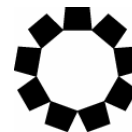


# ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



ABAG

## AGENDA

### LEGISLATION AND GOVERNMENTAL ORGANIZATION COMMITTEE

Thursday, May 18, 2017, 3:30 p.m. to 5:00 p.m.

Location:

Bay Area Metro Center  
Board Room  
375 Beale Street  
San Francisco, California

Committee Members:

Scott Haggerty, Supervisor, County of Alameda—*Chair*  
David Cortese, Supervisor, County of Santa Clara—*Ex officio*  
Dave Hudson, Vice Mayor, City of San Ramon  
Karen Mitchoff, Supervisor, County of Contra Costa  
Julie Pierce, Councilmember, City of Clayton—*Ex officio*  
Harry Price, Mayor, City of Fairfield  
David Rabbitt, Supervisor, County of Sonoma—*Ex officio*  
Greg Scharff, Mayor, City of Palo Alto

*The ABAG Legislation and Governmental Organization Committee may act on any item on this agenda.*

*Agenda and attachments available at <http://abag.ca.gov/meetings/>*

*This meeting is scheduled to be webcast live at <http://abag.ca.gov/meetings/>*

*For information, contact Fred Castro, Clerk of the Board, at (415) 820 7913.*

#### 1. CALL TO ORDER / ROLL CALL / CONFIRM QUORUM

#### 2. PUBLIC COMMENT

INFORMATION

#### 3. COMMITTEE ANNOUNCEMENTS

INFORMATION

## **ABAG Legislation and Governmental Organization Committee**

May 18, 2017

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### **4. APPROVAL OF ABAG LEGISLATION AND GOVERNMENTAL ORGANIZATION COMMITTEE SUMMARY MINUTES OF MEETING ON APRIL 20, 2017**

ACTION

*Attachment: Summary Minutes of April 20, 2017*

### **5. REPORT ON NEW BILLS**

ACTION

Duane Bay, ABAG Assistant Planning and Research Director

[AB 494](#) (Bloom) Land use: accessory dwelling units

[SB 167](#) (Skinner) Housing Accountability Act

### **6. REPORT ON MTC AND ABAG JOINT HOUSING PRINCIPLES**

ACTION

Rebecca Long, MTC Government Relations Manager, and Georgia Gann Dohrmann, MTC Assistant Government Relations Manager

*Attachment: Memo MTC and ABAG Draft Joint Housing Principles; Draft MTC and ABAG Joint Housing Principles*

[AB 686](#) (Santiago) Housing discrimination: affirmatively further fair housing

*Attachments: AB 686 MTC Letter of Opposition Unless Amended; AB 686 Bill Analysis*

### **7. REPORT ON AB 1088 (EGGMAN) MULTIFAMILY RESIDENTIAL HOUSING: ENERGY PROGRAMS**

ACTION

Jenny Berg, ABAG Principal BayREN Program Manager

[AB 1088](#) (Eggman) Multifamily residential housing: energy programs

### **8. REPORT ON LEGISLATION—BILL STATUS UPDATE**

ACTION

Brad Paul, ABAG Acting Executive Director

[AB 18](#) (Garcia) California Clean Water, Climate, and Coastal Protection and Outdoor Access for All Act of 2018

[AB 30](#) (Caballero) ~~Planning and zoning: specific plan: housing~~—Gut and Amend -- Environmental quality: judicial review: strip mall conversion housing projects

[AB 59](#) (Thurmond) Local Housing Trust Fund Matching Grant Program

[AB 71](#) (Chiu) Taxes: credits: Low-income housing: allocation increase

[AB 73](#) (Chiu) Planning and zoning: housing sustainability districts

[AB 74](#) (Chiu) Housing for a Healthy California Program

[AB 184](#) (Berman) Sea level rise planning: databases

[AB 358](#) (Grayson) Regional economic development areas

[AB 890](#) (Medina) Local land use initiatives: environmental review

## **ABAG Legislation and Governmental Organization Committee**

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[AB 915](#) (Ting) Planning and zoning: housing

[AB 932](#) (Ting) Housing: affordable housing

[AB 1086](#) (Daly) Local government: housing

[AB 1397](#) (Low) Local planning: housing element: inventory for land for residential development

[AB 1404](#) (Berman) California Environmental Quality Act: categorical exemption: Infill development

[AB 1423](#) (Chiu) Housing data

[AB 1433](#) (Wood) Climate Adaptation and Resilience Based on Nature Act

[AB 1585](#) (Bloom) Planning and zoning: affordable housing: single application

[SB 2](#) (Atkins) Building Homes and Jobs Act

[SB 3](#) (Beall) Affordable Housing Bond Act of 2018

[SB 5](#) (De Leon) California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018

[SB 35](#) (Wiener) Planning and Zoning: affordable housing: streamlined approval process

[SB 435](#) (Dodd) Williamson Act: payments to local governments

[SB 540](#) (Roth) Workforce Housing Opportunity Zone

[SB 564](#) (McGuire) Joint powers authorities: Water Bill Savings Act

*Attachment: Legislation Summary*

### **9. REPORT ON LEGISLATIVE WORKSHOP AND RECEPTION—HIGHLIGHTS INFORMATION**

#### **10. ADJOURNMENT**

The next meeting of the ABAG Legislation and Governmental Organization Committee will be on July 20, 2017.

Submitted:

/s/ Brad Paul, Acting Executive Director

Date Submitted: May 10, 2017

Date Posted: May 15, 2017

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## SUMMARY MINUTES

ABAG Legislation and Governmental Organization Committee Meeting  
Thursday, April 20, 2017  
Bay Area Metro Center

### 1. CALL TO ORDER / ROLL CALL / CONFIRM QUORUM

ABAG Legislation and Governmental Organization Committee Chair Scott Haggerty, Supervisor, Alameda County, called the meeting of the Legislation and Governmental Organization Committee of the Association of Bay Area Governments to order.

A quorum of the Committee was present.

#### **Members Present:**

**Chair**, Supervisor Scott Haggerty, Alameda County  
Councilmember Julie Pierce, ABAG President, City of Clayton  
Vice Mayor Dave Hudson, City of San Ramon  
Supervisor Karen Mitchoff, Contra Costa County  
Supervisor David Rabbitt, ABAG Vice President, Sonoma County Supervisor

#### *ABAG Staff:*

Brad Paul, Acting Executive Director  
Halimah Anderson, Communications Officer  
Ada Chan, Regional Planner  
Fred Castro, Executive Assistant/Clerk of the Board

#### *MTC Staff:*

Randy Rentschler, Director Legislation and Public Affairs  
Georgia Gann Dohrmann, Assistant Government Relations Manager

### 2. Approval of Minutes from March 16, 2017 Meeting.

Supervisor Karen Mitchoff made a motion to approve the minutes. The motion was seconded by Councilmember Julie Pierce. The meeting minutes were approved (5-0).

