governments (cities, counties, and special districts) each losing around \$150 million annually. Over time these losses would grow, likely reaching between \$1 billion to a few billion dollars per year (in today's dollars) in the long term, with schools and other local governments each losing \$1 billion or more annually. That is why League staff recommended the committee take an oppose position. A caveat to that is that the 2018 went further in reducing the taxable value of a replacement property if the value was less than the assessed value of the original property, resulting in a larger property tax loss for the jurisdiction in which the replacement house is located.

#### Legislative Discussions

If there is a legislative compromise on this measure, the Legislature has until June 25 to place measures on the ballot.

#### Other Considerations

Even if the net fiscal impact to cities will be a gain in revenue, the real fiscal impact to individual cities will likely be uneven and challenging to determine.

The policy argument that likely resonates the most with this proposal is whether it would help free up housing stock by providing additional incentives to seniors to sell and move. This proposal will likely trigger some activity, but how much it tips the balance is debatable. It's also debatable whether it is worth the uneven revenue loss or gain to find out. In today's tight housing market, having more homes for sale may moderate price increases in areas where seniors are selling, but perhaps increase prices in areas

where seniors are moving to. Since this incentive is not limited to lower income individuals or those seeking to downsize it could create additional challenges for first-time homebuyers who may be competing with seniors able to make cash offers with accumulated equity and have an additional advantage of paying lower property taxes.

**Policy Questions:**

- Other initiatives and efforts may be considered in the Legislature and on the November 2020 ballot that meticulously avoid changes to residential property tax assessment – should changes be made to residential assessments in this manner?
- The LAO states that there will be gains and losses but the net increase in funding to local governments will increase. However, the net increase will not be evenly distributed to all cities. Given the potentially unknown impact to individual cities, should the League of California Cities position?

**Support-Opposition: (as of 05/26/2020):**

Support: The Association of California Realtors

Opposition: Howard Jarvis Tax Payers Association

**Staff Recommendation:**

**Committee Recommendation:**

**Board Action:**

### **3. The Rental Affordability Act (A.G. File No. 19-0001)**

**Staff:** Jason Rhine, Deputy Legislative Director, (916) 658-8200  
Johnnie Pina, Legislative Policy Analyst (916) 658-8200

#### **Initiative Summary:**

The “Rental Affordability Act” would expand local governments’ authority to enact rent control on residential properties.

According to the Legislative Analyst and the Department of Finance the estimated fiscal impact on state and local governments are as follows:

“Potential reduction in state and local revenues of tens of millions of dollars per year in the long term. Depending on actions by local communities, revenue losses could be less or more”.

#### **Bill Description:**

The “Rental Affordability Act” would narrow the limits on local rent control laws in Costa Hawkins Act, allowing cities and counties to apply rent control to more properties than under current law.

Specifically, cities and counties would be able to apply rent control to all housing that is more than 15 years old, with the exception of single-family homes owned by landlords who own no more than two properties. In addition, cities and counties can limit how much a landlord can increase rents when a new renter moves in. Cities that choose to implement the newly allowed provisions must allow a landlord, should the landlord wish, to increase rents by up to 15 percent during the first three years after a new renter moves in. The measure requires that rent control laws allow landlords a fair rate of return. This measure would put the results of past court rulings into state law.

#### **Background:**

Rental housing has become increasingly expensive in California. According to the Legislative Analyst’s Office (LAO), renters in California typically pay 50 percent more for housing than renters in other states and in some parts of the state, rent costs are more than double the national average. While rent is high only a handful of cities have rent control ordinances. About one-fifth of Californians live in cities with rent control. Local rent boards administer rent control. These boards are funded through fees on landlords.

The Costa-Hawkins Rental Housing Act was enacted in 1995 and placed strict limits on a local government’s ability to impose rent control. While Costa-Hawkins did not completely prohibit locally adopted rental control measures, it imposed the following limitations:

- Provides that rental property owners may establish a new rental rate where the former tenant has voluntarily vacated or is lawfully evicted for cause. This is commonly referred to as vacancy decontrol.
- Housing constructed after February 1, 1995 must be exempt from rent control.
- Housing that was already exempt from a local rent control law in place on or before February 1, 1995, pursuant to an exemption for new construction, must remain exempt. This prohibited cities with existing rent control policies at the time of the Act’s passage from expanding their policies, usually meaning units built after the late 1970s cannot be covered by rent control.

- Exempts from rent control single family homes and other units, such as condominiums, that are separate from the title to any other dwelling units, where the tenancy began on or after January 1, 1996.

The Affordable Housing Act – Repeal of Costa-Hawkins: Rent Control ([17-0041](#)) failed on the 2018 November ballot, only receiving roughly 40 percent of the vote. This measure would have repealed the Costa-Hawkins Rental Housing Act and would have allowed a city to establish a locally developed rent control ordinance.

As a result of the Legislature's desire to better protect tenants, the Legislature passed and the Governor signed [AB 1482 \(Chiu\) Tenant Protection Act of 2019. Tenancy. Rent Caps. Chapter 597, Statutes of 2019](#). This measure placed an upper limit on annual rent increases: five percent plus inflation up to a hard cap of 10 percent. This measure also required that a landlord has and states a just cause in order to evict tenants who have occupied the premises for a year. Both the rent cap and the just cause provisions are subject to exemptions including, among others, housing built in the past 15 years and single family residences unless owned by a real estate trust or a corporation. This measure does not preempt any local rent control or just cause ordinances. This measure sunsets on January 1, 2030.

#### **Fiscal Impact:**

According to the [Legislative Analyst's Office Analysis](#), this measure may result in a reduction in state and local revenues of tens of millions of dollars per year in the long term. Depending on actions by local communities, revenue losses could be less or more. Only cities seeking to establish rent control would incur costs. Additional costs could occur as a result of the development and enforcement of the rent control ordinance.

The most likely effects are:

- To avoid rent regulation, some landlords would sell their rental housing to new owners who would live there.
- The value of rental housing would decline because potential landlords would not want to pay as much for these properties.
- Some renters would spend less on rent and some landlords would receive less rental income.
- Some renters would move less often.

These effects would depend on how many communities pass new laws, how many properties are covered, and how much rents are limited.

The measure's economic effects would affect property tax, sales tax, and income tax revenues. The largest and most likely impacts are:

- *Less Property Taxes Paid by Landlords.*  
A decline in the value of rental properties would, over several years, lead to a decrease in property tax payments made by owners of those properties. On the other hand, increased sales of rental housing likely would result in higher property tax payments. Revenue losses from lower property values would be larger than revenue gains from increased sales. Because of this, the measure would reduce overall property tax payments.
- *More Sales Taxes Paid by Renters.*  
Renters who pay less in rent would use some of their savings to buy taxable goods.
- *Change in Income Taxes Paid by Landlords.*

Landlords' income tax payments would change in several ways. Some landlords would receive less rental income. This would reduce their income tax payments. On the other hand, over time landlords would pay less to buy rental properties. This would reduce expenses they can claim to lower their income tax payments (such as mortgage interest, property taxes, and depreciation). This would increase their income tax payments. The measure's net effect on income taxes paid by landlords in the long term is not clear.

Overall, the measure likely would reduce state and local revenues in the long term, with the largest effect on property taxes. The amount of revenue loss would depend on many factors, most importantly how communities respond to this measure. If, for example, communities that already have rent control expand their rules to include newer homes and single-family homes, revenue losses could be in the tens of millions of dollars per year. If many communities create new rent control rules, revenue losses could be larger. If few communities make changes, revenue losses would be minor.

