



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Planning Commission

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Project Name: 2017 State Housing Legislation Briefing
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BACKGROUND

The current California legislative session includes a large number of housing-related bills. The City Planning Commission (Commission) has requested today's hearing to better understand how these bills might impact housing policy and land use. The proposed bills address the state's housing crisis in varied ways including housing funding, housing approvals, and data collection. This memo and today's presentation focus on bills related to the work of the Commission in three broad areas: 1) Ensuring Housing Production, 2) Housing Data Reporting, and 3) Inclusionary Housing and Rent Control. Given the large volume of housing-related legislation this report focuses on bills we think could have significant impacts on housing and land use planning statewide and in San Francisco. In addition, the Mayor's Office of Housing and Community Development (MOHCD) has provided a Summary of State Affordable Housing Funding Legislation (Attachment A) highlighting proposed funding tools to support affordable housing development and preservation in San Francisco and around the state.

The many housing-related bills under consideration reflect widespread recognition by legislators that the state is in a crisis of housing affordability and availability. The January 2017 draft Statewide Housing Assessment prepared by the Department of Housing and Community Development (HCD) describes some of the state's housing challenges¹:

- *The majority of Californian renters — more than 3 million households — pay more than 30 percent of their income toward rent, and nearly one-third — more than 1.5 million households - pay more than 50% of their income toward rent.*
- *California is home to 12 percent of the nation's population, but a disproportionate 22 percent of the nation's homeless population.*
- *Production averaged less than 80,000 new homes annually over the last 10 years, and ongoing production continues to fall far below the projected need of 180,000 additional homes annually.*
- *Continued sprawl will decrease affordability and quality of life while increasing transportation costs.*

¹ *California's Housing Future: Challenges and Opportunities, Public Draft - Statewide Housing Assessment 2025.* California Department of Housing and Community Development, January, 2017. <http://www.hcd.ca.gov/policy-research/plans-reports/index.shtml#sha>

This crisis is felt statewide, inspiring a range of bills by legislators from around the state including our own.

LEGISLATIVE STEPS

California's Legislature is at the start of a two year legislative session. Newly introduced bills are read for the first time in their house of origin (the Senate or the Assembly). A bill is then assigned to a relevant policy committee based on the subject area. If the bill has fiscal impacts it must also be heard in the Appropriations committee. A bill must pass out of committee with a majority vote and is then read a second time as it is brought before the full house of origin. An analysis of the bill is made available and the bill is then read a third time, members discuss the bill and members take a roll call vote. Once a bill is passed in the house of origin, it then moves to the other house for consideration. If the bill is passed by the other house with amendments then these must either be accepted by the house of origin or a conference committee will attempt to resolve any differences. Bills that involve appropriations generally require a two-thirds majority in the Senate and Assembly. The Governor then may sign a bill, allow the bill to become law without a signature, or veto the bill which can only be overridden by a two thirds majority in the legislature. Bills that are not initially passed by committee or by the legislature have until the end of the legislative session to be amended and reconsidered.

BILL SUMMARIES

This report groups the proposed bills into three categories, by general subject: 1) Ensuring Housing Production; 2) Housing Data Reporting; and 3) Inclusionary Housing and Rent Control.

1. Ensuring Housing Production

SB 35, introduced by Senator Scott Weiner, would require cities to report annually to the state on housing approvals including data on affordability, tenure type, and progress toward meeting regional housing needs assessment (RHNA) targets. If the prior two years of reporting indicate that a city has not approved sufficient housing by income category to be on track to meet RHNA targets or the city has failed to report, the bill would require cities to grant residential developments a streamlined, ministerial approval process that would not be subject to conditional use permits if developments meet certain criteria including:

- The development is consistent with objective zoning standards and objective design review standards in effect at the time that the development is submitted.
- The development meets local affordability requirements, or if the city does not have such requirements, includes at least 10% of units affordable to low income households.
- The development is on an urban infill site as defined by state code.
- The development is primarily residential and includes at least two units and does not demolish rent-controlled units, income-targeted affordable units, or a residential unit that has been vacant for less than 10 years.
- The development pays prevailing wages to all construction labor in streamlined projects.

SB 35 Status: *Passed by Senate Transportation and Housing Committee, read 2nd time, referred to and passed by Governance and Finance Committee, and referred to Committee on Appropriations*

AB 72, introduced by Assembly Members Miguel Santiago and David Chiu, would task the state's Department of Housing and Community Development (HCD) with assessing compliance with housing element law and other statutes meant to encourage housing production, housing affordability, and equitable planning. The bill would provide the Attorney General with as yet unspecified funding to enforce compliance with these laws and statutes. In addition to housing element law, the bill addresses compliance with the [Housing Accountability Act](#)², [Housing Development Approvals statute](#)³, [Housing Element Inventory statute](#)⁴, [Density Bonus Law & Other Incentives](#)⁵, [Surplus Land Act](#)⁶, [Anti-discrimination Statute for Environmental Justice in Planning & Land Use](#)⁷, and a [Development Agreements statute](#)⁸.