### 3. Brad Paul, ABAG Acting Executive Director

- Brad noted that one of the benefits of staff consolidation is combining resources with the MTC Legislation and Public Affairs team and having more staff, and a robust lobbyist to help push bills. He noted that ABAG and MTC are currently working jointly on housing principles.
- Brad presented an update on the status of bills that are currently being tracked by ABAG and committee positions.

- Vice Mayor Hudson noted that AB 358 (Grayson) Regional Economic Development Areas, is an important bill about military bases. Supervisor Mitchoff noted that more information on AB 358 is needed. Councilmember Pierce noted that the concept seems like a good one, but through the Economic Development District, we are working on Economic Development Areas and we want to determine if AB 358 is compatible with current efforts. Supervisor Haggerty requested that staff ask Assemblymember Tim Grayson or his aide to come to a Legislative Committee meeting to provide more information about AB 358.
- Supervisor Mitchoff made a motion to oppose AB 890 (Medina): Local land use initiatives: environmental review. The committee voted to oppose the bill (5-0).

#### **4. Legislative Workshop and Reception**

Staff noted that nine legislators and more than 50 attendees participated in the Legislative Workshop held on Wednesday, March 22, 2017, in Sacramento.

Supervisor Haggerty requested a report on the presentations and discussion items.

Staff noted that a report could be provided at the L&GO Committee Meeting in May.



# ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area

TO: Legislation & Governmental Organization Committee      DATE: May 18, 2017  
FR: Brad Paul, Acting Executive Director  
RE: ABAG and MTC Housing Principles

With more than 130 housing-related bills introduced in the Legislature, California lawmakers are seeking to address the statewide housing crisis this legislative session. As MTC and the Association of Bay Area Governments (ABAG) move toward staff integration, staff from the two agencies have developed a set of principles to serve as joint guidelines to inform evaluation and advocacy of state and federal legislation. The proposed principles for the 2017-18 legislative session are attached for your consideration and approval.

## **Background**

On March 31<sup>st</sup>, MTC and ABAG released the *Draft Plan Bay Area 2040 (Draft Plan)*, a regional roadmap for accommodating projected household and employment growth as well as a transportation investment strategy. The *Draft Plan* includes ambitious targets to support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution in the region. It identifies housing as the Bay Area's greatest immediate challenge. Housing prices – fueled by demand that has far outpaced supply – are pushing residents further away from job centers, degrading the Bay Area's quality of life and contributing to record congestion levels, increased greenhouse gas emissions (GHG). At the same time, the state and federal governments have reduced funding for affordable housing.

The Bay Area must build more housing to create strong, equitable and sustainable communities and maintain the region's position as a leading state and national economic engine. As a path forward, MTC and ABAG incorporated an "Action Plan" into the *Draft Plan* to focus on policy and funding strategies to improve housing affordability in the region, among other issues. As part of this strategy, MTC and ABAG are coordinating on the CASA initiative. Over the coming year, CASA – a multi-sector blue-ribbon committee – will develop recommendations to address the region's chronic housing affordability challenges.

Given that the Legislature will be considering housing-related bills in the near-term, staff recommends MTC and ABAG adopt the proposed principles (Housing Principles) to guide staff evaluation and response to time-sensitive legislation. These joint principles expand on housing provisions in ABAG's 2017 Legislative Priorities and MTC's 2017 Legislative Advocacy Agenda and are consistent with both the goals of the *Draft Plan* and the housing portion of the Action Plan.

The draft Housing Principles have been shared with MTC's Policy Advisory Council and the Housing Subcommittee of the ABAG Regional Planning Committee. Staff incorporated feedback and policy recommendations from both advisory groups into the updated document. In addition, an initial draft was presented at the ABAG Legislation and Governmental Organization (L&GO) Committee on March 15<sup>th</sup>, and at the MTC Legislation Committee on May 12<sup>th</sup>. Staff anticipates that this item will be considered by the ABAG Executive Board and the Commission and at their respective May meetings.

Staff requests the Committee's referral of the attached principles to the Executive Board for approval.

**Attachments:**

- Housing Principles for MTC and ABAG 2017-18 State and Federal Legislative Advocacy
- MTC Memo



**Housing Principles for MTC and ABAG 2017-18 State and Federal Legislative Advocacy**  
*Draft: April 18, 2017*

The Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG) propose the following principles to guide legislative advocacy efforts for the 2017-18 state and federal legislative sessions.

- **Increase funding** – Augment state and federal funding for affordable housing, including resources to plan for new housing in addition to supporting the production and preservation of units. Leverage state investments by rewarding local agencies that raise their own funds. Increased state and federal support will assist local jurisdictions and the region in meeting the daunting need to preserve and create affordable housing.
- **Incentivize production** – Reward progress toward reaching goals to address the housing needs for households across the income spectrum by tying new investments to housing preservation and production, including leveraging state and federal funds to incentivize increasing supply. Incentives could include funding for parks, infrastructure, schools or other investments that support complete communities in growing jurisdictions.
- **Enhance sustainability** – Support approaches that will help the Bay Area meet state and federal air quality and climate change goals, improve resilience to natural hazards, and protect open space, consistent with *Plan Bay Area 2040*.
- **Prioritize infill development** – Support efforts to significantly increase housing production, especially compact, mixed-use development in Bay Area locally-designated priority development areas (PDAs), housing element sites and job centers with access to high-quality transit service.
- **Lower the cost of housing production** – Support reforms to expedite project delivery and reduce production costs without diminishing environmental standards and safeguards. In addition to improving speed and predictability in the production process, support options to reduce the cost of permitting and construction.
- **Limit hurdles** – Projects that conform to community, regional, and state policy should receive permits, be built and get counted. Enforce existing state and federal laws and mandates, including the Housing Accountability Act and RNHA goals, while ensuring local land use authorities continue to set local standards. Reduce monetary and regulatory hurdles to building accessory and secondary dwelling units, tiny houses, and micro units.
- **Preserve affordability and combat displacement** – Support policy outcomes that stabilize or increase equity and socio-economic diversity, including removing State-imposed limits on local ordinances that can protect residents from displacement, build mixed-income neighborhoods, and raise funds for affordability solutions. Preserve existing stock of affordably-priced housing, both deed-restricted and naturally-occurring affordable housing.

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## *Memorandum*

TO: Legislation Committee  
FR: Deputy Executive Director, Policy  
RE: AB 686 (Santiago): Housing Discrimination – Affirmatively Further Fair Housing

DATE: May 5, 2017  
W. I. 1131

### **Background**

In 2015, the Obama Administration adopted an affirmatively further fair housing (AFFH) rulemaking to strengthen compliance with the longstanding obligation for recipients of federal housing funding to advance fair housing goals. The rule requires Department of Housing and Urban Development (HUD) grantees, including 33 Bay Area cities and counties, to incorporate fair housing community planning into HUD-required planning documents and prioritize actions the jurisdiction will take to address impediments to achieving full housing integration within their borders. The Trump Administration has since indicated opposition to the new approach and legislation was introduced (H.R. 482 and S. 103) to nullify the AFFH rule, creating uncertainty over the future of the rule.