Additionally, if cities or counties create new rent control laws or expand existing ones, local rent boards would face increased administrative and regulatory costs. Depending on local government choices, these costs could range from very little to tens of millions of dollars per year. These costs likely would be paid by fees on owners of rental housing.

### **Existing League Policy:**

#### *Tenant Protections*

The League supports prohibiting landlords from discriminating against tenants who use housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 and other public assistance towards their rental payments.

The League also supports requiring landlords that seek to increase monthly rent greater than ten percent to provide tenants 90 day notice before the increase takes effect.

#### *Rent Control*

The League opposes legislation that restricts the ability of cities to enact rent control ordinances for mobile homes and stick-built housing that are tailored to meet local conditions and circumstances.

The League opposes legislation that would require a city to adopt a mobile home rent control ordinance.

#### *Housing Finance*

The League supports legislation and state and federal programs that assist in providing financing for affordable housing, including the development of fiscal tools and incentives to assist local governments in their efforts to encourage housing and finance the infrastructure to support housing, as well as establishing an ongoing state commitment for funding affordable housing.

#### *Build Strong Communities*

Support and embrace the development of strong families and socially and ethnically diverse communities, by:

- Working to provide a balance of jobs and housing within the community;
- Avoiding the displacement of existing residents;
- Reducing commute times;

- Promoting community involvement;
- Enhancing public safety; and
- Providing and supporting educational, mentoring and recreational opportunities.

**Comments:**

*What do the supporters and opponents think about rent control?*

[The Rental Affordability Act Website](#) states the following:

“The rent is still too damn high. People across California are struggling to stay in their homes, as corporate landlords and Wall Street speculators are given free reign over our cities. Too many families spend over half their income on housing. Living paycheck to paycheck means it’s difficult for working people, like teachers and construction workers, to afford housing in the communities they serve while still having enough money for basics like groceries, gas, and childcare

Seniors, families, veterans and working-class Californians are being forced to commute far from their families and place of work just to live in housing they can afford. The less fortunate are forced to sleep on couches, in cars or on our streets. With average rents higher in California than in any other state, and as the homelessness crisis grows worse by the day, passing the Rental Affordability Act is critical to keeping people safe in their homes and off the streets.

Why We Must Act

The Rental Affordability Act would ease onerous restrictions on the ability of cities and counties in California to limit rent increases for millions of families. It would reform a state law passed in 1995 under Governor Pete Wilson called the Costa-Hawkins Rental Housing Act. Under existing law, local communities are:

Prohibited from limiting rent increases for any single family rental home or condominium

Prohibited from extending rent control to any apartment constructed after February 1995

Prohibited from expanding rent control to anything but old buildings in key cities across the state, including Los Angeles, San Francisco, Oakland and Santa Monica. Los Angeles—the largest city in the state—cannot extend rent control to any apartment built after 1978. San Francisco cannot place rent control on apartments built after 1979.

Prohibited from implementing policies that limit rent increases when a new tenant moves into a rental home, known as “vacancy control.” As a result of Costa-Hawkins, landlords can raise the rental price to any amount following a tenant vacancy, incentivizing them to evict their tenants and jack up rents.

Impact

Landlords and property speculators have an incentive to pressure long-term and low- or fixed-income renters out of their homes in favor of renters who can pay much higher rents. With new vacancies, rents are increasing to unaffordable levels, contributing to the displacement and instability of formerly affordable communities. With every year that passes, current state law allows the stock of rent controlled housing in California’s largest cities to shrink. This cannot go on any further.”

The [Californians for Responsible Housing Website](#) gives four major reasons to oppose the measure:

1. Reduced Availability of Affordable and Middle-Class Housing.
  - a. Independent academic experts from Stanford and U.C. Berkeley agree extreme rent control policies discourage new construction and reduce availability of affordable and middle-class housing, driving up rents for many Californians.
2. Grants New Powers to Regulatory Bodies to Impose or Modify Rent Policies – Without Public Oversight.
  - a. The initiative will change existing law to allow extreme rent control regulations and rules to be locally- enacted by unelected rent boards. These boards could change the cost and availability of housing with no requirements that they seek public input or that they hold a public vote.
3. Eliminates Homeowner Protections.
  - a. The initiative allows regulators to tell single-family homeowners how much they can charge to rent out their homes – even if they just want to rent a single room. Homeowners will be subject to regulations and price controls enacted by unelected boards.
4. Cannot Be Easily Changed Without Another Statewide Initiative.
  - a. This initiative can only be amended by the legislature with a 2/3 vote and only to further its purpose. Another ballot measure would be required to change any substantive problems.

#### *What do academics think about rent control?*

As you may expect, scholars disagree on the impacts of rent control. Economists, both liberal and conservative, generally agree that rent control is not the best policy. According to a [poll](#), from 2012, of economists only two percent believed that local ordinances that limit rent increases for some rental housing units, such as in New York and San Francisco, have had a positive impact over the past three decades on the amount and quality of broadly affordable rental housing in cities that have used them.

Experts in other fields such as urban planners and those that study gentrification and displacement believe that rent control can have a positive effect on keeping long-time residents in the community.

#### *Key considerations*

- Cities would have a greater ability to tailor their rent control ordinance to the needs of their local community.
- The “Rental Affordability Act” does not mandate that cities establish rent control.
- The “Rental Affordability Act” is consistent with existing League policy.

#### **Support-Opposition:**

##### **Support**

According to [The Rental Affordability Act Website](#), the following individuals and organizations have endorsed the measure:

- Bernie Sanders (Senator (D-VT))
- Maxine Waters Congresswoman (D-CA 43)

- Soli Alpert - Berkeley Rent Control Board Member
- Mike Bonin - Los Angeles City Council Member
- James Chang, Berkeley Rent Control Board Member
- Steve Suron, Santa Monica Rent Control Board Member
- Anastasia Foster - Rent Control Board - Santa Monica
- Jackie Goldberg - Los Angeles Unified School District Board Member
- Sue Himmelrich - Santa Monica City Council Member
- Lindsay Horvath - West Hollywood City Council Member
- Dan Kalb - Oakland City Council Member
- Paul Koretz - Los Angeles City Council Member
- Paola Laverde, Chair, Berkeley Rent Board
- Kevin de Leon - CA Senate Pro Tempore Emeritus
- Kevin McEown - Santa Monica City Council Member
- Mari Mendonca, Berkeley Rent Board
- Jim Oddie - Alameda City Council Member
- Nicole Phillis, Santa Monica Rent Board Member
- Maria Poblet, Berkeley Rent Board
- David Ryu - Los Angeles City Council Member
- John Selawsky, Berkeley Rent Board
- Alejandro Soto-Vigil, Berkeley Rent Board
- Naomi Sultan, Vice Chair, Santa Monica Rent Board
- Caroline Torosis, Santa Monica Rent Board
- Igor Tregub - Rent Control Board - Berkeley
- Debra Vinson, Antioch Unified School District
- Leah Simon-Weisberg, Vice Chair, Berkeley Rent Board
- Dolores Huerta, Founder, Dolores Huerta Foundation
- ACCE Action
- AIDS Healthcare Foundation
- Black Skeptics Los Angeles
- Brown Beret National Organization (BBNO)
- Burbank Tenants' Rights Committee
- Burrito Project L.A.
- City of Santa Monica
- City of West Hollywood
- California Democratic Party's Renters Caucus
- CALOR (AIDS Service Organization)
- Democratic Socialists of America - Los Angeles
- Dolores Huerta Foundation
- Eviction Defense Network
- Ground Game Los Angeles
- HEART LA (Housing Equality & Advocacy Resource Team)
- Healthy Housing Foundation
- Impulse Group
- Inquilinos Unidos
- Los Angeles Center for Community Law and Action (LACCLA)
- National Lawyers Guild - Los Angeles
- Progressive Democrats of the Santa Monica Mountains
- San Diego Tenants United