AB 72 Status: *Passed by Assembly Housing and Community Development Committee and referred to Committee on Appropriations*

AB 73, introduced by Assembly Member David Chiu, would allow cities to create housing sustainability districts that would facilitate approval of housing developments and would allow cities to apply to the state Office of Planning and Research (OPR) for zoning incentive payments of a still undefined amount. The payments would be based on the number of units in the district and depend on 1) approval of the district by OPR and a completed EIR and 2) issued permits for housing development. The District requirements would include:

- A limit of 15% of a city's land area per district and up to 30% of land area in all districts.
- Prevailing wage paid to workers on projects within the district.
- At least 20% of new units must be affordable to very low, low, or moderate income households.
- Replacement of income-targeted affordable or rent-controlled units demolished in the district.
- Eligible districts must have access to transit and other infrastructure.
- Ministerial approval for complying housing developments in the district.

² Housing Accountability Act, as defined by Section 65589.5 of the CA Government Code available at: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65589.5

³ The Housing Development Approvals statute, as defined by Section 65913 of the CA Government Code available at: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65913

⁴ Housing Element Inventory statute, as defined by Section 65863 of the CA Government Code available at: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65863

⁵ Density Bonus Law & Other Incentives, as defined by Section 65915 of the CA Government Code available at: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65915

⁶ Surplus Land Act, as defined by Sections 54220-54233 of the CA Government Code available at: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=2.&title=5.&part=1.&chapter=5.&article=8.

⁷ Anti-discrimination Statute for Environmental Justice in Planning & Land Use, as defined by Section 65008 of the CA Government available at: Code http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65008

⁸ Development Agreements statute, as defined by Section 65868 of the CA Government Code available at: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65868

- A written decision on an application for a residential development permit within a housing sustainability district must be issued within 120 days of submittal unless the applicant and approving authority agree to extend the time frame.
- Housing developments that meet all specified requirements of the housing sustainability district will not be subject to CEQA as long as the district has been approved by OPR and that has a completed EIR
- An ability to charge project fees to pay for the costs of planning and administering the district.
- Adoption of design review standards to facilitate project approval and quality design.
- Annual monitoring by OPR.

AB 73 Status: *Passed by Assembly Local Government Committee, read 2nd time, referred to and passed by Natural Resources Committee, and referred to Committee on Appropriations*

SB 166, introduced by Senator Nancy Skinner, would add to existing requirements that jurisdictions identify housing sites in their housing element sufficient to accommodate their share of RHNA by requiring that jurisdictions make written findings on development of sites that produced fewer units by income level than identified in the housing element. If the jurisdiction reduces residential density, allows development at a lower residential density than originally assumed, or permits development with fewer units by income level than identified for that parcel in the housing element, the jurisdiction will need to comply with the following:

- A reduction must be consistent with the adopted general plan, including the housing element.
- If the remaining sites identified in the housing element can accommodate the jurisdiction's share of RHNA, the jurisdiction must provide a quantification of remaining unmet need at each income level and remaining capacity of identified sites to accommodate that need by income level.
- If the remaining sites in the housing element cannot accommodate the jurisdiction's share of RHNA, the jurisdiction must identify sufficient additional, adequate, and available sites with equal or greater residential density so that there is no net loss of residential unit capacity.
- If a development approval results in fewer units by income level than identified for that parcel in the housing element and the jurisdiction does not find that remaining identified sites are adequate to accommodate its share of RHNA by income level, the jurisdiction is required to identify and make available additional adequate sites to accommodate its share of RHNA by income level within 180 days.

This bill would require work on the part of the Planning Department to track development of identified sites relative to unit production by income level and to identify additional sites if necessary.

SB 166 Status: *Passed by Senate Transportation and Housing Committee, read 2nd time, referred to and passed by the Governance and Finance Committee, and referred to Committee on Appropriations*

AB 932, introduced by Assembly Member Phil Ting, would permit San Francisco to declare a “shelter crisis” which would allow the city and county to adopt by ordinance “reasonable local standards and procedures for the design, site development, and operation of homeless shelters” including health and safety standards in lieu of compliance with state or local law to the extent that strict compliance with state and local laws and standards would prevent mitigation of the crisis. During the crisis, requirements that homeless shelters must be consistent with local land use plans, including the general plan, would be suspended. San Francisco would similarly be able to adopt by ordinance “reasonable local building, planning, and zoning standards and procedures for the design, site development, and operation of permanent supportive housing” in lieu of compliance with state and local standards and laws. Permanent supportive housing would not be exempt from local land use plans.