In response, Assembly Bill 686 (Santiago) seeks to place the AFFH duty in state law and adds failure to affirmatively further fair housing as a new category of housing discrimination. While the federal AFFH rule applies only to HUD grantees, this bill applies the fair housing obligation to any state, regional or local agency that administers programs and activities related to housing and community development, including MTC and the Association of Bay Area Governments (ABAG). The bill further requires MTC and ABAG to incorporate a fair housing assessment into the Sustainable Communities Strategy (SCS) – the state’s general term for Plan Bay Area 2040 (Plan), the Bay Area’s long-range Regional Transportation Plan (RTP). This provision would require that the SCS include a commitment to take specific meaningful actions to affirmatively further fair housing.

### **Recommendation: Oppose Unless Amended**

#### **Discussion**

AB 686 has the laudable policy goal of furthering fair housing opportunity. MTC supports this policy and does not object to incorporating AFFH into state policy. However, given that regional agencies have no land use authority, the focus on regional planning and the SCS is misplaced. Staff takes issue with the requirement that the SCS take meaningful action in areas over which regional agencies have no enforcement authority. Cities and counties have jurisdiction over land use and housing investment strategies, and therefore it makes sense for them to continue to be responsible for fair housing compliance. This was reinforced in a 2015 update to MTC’s environmental justice analysis for Plan Bay Area which showed that while planned transportation investments equitably benefitted minority and low-income households, there are widespread inequities in other areas including access to fair and affordable housing.

Another cause for concern is the potential conflict of the AFFH requirement with other state policy goals, putting public agencies in a bind and at risk of litigation. For example, California Senate Bill 375 (Steinberg, 2008) requires metropolitan areas to create a SCS that aligns land use and

transportation planning in order to reduce greenhouse gas emissions (GHG). The Plan's core strategy to reduce GHG emissions focuses growth in locally-identified Priority Development Areas (PDAs), or existing neighborhoods served by public transit. This may or may not affirmatively further fair housing. Therefore, the addition of a new state policy objective to the SCS would require a re-evaluation and potential revision of SB 375 to ensure each objective can realistically be reached.

The Plan is already required to meet federal nondiscrimination obligations as a part of the metropolitan transportation planning process, which are incorporated into the Plan through the equity framework. This equity framework has three components: A Title VI analysis of investments to identify any disparate impacts on populations based on race, color or national origin; an environmental justice analysis to identify any adverse impacts on low-income and minority populations or communities of concern; and an equity analysis that assesses benefits of planned investments on communities of concern in comparison to the rest of the region. These obligations provide room for assessing affordable housing and access to opportunity challenges.

Given the lack of enforcement authority at the regional level and potential legal ramifications and conflicts with other state policies, staff recommends an "oppose unless amended" position on AB 686, authorizing staff to pursue an amendment that would eliminate the provisions related to regional planning agencies and the SCS and instead, require a study identifying strategies to better-align HUD-grantee fair housing plans and policies with regional transportation and land use planning.

### Known Positions

#### Support

National Housing Law Project (co-sponsor)  
Public Advocates (co-sponsor)  
Western Center on Law & Poverty (co-sponsor)  
AFSCME  
Alliance of Californians for Community Empowerment  
American Planning Association, California Chapter (*if amended*)  
Bay Area Legal Aid  
California Environmental Justice Alliance  
California Housing Partnership Corporation  
California Reinvestment Coalition  
Communities for a Better Environment  
Courage Campaign  
Disability Rights California  
Enterprise Community Partners  
Equal Justice Society  
Fair Housing Advocates of Northern California  
Fair Housing Council of Orange County  
Grounded Solutions Network  
Human Equity Law Project

#### HERA

Law Foundation of Silicon Valley  
Lawyers' Committee for Civil Rights Under Law  
Legal Aid Association of California  
Legal Aid Foundation of Los Angeles  
Legal Aid Society of San Diego  
Legal Services of Northern California  
Little Tokyo Service Center  
Mission Economic Development Agency  
National Association of Social Workers  
Non-Profit Housing Association of Northern California  
Peace and Freedom Party of California  
Policy Link  
Project Sentinel  
Public Counsel  
Public Interest Law Project  
Tenants Together

#### Opposition

California Association of Councils of Governments

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Alix A. Bockelman

SH:gd

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Date of Hearing: April 25, 2017

ASSEMBLY COMMITTEE ON JUDICIARY  
Mark Stone, Chair  
AB 686 (Santiago) – As Amended April 6, 2017

As Proposed to be Amended

**SUBJECT:** HOUSING DISCRIMINATION: AFFIRMATIVELY FURTHER FAIR HOUSING

**KEY ISSUE:** IN ORDER TO PROMOTE AND PRESERVE THE EXISTING FEDERAL OBLIGATION TO "AFFIRMATIVELY FURTHER FAIR HOUSING" (AFFH), WHICH IS INTENDED TO CREATE EQUAL HOUSING OPPORTUNITIES AND DISMANTLE PATTERNS OF SEGREGATION BUT IS UNDER ATTACK AT THE FEDERAL LEVEL, SHOULD CALIFORNIA'S FAIR EMPLOYMENT AND HOUSING ACT BE AMENDED TO INCLUDE AN EXPLICIT AFFH OBLIGATION IN STATE LAW?

**SYNOPSIS**

*The federal Fair Housing Act of 1968 contains a mandate requiring that federal agencies actively work to dismantle segregation and create equal housing opportunities. This is known as the obligation to “affirmatively further fair housing” (hereafter “AFFH”). In 2015, the Obama Administration issued an AFFH rule that requires states, local governments, and public housing authorities that receive HUD funds to conduct an Assessment of Fair Housing—a planning process with community input—and to affirmatively further fair housing, by taking “meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.” The California Fair Employment and Housing Act (FEHA)-- the state counterpart to the federal FHA--prohibits housing discrimination based upon race, color, religion, sex, and many other protected characteristics, but, perhaps surprisingly, does not explicitly include an AFFH obligation.*