- San Francisco Berniecrats
- Santa Monicans for Renters Rights
- Small Property Owners for Reasonable Controls - Long Beach
- Southern California Americans for Democratic Action
- UNITE HERE Local 11
- WORLD (Women Organized to Respond to Life-Threatening Diseases)
- (A number of additional individuals)

### **Opposition**

According to the [Californians for Responsible Housing Website](#), the following individuals and organizations have opposed this measure:

- California Apartment Association
- California Council for Affordable Housing
- Highridge Costa Housing Partners
- The Pacific Companies
- American Legion, Department of California
- AMVETS, Department of California
- AMVETS Service Foundation, Department of California
- Association of the U.S. Army, Northern California Chapters
- Association of the U.S. Army, Southern California Chapters
- Cesar E. Chavez Sacramento Chapter of the American G.I. Forum
- Filipino-American United States Marines Association
- Jewish War Veterans, Department of California
- Marine Corps Veterans Association
- Military Officers Association of America, California Council of Chapters
- Reserve Organization of America, Department of the Golden West
- Scottish American Military Society – California Chapters
- Women Veterans Alliance
- State Building and Construction Trades Council of California
- International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers & Helpers AFL-CIO
- California State Pipe Trades Council
- California District of Iron Workers
- California State Association of Electrical Workers
- Building and Construction Trades Council of San Bernardino and Riverside Counties
- IBEW Local Unions 6, 11, 47, 234, 302, 332, 413, 428, 477, 551, 595, 617, 684, 952
- Insulators & Allied Workers Local Union 1
- Kern, Inyo and Mono Counties Building Trades Council
- Los Angeles/Orange County Building & Construction Trades Council
- Northern California Carpenters Regional Council
- Plumbers & Pipefitters UA Local #477
- Plumbers & Steamfitters UA Local 159
- S.M.A.R.T. Sheet Metal Workers' Local 104
- Sacramento-Sierra's Building and Construction Trades Council
- San Diego Building & Construction Trades Council
- Santa Clara and San Benito Counties Building and Construction Trades Council
- Sheet Metal, Air, Rail, & Transportation Workers Local Union No. 105

- Southern California Pipe Trades District Council 16
- UA Local 114 Plumbers & Pipefitters
- UA Local 230 Plumbers, Steamfitters, HVAC & Refrigeration
- UA Local 345 Landscape/Irrigation Sewer, Storm Drain Underground Industrial Piping
- UA Local 364 Plumbers, Steamfitters & Refrigeration
- UA Local 38 Plumbers and Pipefitters Union
- UA Local 398 Plumbers & Steamfitters
- UA Local 460 Plumbers & Steamfitters
- UA Local 467 San Mateo County
- UA Local 484 Plumbers & Steamfitters
- UA Local 582 Plumbers, Steamfitters, Welders, & Apprentices
- UA Local 62
- UA Local 709 Sprinklerfitters
- UA Plumbers & Pipefitters Local 403
- UA Plumbers & Steamfitters Local 761
- UA Plumbers Local 78
- California Builders Alliance
- California Chamber of Commerce
- California Mortgage Bankers Association
- Alameda Housing Providers Association
- Bay Area Builders Exchange
- Bay Area Homeowners Network
- Central City Association Los Angeles
- Davis Chamber of Commerce
- Los Angeles County Business Federation (LA BizFed)
- Long Beach Area Chamber of Commerce
- Nevada County Contractors' Association
- North Coast Builders Exchange
- Orange County Business Council
- Pasadena Chamber of Commerce and Civic Association
- Placer County Contractors' Association, Inc.
- Pleasanton Chamber of Commerce
- Regional Chamber of Commerce - San Gabriel Valley
- Sacramento Regional Builders Exchange
- San Gabriel Valley Economic Partnership
- San Ramon Chamber of Commerce
- The Silicon Valley Organization
- Valley Industry and Commerce Association (VICA)

**Staff Recommendation:** Staff recommends the committee discuss and determine a position. In 2018, the HCED policy committee took “no position” on the Affordable Housing Act – Repeal of Costa-Hawkins: Rent Control ([17-0041](#)).

**Committee Recommendation:**

**HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT**  
**Legislative Agenda**  
**June 5, 2020**

**Staff:** Jason Rhine, Assistant Legislative Director (916) 658-8264

**1. SB 1085 (Skinner) Density Bonus Law. [\(Full Text\)](#)**

**Bill Summary:**

This measure would make numerous changes to existing Density Bonus Law to require local governments to provide additional concessions and incentives for the construction of student housing and moderate-income rental housing.

**Bill Description:**

Specifically, SB 1085 would:

- Require local governments to include in their annual housing element report the number of units in a student housing development for lower-income students for which the developer received a density bonus.
- Allow student housing developments containing at least 20 percent of the units for lower-income students to be eligible for one incentive or concession.
- Allow a development containing 20 percent moderate-income rental units to receive the following:
  - 35 percent density bonus.
  - Projects located ½ mile from a transit stop, a local government shall not impose a parking ratio inclusive of handicapped and guest parking that exceeds .5 spaces per bedroom.
- Allow a developer of moderate-income rental units to receive the following concessions and incentives:
  - One incentive or concession for projects that include at least 20 percent of the total rental units for moderate-income households.
  - Two concessions or incentives for projects that include at least 30 percent of the total rental units for moderate-income households.
  - Three concessions or incentives for projects that include at least 40 percent of the total rental units for moderate-income households.
- Require that in order for a development with moderate-income rental units to be eligible for the benefits listed above, the rent for the moderate-income unit must be 30 percent below the market rate for the locality and the applicant must provide the locality with evidence to establish that the units meet those requirements.

- Prohibit a local government from imposing fees relating to affordable housing, including inclusionary zoning fees, in lieu fees, and public benefit fees on affordable units or bonus units contained in the development project.
- Define “total units” or “total dwelling units” as the calculation of the number of units that:
  - Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.
  - Includes a unit designated to satisfy an inclusionary zoning requirement of a local agency.

**Background:**

Density Bonus Law was first established in 1979. Over the years it has been amended numerous times. The purpose of the law is to require cities and counties to grant concessions and incentives to developers in exchange for them donating land or building senior housing or affordable housing units. These projects must contain one of the following:

- At least 5 percent of the housing units are restricted to very low income residents.
- At least 10 percent of the housing units are restricted to lower income residents.
- At least 10 percent of the housing units in a for-sale common interest development are restricted to moderate income residents.
- 100 percent of the housing units (other than manager’s units) are restricted to very low, lower and moderate income residents (with a maximum of 20 percent moderate).
- At least 10 percent of the housing units are for transitional foster youth, disabled veterans or homeless persons, with rents restricted at the very low income level.
- At least 20 percent of the housing units are for low income college students in housing dedicated for full-time students at accredited colleges.
- The project donates at least one acre of land to the city or county for very low income units, and the land has the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for such housing.
- The project is a senior citizen housing development (no affordable units required).
- The project is a mobilehome park age-restricted to senior citizens (no affordable units required).

Below is a table provided by the Senate Committee on Housing, that compares existing Density Bonus Law to SB 1085.