AB 932 Status: *Passed by Assembly Housing and Community Development Committee, read 2nd time, referred to and passed by Judiciary Committee, referred to Committee on Appropriations with recommendation to Consent Calendar (the Consent Calendar facilitates the consideration of bills with no known opposition)*

2. Housing Data Reporting

AB 1423, introduced by Assembly Member David Chiu, would extend the collection of housing-related data to include charter cities. Existing law exempts charter cities from certain reporting requirements for housing production in relation to need, as defined by RHNA. As one of more than 120 charter cities in California, San Francisco is currently exempted from reporting certain housing data to HCD and OPR. San Francisco voluntarily reports data because this data provides a critical resource for both the public and decision-makers to track regional housing outcomes and develop housing goals and policies. In addition, reporting data to the state increases eligibility to receive state funding for housing and open space. In April, the San Francisco Committee on State Legislation voted “support” in order to facilitate housing policy decisions and enforcement of housing related law.

AB 1423 Status: *Passed by the Assembly Local Government Committee and referred to the Committee on Appropriations*

AB 1156, introduced by Assembly Member Phil Ting, would require that Housing Element Annual Progress Reports include a listing of sites rezoned to accommodate that portion of the city or county’s share of RHNA for each income level that cannot be accommodated on the sites identified in the inventory required by existing Housing Element law.

AB 1156 Status: *Passed by Assembly Local Government Committee, read 2nd time, and referred to the Committee on Appropriations*

3. Inclusionary Housing and Rent Control

AB 1505, introduced by Assembly Member Richard Bloom along with Assembly Member David Chiu and Assembly Member Todd Gloria (Senator Scott Weiner and Assembly Member Phil Ting are listed as coauthors), would provide the much-awaited “Palmer Fix”. The Costa-Hawkins Rental Housing Act (1995) prevents the city from placing rent control on new construction, condominiums, tenancy-in-commons, or single family homes. The Palmer decision (2009) expanded the applicability of Costa Hawkins to apply to rents on new affordable units in new rental developments. Taken together, Costa Hawkins and the Palmer decision present a significant challenge to the ability of California cities to create new affordable, rental housing. This bill would restore the ability of local jurisdictions to require inclusionary rental housing on site but otherwise would not change Costa-Hawkins.

AB 1505 Status: *Passed by Assembly Local Government Committee and referred to and passed by the Housing and Community Development Committee, amended and read a second time, ordered to 3rd reading*

AB 1506, introduced by Assembly Member Richard Bloom, Assembly Member David Chiu, and Assembly Member Rob Bonta, would completely repeal the Costa-Hawkins Rental Housing Act that limits application of local rent control on new construction, condominiums, tenancy-in-commons, or single family homes. The repeal of Costa-Hawkins would restore cities’ ability to impose rent-control on all housing types and would also restore vacancy control, allowing cities to restrict how much rents can rise upon vacancy. This bill has much broader implications than the limited changes in AB 1505, which is targeted specifically at restoring cities’ ability to require inclusionary rental units.

AB 1506 Status: *Referred to Assembly Housing and Community Development Committee*

AB 915, introduced by Assembly Member Phil Ting, would require the City and County of San Francisco to subject all of the units in new developments to the city’s affordable inclusionary percentage requirement. This bill would specify that “bonus units” within projects that utilize the state density bonus law are subject to inclusionary requirements unless specifically exempted by the City and County. The bill would not apply to housing developments with an application submitted or processed before January 1, 2018.

AB 915 Status: *Passed by Assembly Housing and Community Development Committee, referred to Committee on Local Government, amended and read 2nd time*

REQUIRED COMMISSION ACTION

None. This item is informational only.

Attachment A:

Summary of State Housing Funding Bills prepared by SFMOHCD

SB 2, “Building Homes and Jobs Act”, introduced by Senator Atkins, would create a much-needed permanent source of funding for housing through imposition of a \$75 recording fee on real estate documents requiring recordation (up to a total of \$225). This fee would generate hundreds of millions of dollars per year for affordable housing of various types and affordability levels. Increased and ongoing funding is essential to meeting the City’s and state’s demand for affordable housing.

SB 3, “The Affordable Housing Bond Act of 2018”, introduced by Senator Beall, would provide \$3 billion through a statewide bond to fund existing critical and successful affordable housing programs, including infill infrastructure, throughout the state. Voter approval is required.

AB 71, “Bring California Home Act”, introduced by Assembly Member Chiu, provides an ongoing state funding source for affordable housing by eliminating the state mortgage interest deduction on vacation homes and redirecting that tax revenue to affordable housing development, specifically as an increase in the state’s low-income housing tax credit to \$300 million per year.

AB 74, “Housing for a Healthy California”, introduced by Assembly Member Chiu, would create the Housing for a Healthy California Program to pay for the cost of housing homeless individuals on Medi-Cal who receive services through the Whole Person Care pilot program, Health Homes, or some other county controlled funding source. AB 74 would provide for both interim housing and long-term rental assistance, without which homeless households cannot be permanently housed.

AB 59, “Local Housing Trust Fund Matching Grant Program,” introduced by Assembly Member Thurmond, raises the allocation of the State’s matching funds to \$5,000,000 for new and to \$2,500,000 for existing local housing trust funds. AB 59 would supplement local revenue for affordable housing development and incentivize more localities to create housing trust funds.