*Considering the stated policies of President Trump and HUD Secretary Ben Carson, however, many advocates have good reason to think that the Department will take steps to nullify or extinguish the AFFH obligation under federal law. Accordingly, in order to preserve an AFFH rule in state law, this bill would add a new section to FEHA, requiring all public agencies in California to administer their programs and activities related to housing and community development in a manner that affirmatively furthers fair housing, and not to take any action inconsistent with that obligation. The bill would also amend FEHA to make the failure of a public agency to comply with its obligation to affirmatively further fair housing a discriminatory housing practice. The bill is supported by a coalition of over 30 community organizations, including legal aid providers and civil rights advocates, who contend that an AFFH obligation is needed in state law to address persistent problems of housing inequity, environmental justice, and the well-documented affordable housing crisis in California. The bill is opposed by the California Association of Councils of Governments (CALCOG), who contend that the scope of the bill is too broad and creates unnecessary liability for public agencies when they take certain actions arguably not intended to be covered by this bill. The sponsors of the bill, including Public Advocates, National Housing Law Project, and Western Center on Law and Poverty, cite several reasons to why the bill will not lead to a flood of new litigation, and contend that the bill*

*provides a great deal of flexibility to public agencies for how to meet their AFFH obligations. Proposed author's amendments to the bill are largely clarifying and technical in nature. This bill previously was approved by the Assembly Housing and Community Development Committee by a 5 to 2 vote, and will next be referred to the Appropriations Committee if it is approved here.*

**SUMMARY:** Establishes an AFFH obligation within FEHA, thus requiring public agencies in California to administer their programs, planning and activities relating to housing and community development in a manner that affirmatively furthers fair housing, as defined. Specifically, **this bill:**

- 1) Requires a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and to not take any action that is inconsistent with this obligation.
- 2) Provides that if a public agency fails to meet its obligation to affirmatively further fair housing, then that failure would constitute housing discrimination under the California Fair Employment and Housing Act (FEHA).
- 3) Provides that the director of the Department of Fair Employment and Housing (DFEH) may exercise his or her discretion to investigate, or to bring a civil action, based on a verified complaint that alleges a violation of the duty to affirmatively further fair housing.
- 4) Defines "affirmatively furthering fair housing" to mean taking meaningful actions, in addition to combating discrimination, that: overcome patterns of segregation; address disparities in housing needs and in access to opportunity based on protected characteristics; promote fair housing choice both within and outside of areas of concentrated poverty; foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics; and that transform racially and ethnically concentrated areas of poverty into areas of opportunity, while protecting existing residents from displacement.
- 5) Defines "meaningful actions" as significant actions that are designed and can be reasonably expected to achieve materially positive change that affirmatively furthers fair housing. Meaningful actions must eliminate or materially ameliorate within a reasonable period of time the impact of significant barriers that restrict access to opportunity, and must be commensurate with the scale of those barriers.
- 6) Requires any public agency required to adopt a housing element or a sustainable communities strategy to include in those plans an analysis of barriers that restrict access to opportunity and a commitment to specific meaningful actions to affirmatively further fair housing.
- 7) Provides that, if a public agency completes or revises an assessment of fair housing pursuant to the federal FHA, the public agency may incorporate relevant portions of that assessment into its housing element or sustainable communities strategy to fulfill the requirement in 6).
- 8) Requires a public agency that completes an assessment of fair housing pursuant to specified provisions of the federal Fair Housing Act (FHA) to also submit a copy of that assessment to the Department of Housing and Community Development (HCD). Requires HCD to post the assessment on its Internet Web site within a reasonable period of time.

- 9) Requires that a sustainable communities strategy prepared by a metropolitan planning organization also include an analysis of barriers that restrict access to opportunity and include a commitment to specific meaningful actions to affirmatively further fair housing.
- 10) Requires that an assessment of housing needs and an inventory of resources and constraints, which is a required part of a housing element, also include an analysis of barriers that restrict access to opportunity and include a commitment to specific meaningful actions to affirmatively further fair housing.

**EXISTING FEDERAL LAW:**

- 1) Requires all executive branch departments and agencies administering housing and urban development programs and activities to administer these programs in a manner that affirmatively furthers fair housing. (42 U.S.C. § 3608.)
- 2) Requires that United States Department of Housing and Urban Development (HUD) programs and activities be administered in a manner affirmatively furthering the policies of the FHA. (42 U.S.C. § 3608.)
- 3) Requires specified state and local agencies that contract with, or receive funding from, HUD to certify that they will affirmatively further fair housing by completing an assessment of fair housing and submitting that assessment to HUD. (42 U.S.C. § 3608.)

**EXISTING STATE LAW:**

- 4) Declares it to be against public policy the practice of discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information; and that every person has a civil right to be given the opportunity to seek, obtain, or hold employment and housing without facing discrimination based on these protected classes. (Government Code Sections 12920 and 12921. All further references are to this code unless otherwise stated.)
- 5) Declares it unlawful, pursuant to FEHA, for any housing accommodation owner to inquire about; make known any preference or limitation as to; discriminate; or harass a person based on the person's race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information. (Section 12955, subd. (a) to (c).)
- 6) Prohibits discrimination through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law that make housing opportunities unavailable. (Section 12955(l).)
- 7) Establishes DFEH in the Business, Consumer Services, and Housing Agency with the powers and duties to, among other things, receive, investigate, and conciliate complaints relating to housing discrimination. (Sections 12901 and 12930.)

- 8) Requires every city and county to prepare and adopt a general plan containing seven mandatory elements, including a housing element. (Sections 65300 and 65302.)
- 9) Requires a jurisdiction's housing element to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. (Section 65583.)
- 10) Requires a Metropolitan Planning Organization to include, within its Regional Transportation Plan, a Sustainable Communities Strategy designed to achieve specific targets for greenhouse gas reduction. (Section 65080.)

**FISCAL EFFECT:** As currently in print this bill is keyed fiscal.

**COMMENTS:** Existing federal law, the Fair Housing Act (FHA), prohibits discrimination in the rental, sale, or financing of housing on the basis of race, color, national origin, religion, sex, family status, and/or disability. The FHA requires the U.S. Department of Housing and Urban Development (HUD), and other federal agencies, to administer their “programs and activities relating to housing and urban development...in a manner affirmatively to further” the purposes of the FHA—known as the "affirmatively furthering fair housing" (AFFH) obligation. HUD passes on this affirmative duty to all states, local governments, and public housing authorities that receive HUD funding.

According to the author, the AFFH obligation was largely overlooked historically, contributing to the perpetuation of patterns of segregation and of disinvestment in communities of color—ironically, issues that the FHA was meant to address. In 2015, however, the Obama administration reinvigorated the AFFH obligation through a new Affirmatively Furthering Fair Housing regulation (“AFFH Rule”). This rule requires certain HUD grantees to conduct an Assessment of Fair Housing—a planning process with community input. According to HUD, the rule will “help communities analyze challenges to fair housing choice and...address the fair housing barriers in their community.” (See [https://www.huduser.gov/portal/affht\\_pt.html](https://www.huduser.gov/portal/affht_pt.html).)

The California counterpart to the federal FHA—known as the Fair Employment and Housing Act (FEHA)—prohibits housing discrimination based upon race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information (Govt. Code Section 12920) but does not explicitly include an AFFH obligation.