	<b>Current Law: Very Low- Income (VLI)</b>	<b>Current Law: Low-Income (LI)</b>	<b>Current Law: Mod-Income</b>	<b>SB 1085 (Skinner): Changes to Mod- Income</b>
<b>Rent / For Sale</b>	Rental units	Rental units	For sale in common interest developments (CIDs) only	Different benefits to both for-sale in CIDs and rental units anywhere
<b>Density</b>	5 % of units --> 20% DB ... 11 % of units --> <del>35% DB</del> <b>40% DB</b>	10 % of units --> 20% DB ... 20 % of units --> 35% DB	10 % of units --> 5% DB ... 40 % of units --> 35% DB	<b><u>Specifically, a development with 20% of units for rent to mod incomes gets 35% DB</u></b>
<b>Incentives / Concessions</b>	* 1 incentive for: 5% VLI * 2 incentives for: 10% VLI * 3 incentives for: 15% VLI	* 1 incentive for: 10% LI * 2 incentives for: 20% LI * 3 incentives for: 30% LI	* 1 incentive for: 10% Mod for-sale in CIDs * 2 incentives for: 20% Mod for sale in CIDs * 3 incentives for: 30% Mod for sale in CIDs	* 1 incentive for: 10% Mod for sale in CIDs <b><u>OR 20% MOD rentals</u></b> * 2 incentives for: 20% Mod for sale in CIDs <b><u>OR 30% MOD rentals</u></b> * 3 incentives for: 30% Mod for sale in CIDs <b><u>OR 40% MOD rentals</u></b>
<b>Parking near transit ratios</b>	Projects with 11% VLI only have to provide .5 spaces per bedroom.	Projects with 20% LI units only have to provide .5 spaces per bedroom.	No further reduced parking, other than specific parking ratios under DBL: a) 0 to 1 BR — 1 onsite parking space b) 2 to 3 BR — 2 onsite parking spaces c) 4 and more BRs — 2.5 parking spaces	<b><u>Projects with 20% mod units only have to provide .5 spaces per bedroom.</u></b>

What are concessions and incentives? A concession or incentive is defined as:

- A reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements.
- Approval of mixed use zoning.
- Other regulatory incentives or concessions which actually result in identifiable and actual cost reductions.

**Fiscal Impact:**

No direct fiscal impact to a city.

**Existing League Policy:**

*Support Vibrant City Centers*

Give preference to the redevelopment and reuse of city centers and existing transportation corridors by supporting and encouraging:

- Mixed use development.
- Housing opportunities for all income levels.
- Safe, reliable and efficient multi-modal transportation systems.
- Retaining existing businesses and promoting new business opportunities that produce quality local job.

*Zoning*

The League believes local zoning is a primary function of cities and is an essential component of home rule. The process of adoption, implementation and enforcement of zoning ordinances should be open and fair to the public and enhance the responsiveness of local decision-makers. State policy should leave local siting and use decisions to the city and not interfere with local prerogative beyond providing a constitutionally valid procedure for adopting local regulations. State agency siting of facilities, including campuses and office buildings, should be subject to local notice and hearing requirements in order to meet concerns of the local community. The League opposes legislation that seeks to limit local authority over parking requirements.

**Comments:**

According to the author, “the State Density Bonus Law is a unique tool that incentivizes developers to build more affordable housing in California. However, flaws in the program result in many cities underutilizing the density bonus tool or not using it at all. SB 1085 improves and clarifies the density bonus statute to expand its use in California to increase affordable housing production.”

Density Bonus Law is very complex and does not work in all communities. Housing market conditions must be right for the development to go forward. The developer must make a calculation that the concessions and incentives provided by the city or county generate enough savings in order for them to donate land or build affordable housing.

Cities are facing much larger housing goals in the 6<sup>th</sup> cycle of the Regional Housing Needs Allocation (RHNA) process. Not only do cities need to find enough adequate sites to accommodate their RHNA allocation, they also need to demonstrate that

housing units are actually being built or mandated streamlining laws like SB 35 take effect.

**Support-Opposition:** (as of 5/20/20)

Support:

All Home; Bay Area Council; Bridge Housing Corporation; California Association of Realtors; California Building Industry Association; California Community Builders; California YIMBY; Chan Zuckerberg Initiative; Facebook, Inc.; Los Angeles Business Council; San Francisco Bay Area Planning and Urban Research Association; San Francisco Foundation; San Francisco Housing Action Coalition; Silicon Valley At Home; Turner Center for Housing Innovation at the University of California, Berkeley; TMG Partners

Opposition: (as of 5/20/20)

A Better Way Forward to House California; California Rural Legal Assistance Foundation; Western Center on Law and Poverty

**Staff Recommendation:**

Staff recommends the committee discuss SB 1085 and make a recommendation to the Board.

**Committee Recommendation:**

**Board Action:**

**2. SB 1120 (Atkins) Subdivisions. Tentative Map [\(Full Text\)](#)**

**Bill Summary:**

This measure would require a local government to ministerially approve a housing development containing two residential units (duplex) in single-family zones. Additionally, this measure would require local governments to ministerially approve urban lot split.

**Bill Description:**

Duplex Provision

A proposed housing development containing two residential units shall be considered ministerially, without discretionary review or a hearing, in zones where allowable uses are limited to single-family residential development, if the proposed housing development meets all of the following requirements:

- The parcel is located within a city the boundaries of which include some portion of either an urbanized area or urban cluster, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster. The Census Bureau identifies urbanized areas as those with 50,000 or more people;

and defines urban clusters as areas with at least 2,500 and less than 50,000 people.

- The parcel cannot be located on any of the following:
  - Prime farmland or farmland of statewide importance.
  - Wetlands.
  - Land within the very high fire hazard severity zone, unless the development complies with state mitigation requirements.
  - A hazardous waste site.
  - An earthquake fault zone.
  - Land within the 100-year floodplain or a floodway.
  - Land identified for conservation under a natural community conservation plan, or lands under conservation easement.
  - Habitat for protected species.
  - A site that has been placed on a national, state, or local historic register.
- The proposed housing development would not require demolition or alteration requiring evacuation or eviction of an existing housing unit of any of the following types of housing:
  - Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
  - Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
  - Housing that has been the subject of an Ellis Act eviction within the past 15 years.
  - Housing that has been occupied by a tenant in the last three years.
- The development is not located on a site that has been placed on a national, state, or local historic register.
- A city or county may impose objective zoning and design standards that do not conflict with this measure.
- A city or county shall not require the development project to comply with an objective design standard that would prohibit the development from including up to two units.
- A city or county may require offstreet parking of up to one space per unit as long as that requirement doesn't prevent the housing development from moving forward.
- A city or county shall not impose parking requirements if any of the following is true:
  - The parcel is located within one-half mile walking distance of public transit.



- The parcel is located within an architecturally and historically significant historic district.
- There is a car share vehicle located within one block of the parcel.
- A proposed housing development shall not require the demolition of more than one existing exterior wall.
- A proposed housing development may require the demolition of more than one existing exterior wall if a local ordinance allows.
- A proposed housing development may require the demolition of more than one existing exterior wall if the site has not been occupied by a tenant in the last three years.
- A city or county may adopt an ordinance to implement its duplex provisions and provides that the adoption of such an ordinance is not subject to CEQA.