***This bill is needed to establish the AFFH obligation in state law, particularly because it may be nullified at the federal level under the Trump administration.*** This bill seeks to amend FEHA to explicitly include an AFFH obligation under state law, and makes a number of conforming changes to provide guidance to local governments and planning agencies on how to comply with the obligation. According to the author, this bill is needed to protect fair housing policy because of troubling indications at the federal level that either HUD, under Trump appointee Ben Carson, or Congress will act to effectively nullify AFFH obligations under federal law. Earlier this year, Republican members of Congress introduced the "Local Zoning Decisions Protection Act of 2017" (H.R. 482 and S. 103), legislation that would nullify the AFFH rule and the Assessment Tools associated with the rule, and would also prohibit federal funds from being used for the HUD database containing geospatial information regarding community racial disparities and disparities in access to affordable housing. In addition, in a 2015 opinion piece



written before he was appointed Secretary of HUD by President Trump, Ben Carson mischaracterized and derided the Obama Administration's 2015 AFFH rule as an example of "social-engineering." (Ben Carson, *Experimenting with failed socialism again*, Washington Times (July 23, 2015).) Under Secretary Carson's leadership, there is good reason to think that HUD will take steps to undo or at least undercut the AFFH obligation under federal law.

***Requiring public agencies to affirmatively further fair housing.*** The bill would add a new section to FEHA, requiring all public agencies in California to administer their programs and activities related to housing and community development in a manner that affirmatively furthers fair housing, and to take no action that is inconsistent with that obligation. The bill would also amend FEHA (Section 12955, articulating prohibited forms of discrimination) to make the failure of a public agency to comply with its obligation to affirmatively further fair housing a discriminatory housing practice. The bill's definition of "affirmatively further fair housing" is drawn from the Federal Fair Housing Act and the 2015 AFFH rule; which specifically defined it as follows:

Taking meaningful actions, in addition to combating discrimination, that: overcome patterns of segregation; address disparities in housing needs and in access to opportunity based on protected characteristics; promote fair housing choice both within and outside of areas of concentrated poverty; foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics; and that transform racially and ethnically concentrated areas of poverty into areas of opportunity, while protecting existing residents from displacement.

The bill also provides definitions for key concepts such as "meaningful actions" and "barriers that restrict access to opportunity."

The bill is opposed by the California Association of Councils of Governments (CALCOG), who disagree with the premise that equates failure of a public agency to "affirmatively further fair housing" to a "discriminatory housing practice." CALCOG writes:

The problem is that state law often mandates public agencies to take specific actions that are likely to fall under this bill's overly broad and ambiguous definitions. Thus, there will be many instances where a public agency is mandated to further another state policy goal that may be "inconsistent with this obligation" to "affirmatively further fair housing" . . . There are many provisions in state and federal law that require regional agencies to take actions related to protecting the traveling public and pedestrian safety, reducing congestion, fostering the movement of goods, improving air quality, and reducing greenhouse gas emissions. [E]ach one of these individual actions could easily be swept up in the overly broad scope of AB 686.

Proponents of the bill, including the National Housing Law Project, contend that the bill provides leeway for public agencies to meet their AFFH obligations, depending on local context. They disagree with CALCOG's implication that a particular action taken by a public agency in furtherance of a different state policy (say, greenhouse gas reduction) necessarily means that action will qualify as a failure to affirmatively further fair housing under the current version of the bill. Public Advocates explains, "There is not a fundamental conflict between environmental, transportation, and social equity or civil rights objectives. In fact, there are multiple examples of policies that promote all of these objectives together, including expenditures from the

Greenhouse Gas Reduction Fund, which includes the Affordable Housing Sustainable Communities (AHSC) program."

**Consideration of AFFH in the planning sphere.** AB 686 includes a planning component that requires consideration of the duty to affirmatively further fair housing in two specific contexts. For public agencies that adopt a Housing Element (pursuant to Section 65583) or a Sustainable Communities Strategy (pursuant to Section 65080), the bill requires the inclusion within those plans: (1) an analysis of barriers that restrict access to opportunity; and (2) a commitment to specific meaningful actions to affirmatively further fair housing (hereafter "12958(c) inclusion requirement.") According to proponents, public agencies that are completing either a Housing Element or Sustainable Communities Strategy will already be analyzing fair housing barriers as part of these planning processes, and if the agency is not affirmatively furthering fair housing, then it is the intent of this bill that these planning processes now help identify that fact for the agency. Additionally, the requirement that public agencies, when completing these planning documents, also commit to specific meaningful actions to affirmatively further fair housing will force these agencies to consider how to address existing barriers that restrict access to opportunity.

To the extent that a public agency completes or revises an Assessment of Fair Housing in accordance with HUD's current AFFH Rule, the bill allows the agency to "incorporate relevant portions" of the assessment or revised assessment into its Housing Element or Sustainable Communities Strategy in order to comply with the bill's planning requirement. According to the author, this ability to incorporate and use portions of the federal Assessment, which agencies are already doing to comply with the federal AFFH rule, will help avoid duplicative planning efforts by an agency and conserve its resources.

**Proposed author's amendments** to the bill clarify that while an agency may incorporate portions of its federal Assessment of Fair Housing into its Housing Element or Sustainable Communities Strategy to fulfill the 12958(c) inclusion requirement, such incorporation does not create a presumption that the assessment of fair housing satisfies the requirement to affirmatively further fair housing. The amendment is the following:

On page 10, line 14, insert after the period: "This does not create a presumption that the assessment of fair housing or a revised assessment of fair housing meets the requirements of Section 12958, Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7, or Section 65080."

Another **proposed author's amendment** updates a provision in the planning and implementation component of the housing element law to reflect the new AFFH requirement established by this bill. The amendment is:

On page 29, line 5, after "disability", insert: "and affirmatively further fair housing pursuant to Section 12958"

**Requirement for simultaneous submission of federal Assessments to DFEH.** As long as HUD funding recipients are submitting their Assessments of Fair Housing to HUD, the bill would require simultaneous submission of these assessments (or revised assessments) to DFEH for publication on its website within a reasonable timeframe. According to the author, this requirement is a deliberate attempt to guard against future purging or depublishing of data by the federal government, which some believe may occur under the current Secretary of HUD.

This would not, however, require DFEH to review, certify, or otherwise oversee the Assessment of Fair Housing process, which would remain a federal role.

***Enforcement of AFFH obligations.*** As previously described, the bill amends FEHA (Section 12955) to make the failure of a public agency to comply with its obligation to affirmatively further fair housing a discriminatory housing practice. The bill provides that the director of DFEH "may exercise his or her discretion to investigate, or to bring a civil action, based on a verified complaint that alleges a violation" of the AFFH obligation. According to the author, discussions with DFEH highlighted that the department has limited capacity to investigate what often are very fact-intensive claims. As a result, the most recent amendments to the bill provide the DFEH director with the discretion to investigate or bring a lawsuit, rather than a mandate. According to the author, "permitting this discretion is intended to provide DFEH with flexibility to take into consideration its own resources when evaluating whether to investigate or file a civil action in response to an AFFH complaint." Finally, a **proposed author's amendment**, suggested by DFEH, makes a small technical change to promote the use of gender-neutral terminology with FEHA. The amendment is:

On page 6, line 39, strike "his or her"

***Wave of New Litigation?*** CALCOG contends that the bill is likely to "result in a wave of new litigation . . . particularly because the plaintiff need only make a basic evidentiary showing before the burden of proof shifts to the public agency. As a result, we would anticipate that the broad sweeping terms and ambiguities included in this language will disrupt many of the transportation and climate goals in which regional agencies and branches of state government are responsible." The American Planning Association, California Chapter (APA) has taken a position of "support if amended" to narrow the bill to more closely reflect federal AFFH requirements. However, APA also expresses litigation concerns, similar to CALCOG, that the bill "would still allow almost any action related to land use or housing to be challenged as not 'affirmatively furthering fair housing.'"

Proponents dispute the charge that the bill will result in a wave of new litigation. CALCOG contends this bill could be used, for example, to challenge the Strategic Growth Council's administration of the Affordable Housing Sustainable Communities (AHSC) program as a "discriminatory housing practice" because it is inconsistent with the obligation to affirmatively further fair housing. In response, Public Advocates notes that federal law already requires many state agencies to affirmatively further fair housing as a condition of receiving HUD funding (See, e.g., 42 U.S.C. § 5304(b)(2), providing that states and local governments that receive HUD Community Development Block Grant funds must certify that they will affirmatively further fair housing). According to proponents, this obligation applies to the AHSC program, and therefore a party wishing to challenge the AHSC program for failing to affirmatively further fair housing would already be able to do so under existing law by filing a complaint with HUD. They state: "Such a complaint could jeopardize tens or hundreds of millions of dollars in federal funding received by the state, a severe and meaningful penalty, and one that likely exceeds any judicial remedy that would be available under AB 686."

Proponents also discount the likelihood that the bill would result in a significant amount of new litigation for several reasons. First, as a practical matter, proponents contend that AFFH claims will generally take the form of additional claims in litigation, such as a disparate impact claim under the Fair Housing Act or FEHA, or as a claim brought under other civil rights laws; in other

words, not "new" litigation, but additional claims to litigation that is already being brought. Next, they contend that significant new litigation is unlikely because fair housing and land use cases are particularly time-consuming and complex for plaintiffs' attorneys. By their own estimate, they contend there are likely fewer than 50 lawyers in the state who litigate these types of cases, many in the nonprofit legal services sector. According to their legal research, proponents estimate that *in the last 49 years*, only about 200 legal cases were brought statewide under the federal AFFH requirement—again, a likely reflection of the complexity of those cases and the difficulty in preparing such litigation.

**ARGUMENTS IN SUPPORT:** The bill is supported by a coalition of over 30 community organizations, including legal aid providers and civil rights advocates. Even if the fate of the AFFH rule were not so uncertain at the federal level, these proponents contend that, in any case, an AFFH obligation in state law is needed to address persistent problems of housing inequity, environmental justice, and the well-documented affordable housing crisis in California. For example, Housing and Economic Rights Advocates writes in support:

California has a long way to go in fulfilling the promise of AFFH. Historic patterns of segregation persist and many people of color live in neighborhoods with severe environmental health burdens. Displacement and disinvestment threaten the stability of low-income communities. The statewide affordable housing crisis is especially acute for people of color. African-American households are about twice as likely to spend more than 50 percent of their income on housing compared to white households, and Latino households are also over-paying at dramatic rates. This leaves them vulnerable to homelessness and unable to afford necessities like food, healthcare, and transportation.

AB 686 would play a key role in tackling issues of segregation and inclusion, as well as displacement and disinvestment in low-income communities—particularly communities of color. In stark contrast to the threats to fair housing and civil rights at the national level, California must reaffirm its commitment to inclusive communities and access to opportunity for all of its residents.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

National Housing Law Project (co-sponsor)  
 Public Advocates (co-sponsor)  
 Western Center on Law & Poverty (co-sponsor)  
 AFSCME  
 Alliance of Californians for Community Empowerment (ACCE)  
 Bay Area Legal Aid  
 California Environmental Justice Alliance  
 California Housing Partnership Corporation  
 California Reinvestment Coalition  
 Communities for a Better Environment  
 Courage Campaign  
 Disability Rights California  
 Enterprise Community Partners  
 Equal Justice Society

Fair Housing Advocates of Northern California  
Fair Housing Council of Orange County  
Grounded Solutions Network  
Human Equality law Project (HELP)  
Housing and Economic Rights Advocates (HERA)  
Law Foundation of Silicon Valley  
Lawyers' Committee for Civil Rights Under Law  
Leadership Counsel for Justice and Accountability  
Legal Aid Association of California (LAAC)  
Legal Aid Foundation of Los Angeles  
Legal Aid Society of San Diego  
Legal Services of Northern California  
Little Tokyo Service Center  
Mission Economic Development Agency  
National Association of Social Workers (NASW)  
Non-Profit Housing Association of Northern California  
Peace and Freedom Party of California  
Policy Link  
Project Sentinel  
Public Counsel  
Public Interest Law Project  
Tenants Together

**Support (if amended)**

American Planning Association, California Chapter

**Opposition**

California Association of Councils of Governments (CALCOG)

**Analysis Prepared by:** Anthony Lew / JUD. / (916) 319-2334

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ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area

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**LEGISLATION SUMMARY**  
**2017 State Legislative Session**  
**Legislation & Governmental Organization Committee**  
**May 18, 2017**

Bill Number	Current Text	Status	Summary	ABAG Recom.	Positions: League CSAC MTC	L&GO Position
<a href="#">AB 494</a> (Bloom)	Amended 3/28	Assembly third reading 5/4	<b>Land use: accessory dwelling units.</b> The Planning and Zoning Law authorizes a local agency to provide by ordinance for the creation of accessory dwelling units in single-family and multifamily residential zones, as specified. That law requires the ordinance to require the accessory dwelling unit to comply with certain conditions, including, but not limited to, that the accessory dwelling unit is not intended for sale separate from the primary residence and may be rented. This bill would revise that condition to provide that the accessory dwelling unit may be rented separately from the primary residence. This bill contains other related provisions and other existing laws.	ABAG= Watch	League = watch  CSAC= watch  MTC= tracking	
<a href="#">SB 167</a> (Skinner)	Amended 3/9	Set for hearing in Senate Judiciary 5/2	<b>Housing Accountability Act.</b> The Housing Accountability Act, among other things, prohibits a local agency from disapproving, or conditioning approval in a manner than renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based upon substantial evidence in the record. This bill would require the findings of the local agency to instead be based on clear and convincing evidence in the record. This bill contains other related provisions and other existing laws.	ABAG= Watch	League = oppose  CSAC= oppose  MTC= no position	
<a href="#">AB 686</a> (Santiago)	Amended 4/27	Assembly Appr. 4/27	<b>Housing discrimination: affirmatively further fair housing.</b> Would require a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and to not take any action that is inconsistent with this obligation. The bill would make it unlawful under the California Fair Employment and Housing Act for a public agency to fail to meet its obligation to affirmatively further fair housing, and would provide that failure would constitute housing discrimination under the act.	ABAG= Watch	League= watch  CSAC= pending  MTC= oppose unless amended	