#### Urban Lot Split Provisions

A city or county shall ministerially approve a parcel map for an urban lot split that meets all the following requirements:

- The parcel map subdivides an existing parcel to create two new parcels of equal size.
- Both newly created parcels are no smaller than 1,200 square feet, unless a city or county adopts a smaller minimum lot size.
- The parcel being subdivided meets all the following requirements:
  - The parcel is zoned for residential use.
  - The parcel is located within an urbanized area or urban cluster.
  - The parcel is not located in any of the protected sites as listed above.
  - The parcel does not contain any of the following types of housing:
    - Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
    - Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
    - Housing that has been the subject of an Ellis Act eviction within the past 15 years;
    - Housing that has been occupied by a tenant in the last three years.
- The parcel is not located on a site that has been placed on a national, state, or local historic register.
- The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

- The owner of the parcel being subdivided has not previously subdivided an adjoining parcel using an urban lot split as provided for in this section.
- An application for an urban lot split shall be approved in accordance with the following requirements:
  - A local agency shall approve or deny an application for an urban lot split ministerially without discretionary review.
  - A local agency shall not impose regulations that require dedications of rights-of-way or the construction of reasonable offsite and onsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split.
- A local agency may require any of the following conditions when receiving a request for an urban lot split:
  - Easements.
  - A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.
  - Offstreet parking of up to one space per unit, except that a local agency shall not impose parking requirements in any of the following instances:
    - The parcel is located within one-half mile walking distance of public transit.
    - The parcel is located within an architecturally and historically significant historic district.
    - There is a car share vehicle located within one block of the parcel.
- A city or county may impose objective zoning and objective design standards applicable to a parcel created by an urban lot split that do not conflict with this section.
- A city or county shall not impose objective zoning or objective design standards that reduce the buildable area on each newly created parcel to less than 50 percent of the buildable area on the parcel being subdivided.
- “Buildable area” means the area on the lot that remains after the application of zoning and design standards and regulations that require dedications of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created.
- A city or county shall not be required to permit an accessory dwelling unit on parcels that have been subdivided and both parcels have a duplex.
- A city or county may adopt an ordinance to implement its duplex provisions and provides that the adoption of such an ordinance is not subject to CEQA

**Background:**

In recent years, the Legislature has past numerous bills that have paved the way for the construction of accessory dwelling units (ADU). Cities are now required to ministerially approve up to three units on all residential lots - the main house, an ADU up to 1200 square feet (converted pool house or garage, etc.), and a junior accessory dwelling unit (JADU) (smaller in size and attached to the main house).

The Legislature has also debated several bills that would have dramatically increased allowable building heights and density in single-family zones. Some of these measures would have allowed up to six story apartment buildings along transit lines in single-family neighborhoods. None of these proposals advanced to the Governor's desk.

However, in January, following the defeat of SB 50 (Wiener), Senate President Pro Tempore Atkins pledged to work on a package of bills to help solve the housing crisis gripping many regions of the state. On May 20, 2020, the Senate released their housing package.

Senate President Pro Tempore Atkins made the following statement:

"At the start of the year, my colleagues and I committed to developing a comprehensive, successful approach to housing production. We remain dedicated to that goal, but due to COVID-19 and the economic fallout that has accompanied it, we must pivot our approach," Atkins said. "This package of legislation would make more housing production possible generating high wage jobs for skilled construction workers, even while we continue to work through the new realities and uncertain times caused by the pandemic and economic downturn. And it positions California to leap forward exponentially on affordable housing as times get better." SB 1120 is one of the bills in the Senate housing package.

**Fiscal Impact:**

Cost associated with approving duplexes and lot splits are likely to be covered by development fees.

**Existing League Policy:***Well-Planned New Growth*

Recognize and preserve open space, watersheds, environmental habitats, and agricultural lands, while accommodating new growth in compact forms, in a manner that:

- De-emphasizes automobile dependency.
- Integrates the new growth into existing communities.
- Creates a diversity of affordable housing near employment centers.
- Provides job opportunities for people of all ages and income levels.

*Zoning*

The League believes local zoning is a primary function of cities and is an essential component of home rule. The process of adoption, implementation and enforcement of

zoning ordinances should be open and fair to the public and enhance the responsiveness of local decision-makers. State policy should leave local siting and use decisions to the city and not interfere with local prerogative beyond providing a constitutionally valid procedure for adopting local regulations. State agency siting of facilities, including campuses and office buildings, should be subject to local notice and hearing requirements in order to meet concerns of the local community. The League opposes legislation that seeks to limit local authority over parking requirements.

#### *Subdivision Map Act*

The League supports maximizing local control over subdivisions and public improvement financing. Discretion over the conditions and length of subdivision and parcel maps should be retained by cities.

#### **Comments:**

According to the author, “SB 1120 promotes small-scale neighborhood residential development by streamlining the process for a homeowner to create a duplex or subdivide an existing lot in all residential areas. This policy builds upon existing prior successful housing policies such as the state’s Accessory Dwelling Unit (ADU) law, which led to a 63 percent increase in ADU permit requests statewide in the first two years alone. Additionally, the policy leverages valuable but previously untapped resources, such as developed but underutilized land, while building valuable equity for homeowners. The bill also respects the priorities of local governments in local land use decisions: such applications must meet a specific list of qualifications that ensure protection of local zoning and design standards, historic districts, environmental quality, and existing tenants vulnerable to displacement.

“COVID-19 has dramatically exacerbated California’s already-severe housing crisis. Essential workers are more likely to live in overcrowded housing, which is linked to an increased risk of contracting (and dying from) the disease. Among households facing COVID-related loss of income, half were already struggling to afford rent pre-COVID and now face eviction, housing instability, and homelessness. Finally, estimates show that homeless individuals are two to three times more likely to die from COVID-19 than their housed counterparts. The best way to address these issues is to provide more housing that is affordable to low- and moderate-income families by creating the environment and opportunity for small-scale neighborhood development.”

As mentioned above, under existing law, cities are required to allow up to three units on all residential lots - the main house, an ADU, and a junior accessory dwelling unit. Given existing law, the HCED policy committee may want to consider how much of a change is it to require cities to allow duplexes in single-family zones?

It is important to note that under SB 1120, a developer could convert the existing single-family home into a duplex and then add an ADU and a junior accessory dwelling unit (JADU). SB 1120 prohibits this from happening only if the developer also splits the lot. HCED policy committee may want to consider requesting an amendment to prohibit ADUs and JADUs on all lots that take advantage of SB 1120.

**Support-Opposition:** (as of 5/26/20)

Support:

California Apartment Association; California Association of Realtors; Schneider Electric.

Opposition: (as of 5/26/20)

Livable California

**Staff Recommendation:**

Staff recommends the committee discuss SB 1120 and make a recommendation to the Board.

**Committee Recommendation:**

**Board Action:**

**3. SB 1385 (Caballero) Streamlining. Housing in Commercial Zones. ([Full Text](#))**

**Bill Summary:**

This measure would create the Neighborhood Homes Act, which establishes a housing development project as an authorized use on a neighborhood lot, defined as a lot zoned for office or retail commercial use under a local agency's zoning code or general plan.

**Bill Description:**

Specifically, SB 1385 would require a housing development project on a neighborhood lot to comply with all of the following:

- The density for the housing development shall meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households (Mullin densities).
- The housing development shall be subject to local zoning, parking, design, and other ordinances applicable to a housing development in a zone that meets the requirements of paragraph.
- If the existing zoning designation for the parcel, as adopted by the local government, allows residential use at a density greater than that required in paragraph by this measure, the local zoning designation shall apply.
- The housing development shall comply with any design review or other public notice, comment, hearing, or procedure imposed by the local agency on a housing development in the applicable zoning designation identified.
- A city or county may exempt a neighborhood lot from this section in its housing element if the local agency concurrently reallocates the lost residential density to

other lots so that there is no net loss in residential production capacity in the jurisdiction.