Bill Number	Current Text	Status	Summary	ABAG Recom.	Positions: League CSAC MTC	L&GO Position
<a href="#">AB 1088</a> (Eggman)	Amended 5/2	Assembly Approp. 5/2	<b>Multifamily residential housing: energy programs.</b> The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires the Energy Commission to carry out studies, technical assessments, research projects, and data collection directed to reducing wasteful, inefficient, unnecessary, or uneconomic uses of energy. This bill would require the Energy Commission, by January 1, 2020, and in consultation with relevant state agencies and the public, to establish nonbinding statewide goals for reducing energy consumption and emissions of greenhouse gases from multifamily residential properties by January 1, 2030, taking into consideration the state's requirements for reducing emissions of greenhouse gases and the climate equity, doubling of energy efficiency, and increased use of renewable energy resources requirements set forth in the Clean Energy and Pollution Reduction Act of 2015.	ABAG= Support	League= watch  CSAC= watch  MTC= tracking	
<a href="#">AB 18</a> (Garcia)	Amended 2/23	Senate Desk 3/20	<b>California Clean Water, Climate, and Coastal Protection and Outdoor Access for All Act of 2018.</b> Under existing law, programs have been established pursuant to bond acts for, among other things, the development and enhancement of state and local parks and recreational facilities. This bill would enact the California Clean Water, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, which, if approved by the voters, would authorize the issuance of bonds in an amount of \$3,105,000,000 pursuant to the State General Obligation Bond Law to finance a clean water, climate, coastal protection, and outdoor access for all program. This bill contains other related provisions.	ABAG= Support	League= support  CSAC= pending  MTC= tracking	Support
<a href="#">AB 30</a> (Caballero)	Gut and Amended 4/3	Assembly Natural Resources	<del>Planning and zoning: specific plan: housing: Gut and Amend 4/3</del> <b>Environmental quality: judicial review: strip mall conversion housing projects.</b> The Planning and Zoning Law requires a county or city to prepare and adopt a comprehensive, long-term general plan for the physical development of the county or city. This bill would authorize a legislative body of a city or county to identify an area of underperforming infill and direct the planning agency to prepare a specific plan, in accordance with the described provisions and specified additional procedures, to provide for immediate development within that area. The bill would require the specific plan to make certain findings relating to the need for affordable housing and to designate the specific plan area as an overlay zone in which development is permitted by right. The bill would require the legislative body to conduct at least one public hearing before approving a specific plan pursuant to these provisions.	ABAG= Watch	League= watch  CSAC= watch  MTC= tracking	
<a href="#">AB 59</a> (Thurmond)	Introduced 12/07 2-year bill	Referred to Assembly Committee on Housing and Community Dev. 1/19	<b>Local Housing Trust Fund Matching Grant Program.</b> This bill would recast these provisions to instead authorize the department to make grants to eligible recipients, defined as cities that meet specified criteria and charitable nonprofit organizations organized under certain provisions of the Internal Revenue Code that apply jointly with a qualifying city, that have created or are operating or will operate housing trust funds. The bill would increase the maximum allocation for an eligible recipient to \$5,000,000. The bill would also provide that an eligible recipient would not be required to provide matching funds if the eligible recipient is suffering a hardship, as determined by the Department of Finance.	ABAG= Watch	League = watch  CSAC = watch  MTC= tracking	Watch



Bill Number	Current Text	Status	Summary	ABAG Recom.	Positions: League CSAC MTC	L&GO Position
<a href="#">AB 71</a> (Chiu)	Amended 3/2	Re-referred to Assembly Committee on Revenue and Taxation 3/8	<b>Taxes: credits: Low-income housing: allocation increase.</b> Income taxes: credits: low-income housing: farmworker housing. Would, under the law governing the taxation of insurers, the Personal Income Tax Law, and the Corporation Tax Law, for calendar years beginning in 2018, increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects to \$300,000,000, as specified, and would allocate to farmworker housing projects \$25,000,000 per year of that amount. The bill would delete that special needs exception and authorization to request state credits provided the applicant is not requesting a 130% basis adjustment for purposes of the federal credit amount.	ABAG= Watch	League = watch  CSAC = watch  MTC= support	Watch
<a href="#">AB 73</a> (Chiu)	Amended 5/2	Assembly Approp. 5/2	<b>Planning and zoning: housing sustainability districts.</b> Would authorize a city, county, or city and county, including a charter city, charter county, or charter city and county, to establish by ordinance a housing sustainability district that meets specified requirements, including authorizing residential use within the district through the ministerial issuance of a permit. The bill would authorize the city, county, or city and county to apply to the Office of Planning and Research for approval for a zoning incentive payment and require the city, county, or city and county to provide specified information about the proposed housing sustainability district ordinance.	ABAG= Watch	League = no position  CSAC = pending  MTC = tracking	Watch
<a href="#">AB 74</a> (Chiu)	Introduced 12/16	Assembly Approp. 3/21	<b>Housing for a Healthy California Program.</b> This bill would require HCD to, on or before October 1, 2018, establish the Housing for a Healthy California Program and on or before April 1, 2019, and every year thereafter, subject to on appropriation by the Legislature, award grants on a competitive basis to eligible grant applicants based on guidelines that HCD would draft, as prescribed, and other requirements. The bill would provide that an applicant is eligible for a grant under the program if the applicant meets specified requirements, including that the applicant identify a source of funding, as specified, agree to contribute funding for interim and long-term rental assistance, and agree to collect and report data, as specified. The bill would require an applicant awarded a grant to use the funds for specified purposes, including long-term rental assistance and interim housing.	ABAG= Watch	League= watch  CSAC= watch  MTC= tracking	
<a href="#">AB 184</a> (Berman)	Introduced 1/19	Senate Desk 4/27	<b>Sea level rise planning: databases.</b> Existing law requires the Natural Resources Agency, in collaboration with the Ocean Protection Council, to create, update biannually, and post on an Internet Web site a Planning for Sea Level Rise Database describing steps being taken throughout the state to prepare for, and adapt to, sea level rise. Existing law further requires that various public agencies and private entities provide to the agency, on a biannual basis, sea level rise planning information, as defined, that is under the control or jurisdiction of the public agencies or private entities, and requires the agency to determine the information necessary for inclusion in the database, as prescribed. Existing law repeals these provisions on January 1, 2018.	ABAG= Support	League= watch  CSAC= support  MTC= no position	