- A local agency may reallocate the residential density from an exempt neighborhood lot pursuant to this subdivision only upon a finding by the local agency that the construction cost of the reallocated housing units will not be greater than the construction cost of housing units built under the applicable zoning standards.
- This measure does not alter or lessen the applicability of any housing, environmental, or labor law applicable to a housing development authorized by this section, including, but not limited to, the following:
  - The California Coastal Act of 1976.
  - The California Environmental Quality Act.
  - The Housing Accountability Act.
  - The Density Bonus Law.
  - Obligations to affirmatively further fair housing.
  - State or local affordable housing laws.
  - State or local tenant protection laws.
- All local demolition ordinances shall apply to a project developed on a neighborhood lot.
- An applicant seeking to develop a housing project on a neighborhood lot may request that a local agency establish a Mello-Roos Community Facilities District, or may request that the neighborhood lot be annexed to an existing community facilities district.
- An annexation to a community facilities district for a neighborhood lot shall be subject to a protest proceeding.
- An applicant who voluntarily enrolls in the district shall not be required to pay a development, impact, or mitigation fee, charge, or exaction in connection with the approval of a development project to the extent that those facilities and services are funded by a community facilities district established pursuant to this subdivision. This paragraph shall not prohibit a local agency from imposing any application, development, mitigation, building, or other fee to fund the construction cost of public infrastructure facilities or services that are not funded by a community facilities district to support a housing development project.
- Housing developments on neighborhood lots shall be eligible for SB 35's streamlined ministerial approval process if it meets all of the following requirements:
  - The proposed project meets the objective zoning, design, and subdivision standards that apply to the neighborhood lot as a result of SB 1385.
  - The proposed project meets all of SB 35's other requirements.

- The site is zoned for office or retail commercial use and 50 percent or more of its total square footage has been vacant for a period of at least three years prior to the submission of the application.

### **Background:**

In recent years, consumers have increasingly shopped more and more online. This has put significant pressure on traditional brick and mortar stores. Anchor tenants like Sears, Kmart, and Macy's have closed physical stores and left large vacancies in commercial areas.

According to an April 24, 2020, brief published by McKinsey and Company, the onset of COVID-19 has aggravated the existing challenges that the retail sector faces, including:

- A shift to online purchasing over brick-and-mortar sales.
- Customers seeking safe and healthy purchasing options.
- Increased emphasis on value for money when purchasing goods.
- Movement towards more flexible and versatile labor.
- Reduced consumer loyalty in favor of less expensive brands.

With several large retailers such as Nieman Marcus, J.C. Penney, J. Crew, and Pier 1 filing for bankruptcy, store closings have already been announced or are expected in the future. The investment firm UBS estimates that by 2025, 100,000 stores in the United States will close as online sales grow from 15 percent to 25 percent of total retail sales.

### **Fiscal Impact:**

Cost associated with redeveloping commercial and retail areas are likely to be covered by development fees.

### **Existing League Policy:**

#### *Zoning*

The League believes local zoning is a primary function of cities and is an essential component of home rule. The process of adoption, implementation and enforcement of zoning ordinances should be open and fair to the public and enhance the responsiveness of local decision-makers. State policy should leave local siting and use decisions to the city and not interfere with local prerogative beyond providing a constitutionally valid procedure for adopting local regulations. State agency siting of facilities, including campuses and office buildings, should be subject to local notice and hearing requirements in order to meet concerns of the local community. The League opposes legislation that seeks to limit local authority over parking requirements.

#### *Maximize Existing Infrastructure*

Accommodate additional growth by first focusing on the use and reuse of existing urbanized lands supplied with infrastructure, with an emphasis on reinvesting in the maintenance and rehabilitation of existing infrastructure

**Comments:**

According to the author, “Large shopping malls, strip malls, and ‘big box’ retail stores are facing a new reality: consumers’ needs are being met online. Many shopping centers have struggled to remain viable as large anchor stores like Sears and Toys R Us have closed their doors or gone out of business, unable to keep up with major online retailers like Amazon. Now, many areas throughout California are left with struggling or vacant, often-times run-down, commercial centers without any interest in development from commercial business.

“At the same time retail vacancies are growing, California’s housing crisis continues to worsen. According to the California Budget and Policy Center, over 50% of renters and nearly 40% of homeowners pay more than 30% of their income in rent. In addition, the Public Policy Institute of California recently reported that California’s housing shortage continues to grow as the number of residential building permits issued for 2018 and 2019 were far below the recommended annual average of new homes needed. While there is no single policy to fix California’s housing crisis, providing easy ways for cities to increase their housing supply is a step in the right direction, and SB 1385 will do just that. This bill allows for cities to approve residential development in commercially zoned retail and office spaces that are vacant or no longer viable. By doing so, we open up previously developed land that is a perfect opportunity to convert to residential or mixed-use purposes and expand California’s housing supply.”

**Support-Opposition:** (as of 5/28/20)Support:

California Forward Action Fund (sponsor); Abundant Housing LA; Bay Area Council; California Apartment Association; California Association of Realtors; California Building Industry Association; California Community Builders; California Partnership for the San Joaquin Valley; California YIMBY; Facebook, Inc.; Habitat for Humanity California; Habitat for Humanity Greater San Francisco; Housing Land Trust of Sonoma County; North Bay Leadership Council; Office of Community & Economic Development at Fresno State; Orange County Business Council; People for Housing - Orange County; San Francisco Bay Area Planning and Urban Research Association (SPUR); San Francisco Housing Action Coalition; San Joaquin Valley Rural Development Center; Schneider Electric; Sierra Business Council; Silicon Valley At Home (SV@HOME); United Latinos Vote; Valley Industry & Commerce Association; Westfield; YIMBY Law.

Opposition: (as of 5/28/20)

None on file

**Staff Recommendation:**

Staff recommends the committee discuss SB 1385 and make a recommendation to the Board.

**Committee Recommendation:**



## **Board Action:**

### **4. AB 2580 (Eggman) Conversion of Hotels and Motels. Streamlining. ([Full Text](#))**

#### **Bill Summary:**

This measure would require a local government to ministerially approve a development application to convert a non-residential hotel and motel into multifamily housing.

#### **Bill Description:**

Specifically, AB 2580 would:

- Allow a developer to submit an application for a development that is subject to a streamlined, ministerial approval process and not subject to a conditional use permit, if the development satisfies all of the following objective planning standards:
  - The development is for the complete conversion of a motel or hotel into multifamily housing units, including, but not limited to, efficiency units, single-room occupancy units, and co-living spaces.
  - The structure has been vacant for at least six months prior to the submission of the application. If any rooms become occupied after the submission of an application, that application is void.
  - The six month vacancy requirement shall be waived if 100 percent of the total units, exclusive of a manager's unit, are for lower income households, except that up to 20 percent of the total units in the development may be for moderate-income households.
  - At least 15 percent of the proposed units are reserved for lower income households.
  - At least five percent of the proposed units are reserved for extremely low income households.
  - The development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that all lower income units shall remain available at affordable housing costs or rent to lower income households for at least the following periods of time:
    - Fifty-five years for units that are rented to the occupants.
    - Forty-five years for units that are owned by the occupants.
  - The development is not located on a site that is in a coastal zone.
  - The development proponent has agreed to pay prevailing wage and use a skilled and trained workforce.

- The skilled and trained workforce requirements shall not apply if 100 percent of the total units, exclusive of a manager's unit, in the development are for lower income households, except that up to 20 percent of the total units in the development may be for moderate-income households.
- A local government shall provide a streamlined application and review process for, and shall grant ministerial approval. If a local government determines that a development is in conflict with any of the objective planning standards, it shall provide the development proponent written documentation of the standard or standards with which the development conflicts, and an explanation of the reason or reasons the development conflicts with the standard or standards, within 30 days of submittal of a complete application for the development to the local government.
- If the local government fails to provide the required documentation, the development shall be deemed to satisfy the objective planning standards.
- If a local government has local affordability requirements that exceed those listed above, those local requirements shall apply.
- Any design review or public oversight of the development may be conducted by the local government's planning agency. That design review or public oversight shall be objective and assess compliance only 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. That design review or public oversight shall be completed within 60 days of submittal of a complete application for the development to the local government pursuant to this section, and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable.
- If the development proponent requests a delay, the 60-day time period shall be tolled for the period of the delay.
- If a local government approves a development pursuant to this section, then, notwithstanding any other law, that approval shall not expire for five years.
- A local government shall not impose automobile parking standards in any of the following instances:

- The development is located within one-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
  - The development is located within an architecturally and historically significant historic district.
  - When on-street parking permits are required but not offered to the occupants of the development.
  - When there is a car-share vehicle located within one block of the development.
- If the development does not fall within any of the above categories, the local government may impose automobile parking requirements not to exceed one parking space per unit.
- A local government shall not require, as a condition for ministerial approval of an application for a streamlined development pursuant to this section, the correction of nonconforming zoning conditions.
- A local government shall not impose any standard requiring a minimum or maximum size requirement for the units of a development.
- A local government shall not impose any density restriction on a development subject to this section, except that the total number of housing units created by the conversion shall not exceed the total number of units offered by the hotel or motel.
- A local government shall not adopt any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive a streamlined review or ministerial approval pursuant to this section.
- Development projects deemed streamlined and ministerially approved are not subject to CEQA.

### **Background:**

California continues to produce significantly few housing units than what is needed to keep pace with the State's identified housing need. According to the California Department of Housing and Community Development, housing developers need to produce at least 180,000 new units each year. However, in recent years housing production has lagged with roughly 110,000 constructed.

According to the Legislative Analyst's Office, "a collection of factors drive California's high cost of housing. First and foremost, far less housing has been built in California's coastal areas than people demand. As a result, households bid up the cost of housing in coastal regions. In addition, some of the unmet demand to live in coastal areas spills over into inland California, driving up prices there too. Second, land in California's

coastal areas is expensive. Homebuilders typically respond to high land costs by building more housing units on each plot of land they develop, effectively spreading the high land costs among more units. In California's coastal metros, however, this response has been limited, meaning higher land costs have translated more directly into higher housing costs. Finally, builders' costs—for labor, required building materials, and government fees—are higher in California than in other states. While these higher building costs contribute to higher prices throughout the state, building costs appear to play a smaller role in explaining high housing costs in coastal areas.”

**Fiscal Impact:**

Cost associated with hotel and motel conversions are likely to be covered by development fees.

**Existing League Policy:***Zoning*

The League believes local zoning is a primary function of cities and is an essential component of home rule. The process of adoption, implementation and enforcement of zoning ordinances should be open and fair to the public and enhance the responsiveness of local decision-makers. State policy should leave local siting and use decisions to the city and not interfere with local prerogative beyond providing a constitutionally valid procedure for adopting local regulations. State agency siting of facilities, including campuses and office buildings, should be subject to local notice and hearing requirements in order to meet concerns of the local community. The League opposes legislation that seeks to limit local authority over parking requirements.

*Maximize Existing Infrastructure*

Accommodate additional growth by first focusing on the use and reuse of existing urbanized lands supplied with infrastructure, with an emphasis on reinvesting in the maintenance and rehabilitation of existing infrastructure.

*Well-Planned New Growth*

Recognize and preserve open space, watersheds, environmental habitats, and agricultural lands, while accommodating new growth in compact forms, in a manner that:

- De-emphasizes automobile dependency.
- Integrates the new growth into existing communities.
- Creates a diversity of affordable housing near employment centers.
- Provides job opportunities for people of all ages and income levels.

**Comments:**

According to the author “California’s shortage of housing and affordable housing has added pressure to Californians experiencing homelessness or shelter instability. To meet housing needs, we need novel housing solutions. My bill would allow project developers to turn former hotels and motels into multifamily housing, with an affordable housing set-aside, via a streamlined ministerial process. Not only would this bill provide more housing options, but would not contribute to urban sprawl, community

displacement, or add pressure to existing urban infrastructure such as water and sewer resources.”

Hotel and motel conversions take place in many cities. Since hotels and motels are typically located in business districts and along major roads, they are likely to be in locations well suited for multifamily housing. Before the disillusion of redevelopment agencies, cities looked to hotels and motels as a cost effective way to improve the conditions of a neighborhood, while also providing affordable housing.

Cities are facing much larger housing goals in the 6th cycle of the Regional Housing Needs Allocation (RHNA) process. Not only do cities need to find enough adequate sites to accommodate their RHNA allocation, they also need to demonstrate that housing units are actually being built or mandated streamlining laws like SB 35 take effect. AB 2580 could make it easier and less expensive to build affordable housing.

**Support-Opposition:** (as of 5/20/20)

Support:

California Apartment Association (sponsor); Associated Builders and Contractors; Northern California Chapter; California Association of Realtors; California Community Builders; California Council for Affordable Housing; California Travel Association; California YIMBY; Facebook; Habitat for Humanity California; National Association of Social Workers, California Chapter; Southern California Rental Housing Association; United Way of Greater Los Angeles

Support If Amended

Aids Healthcare Foundation; American Planning Association, California Chapter; California Housing Partnership Corporation

Support in Concept

California State Association of Counties; Rural County Representatives of California; Urban Counties of California

Opposition: (as of 5/20/20)

California State Council of Laborers; California Teamsters Public Affairs Council; International Union of Operating Engineers, Cal-Nevada Conference; State Building and Construction Trades Council of California

Oppose Unless Amended

California Rural Legal Assistance Foundation; Corporation for Supportive Housing; Housing California; Leadership Counsel for Justice and Accountability; PolicyLink; Public Advocates; Public Interest Law Project; Western Center on Law & Poverty

**Staff Recommendation:**

Staff recommends the committee discuss AB 2580 and make a recommendation to the Board.

**Committee Recommendation:**

**Board Action:**

**Housing, Community and Economic Development Policy Committee**  
**Bills of Interest**  
*(As of May 30, 2020)*

Planning and Zoning

**AB 725 (Wicks) Housing Element. Moderate-income and Above Moderate-income Housing.**

This measure would require incorporated areas within a metropolitan jurisdiction, at least 25% of the jurisdiction's share of the regional housing need for both the moderate-income and above moderate-income housing categories must be allocated to sites with zoning that allows at least two units of housing, but no more than 35 units of housing per acre.

League Position: Pending

**AB 1279 (Bloom) Housing Developments. High-resource Areas.**

This measure would require HCD to designate areas in this state as high-resource areas by January 1, 2021, and every 5 years thereafter. In any area designated as a high-resource area, this measure would require cities, at the request of a developer, to allow up to fourplexes in single-family zones and up to 100 units per acre in commercial zones. These projects shall receive ministerial approval (use by right).

League Position: Pending

**AB 1851 (Wicks) Faith-based Organizations. Housing Developments. Parking Requirements.**

This measure would, upon the request of a developer of a housing development project, require a local agency to ministerially approve a request to that local agency to reduce or eliminate any parking requirements that would otherwise be imposed by that local agency on the development if the housing development project qualifies as a faith-based organization affiliated housing development project. This measure would prohibit a local agency from requiring the replacement of religious-use parking spaces proposed to be eliminated by a faith-based organization's housing project or from requiring the curing of any preexisting deficit of religious-use parking as a condition of approval of a faith-based organization affiliated housing development project.

League Position: Pending

**AB 2345 (Gonzalez) Planning and Zoning. Density Bonus.**

This measure would greatly expand Density Bonus law and allow developers to receive up to five concessions and incentives from local governments and up to 50% more density.

League Position: Pending

**AB 2580 (Eggman) Conversion of Motels and Hotels. Streamlining.**

This measure would authorize a development proponent to submit an application for a development for the conversion of a motel, hotel, or commercial use into multifamily

housing units to be subject to a streamlined, ministerial approval process, provided that development proponent reserves at least 20% of the proposed housing units for persons and families of low or moderate income. The measure would require a local government to notify the development proponent in writing if the local government determines that the development conflicts with any of those objective standards within 30 days of the application being submitted; otherwise, the development would be deemed to comply with those standards.

League Position: Pending

**AB 3040 (Chiu) Local Planning. Regional Housing Need.**

This measure would create a voluntary program to incentivize local governments to allow four units per parcel, by-right, in exchange for additional credit towards the city or county's share of the regional housing need allocation for each site identified under these provisions. The measure would prohibit the cumulative credit received by a city or county from exceeding more than 25% of the total units needed to meet its regional housing needs allocation.

League Position: Support in concept.

**AB 3107 (Bloom) Planning and Zoning. Housing Developments.**

This measure would require, notwithstanding any inconsistent provision of a city's or county's general plan, specific plan, zoning ordinance, or regulation, a housing development in which at least 20 percent of the units have an affordable housing cost or affordable rent for lower income households shall be an allowable use on a site designated in any element of the general plan for commercial uses.

League Position: Pending

**SB 899 (Wiener) Housing Development. Nonprofit Hospitals or Religious Institutions.**

This measure would require that a housing development project be a use by right upon the request of a nonprofit hospital, nonprofit diagnostic or treatment center, nonprofit rehabilitation facility, nonprofit nursing home, or religious institution that partners with a qualified developer on any land owned in fee simple by the applicant if the development satisfies specified criteria.

League Position: Pending

**SB 902 (Wiener) Neighborhood Multifamily Project. Use By Right.**

This measure would also allow a local government to pass an ordinance, notwithstanding any local restrictions on adopting zoning ordinances enacted by the jurisdiction, including restrictions enacted by a local voter initiative, that limit the legislative body's ability to adopt zoning ordinances, to zone any parcel for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, and not be subject to CEQA.

League Position: Watch



**SB 1085 (Skinner) Density Bonus Law. Housing for Lower-income Students.**

This measure would require a city or county to grant one incentive or concession for a project that will contain a specified percentage of units for lower income students in a student housing development.

League Position: Pending

**SB 1120 (Atkins) Subdivisions. Tentative Maps.**

This measure would build off state Accessory Dwelling Unit (ADU) law that allows for at least three units per parcel to further encourage development in single-family neighborhoods by creating a ministerial approval process for duplexes and lot splits that meet local zoning, environmental and tenant displacement standards.

**SB 1138 (Wiener) Housing Element. Emergency Shelters. Zoning of Sites.**

This measure would revise the requirements of the housing element, as described above, in connection with identifying zones or zoning designations that allow residential use, including mixed use, where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. This would also, for the 6th and each subsequent revision of the housing element, require that a local government that fails to adopt a housing element that the Department of Housing and Community Development has found to be in substantial compliance with state law within 120 days of the statutory deadline to complete the rezoning no later than one year (instead of three years under current law) from the statutory deadline for the adoption of the housing element.

League Position: Pending

**SB 1299 (Portantino) Housing Development. Incentives. Rezoning of Idle Retail Sites.**

This measure would, upon appropriation by the Legislature, require HCD to administer a program to provide incentives in the form of grants allocated as provided to local governments that rezone idle sites used for a big box retailer or a commercial shopping center to instead allow the development of workforce housing.

League Position: Support

**SB 1385 (Caballero) Local Planning. Housing in Commercial Zones.**

This measure, the Neighborhood Homes Act, would deem a housing development project, as defined, an authorized use on a neighborhood lot that is zoned for office or retail commercial use under a local agency's zoning code or general plan. The measure would require the density for a housing development under these provisions to meet or exceed the density deemed appropriate to accommodate housing for lower income households according to the type of local jurisdiction, including a density of at least 20 units per acre for a suburban jurisdiction.

League Position: Watch

## Homelessness

### **ACA 10 (Bonta) Personal Rights. Right to Housing.**

This measure would declare that the fundamental human right to housing exists in this state. The measure would declare that this right is exclusively enforceable by a public right of action. The measure would specify that it is the shared obligation of state and local jurisdictions to respect, protect, and fulfill this right through progressively implemented measures, consistent with available resources, within an aggressive but reasonable time frame.

League Position: Pending

### **AB 2405 (Burke) Housing. Homelessness. Children and Families.**

This measure would require local jurisdictions to, on or before January 1, 2022, establish and submit to the Department of Housing and Community Development an actionable plan to house their homeless populations based on their latest point-in-time count.

League Position: Watch

### **AB 3269 (Chiu) State and Local Homelessness Plans.**

This measure, upon appropriation by the Legislature, would require the Homeless Coordinating and Financing Council to conduct, or contract with an entity to conduct, a statewide needs and gaps analysis to identify, among other things, state programs that provide housing or services to persons experiencing homelessness and funding required to move persons experiencing homelessness into permanent housing. This measure would also state the intent of the Legislature that each state and local agency aim to reduce homelessness within its jurisdiction by 90% by December 31, 2028.

League Position: Pending

### **AB 3300 (Santiago) Homelessness Grant Funds.**

This measure would appropriate, commencing with the 2020–21 fiscal year and every fiscal year thereafter, without regard to fiscal year, \$2 billion from the General Fund to the Department of Housing and Community Development for the purpose of providing local jurisdictions and other specified entities with ongoing grant funds to sustain or expand efforts to address their immediate and long-term homelessness challenges. The measure would require \$1.1 billion to be distributed to counties and continuums of care, \$800 million to be distributed to cities with a population of at least 300,000, and \$100 million to nonprofit housing developers for specified purposes relating to the provision of housing. The measure would require the method of allocation to be based on a formula that considers specified data.

League Position: Pending

## Mitigation Fees/Development Fees

### **AB 1484 (Grayson) Mitigation Fee Act.**

This measure would prohibit a local agency from imposing a housing impact requirement adopted by the local agency on a housing development project unless

specified requirements are satisfied by the local agency, including that the housing impact requirement be roughly proportional in both nature and extent to the impact created by the housing development project.

League Position: Oppose

## Miscellaneous

### **SB 795 (Beall) Affordable Housing and Community Development Investment Program.**

This measure would invests \$2 billion annually for 5 years into the immediate construction of affordable housing units and programs that address and prevent homelessness. Additionally, this measure creates two new programs administered by the Office of Business and Economic Development Office (GoBiz) to help local governments with their economic recovery and natural disaster preparedness.

Of the \$2 billion, \$1.15 billion shall be used to construct affordable housing, spur economic development and create jobs through infrastructure and employment programs. Funds will be distributed as follows: 1) Multi-family Housing Program—\$500 million (25%); 2) Infill Incentive Grant Program-- \$300 (15%) million; 3) Local Housing Trust Fund Matching Grant Program- \$200 million (10%); 4) Cal Home Program \$75 million (3.75%); 5) Joe Serna, Jr. Farmworker Housing Grant Fund--\$75 million (3.75%)  
League Position: Support