Bill Number	Current Text	Status	Summary	ABAG Recom.	Positions: League CSAC MTC	L&GO Position
<a href="#">AB 358</a> (Grayson)	Amended 3/30 2-year bill	Assembly 2-year Bill 4/28	<p><b>Regional economic development areas.</b> The Military Base Reuse Authority Act authorizes counties and cities located wholly or partly within the boundaries of a military base to establish a military base reuse authority to prepare, adopt, finance, and implement a plan for the future use and development of the territory occupied by the military base. This bill would create the Regional Economic Development Area Act, which would authorize a city, county, or city and county to designate an area within the city, county, or city and county that includes an active or inactive military base and up to ___ square miles surrounding the military base as a regional economic development area, and submit that area to the Governor's Office of Business and Economic Development for certification. The bill would provide that a regional economic development area certified pursuant to these provisions would receive priority for any grant of funds from a state agency for projects within that regional economic development area. The bill would require the Governor's Office of Business and Economic Development to adopt regulations for the implementation of these provisions.</p>	ABAG= Watch	League = watch  CSAC = pending  MTC= no position	Watch
<a href="#">AB 890</a> (Medina)	Amended 4/18	Assembly Approp. 4/25	<p><b>Local land use initiatives: environmental review.</b> The California Constitution authorizes the electors of each city and county to exercise the powers of initiative and referendum under procedures provided by the Legislature. Pursuant to that authority, existing law authorizes a proposed ordinance to be submitted to the appropriate elections official and requires the elections official to forward the proposed ordinance to appropriate counsel for preparation of a ballot title and summary. This bill would require a proponent of a proposed initiative ordinance, at the time he or she files a copy of the proposed initiative ordinance for preparation of a ballot title and summary with the appropriate elections official, to also request that an environmental review of the proposed initiative ordinance be conducted by the appropriate planning department, as specified. The bill would require the elections official to notify the proponent of the result of the environmental review. The bill would require the county board of supervisors, legislative body of a city, or governing board of a district, if the initiative ordinance proposes an activity that may have a significant effect on the environment, as specified, to order that an environmental impact report or mitigated negative declaration of the proposed ordinance be prepared. Once the environmental impact report or mitigated negative declaration has been prepared, the bill would require the governing body to hold a public hearing and either approve or deny the proposed ordinance, instead of allowing the proposed ordinance to be submitted to the voters. This bill contains other related provisions and other existing laws.</p>	ABAG= Oppose	League = oppose  CSAC = oppose  MTC = no position	Oppose

Bill Number	Current Text	Status	Summary	ABAG Recom.	Positions: League CSAC MTC	L&GO Position
<a href="#">AB 915</a> (Ting)	Amended 5/2	Assembly Local Gov. Committee 4/26	<b>Planning and zoning: housing.</b> The Planning and Zoning Law requires, when an applicant proposes a housing development within the jurisdiction of a local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or for the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents. This bill would require the City and County of San Francisco, if it has adopted an ordinance requiring an affordable housing minimum percentage for housing developments, to apply that ordinance to the total number of housing units in the development, including any additional housing units granted pursuant to these provisions, unless the city and county exempts those additional housing units from the ordinance. The bill would provide that it would not apply to an applicant seeking a density bonus for a proposed housing development if his or her application was submitted to, or processed by, the City and County of San Francisco before January 1, 2018.	ABAG= Watch	League= watch  CSAC= watch  MTC= tracking	
<a href="#">AB 932</a> (Ting)	Amended 4/19	Assembly Approp. 4/25	<b>Housing: affordable housing.</b> Existing law authorizes a governing body of a political subdivision, as defined, to declare a shelter crisis if the governing body makes a specified finding. This bill, until January 1, 2027, upon a declaration of a shelter crisis by the City and County of San Francisco, would authorize emergency housing to include homeless shelters and permanent supportive housing in the City and County of San Francisco. The bill, in lieu of compliance with state and local building, housing, health, habitability, planning and zoning, or safety standards, procedures, and laws, would authorize the City and County of San Francisco to adopt by ordinance reasonable local standards for homeless shelters and permanent supportive housing, as specified. The bill would require the Department of Housing and Community Development to review the draft ordinance to ensure it addresses minimum health and safety standards and to provide its findings to committees of the Legislature, as provided. The bill would require the City and County of San Francisco to develop a plan to address the shelter crisis, as specified. The bill would further require the City and County of San Francisco to annually report to the committees of the Legislature specific information on homeless shelters and permanent supportive housing, including, among other information, through January 1, 2027.	ABAG= Watch	League= watch  CSAC= watch  MTC= tracking	
<a href="#">AB 1086</a> (Daly)	Amended 5/1	Assembly Approp. 5/1	<b>Local government: housing.</b> Existing law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. The assessment includes the locality's share of the regional housing need. That share is determined by the appropriate council of governments, subject to revision by the Department of Housing and Community Development. This bill would express the intent of the Legislature to enact legislation that would provide additional funding for parks or other financial incentives to local agencies that meet their share of the regional housing need.	ABAG= Watch	League= watch  CSAC= watch  MTC= no position	

Bill Number	Current Text	Status	Summary	ABAG Recom.	Positions: League CSAC MTC	L&GO Position
<a href="#">AB 1397</a> (Low)	Amended 4/20	Assembly Approp. 4/26	<b>Local planning: housing element: inventory for land for residential development.</b> Would revise the inventory of land suitable for residential development to include vacant sites and sites that have realistic and demonstrated potential for redevelopment to meet a portion of the locality's housing need for a designated income level. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.	ABAG= Watch	League= oppose  CSAC= concerns  MTC= tracking	Watch
<a href="#">AB 1404</a> (Berman)	Amended 4/17	Assembly Approp. Suspense File 5/3	<b>California Environmental Quality Act: categorical exemption: Infill development.</b> The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA requires the Office of Planning and Research to prepare and develop, and the Secretary of the Natural Resources Agency to certify and adopt, guidelines for the implementation of CEQA. CEQA requires the guidelines to include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from CEQA (categorical exemption). Existing guidelines for the implementation of CEQA exempts from the requirements of CEQA infill development meeting certain requirements, including the requirement that the proposed development occurs within city limits. This bill would expand the above-categorical exemption to include proposed developments occurring within the unincorporated areas of a county. Because a lead agency would be required to determine the applicability of this exemption, this bill would impose a state-mandated local program.	ABAG= Watch	League= watch  CSAC= support  MTC= no position	
<a href="#">AB 1423</a> (Chiu)	Amended 3/28	Assembly Local Governme nt 4/27	<b>Housing data.</b> The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law provides for various reforms and incentives intended to facilitate and expedite the construction of affordable housing. This bill would declare the intent of the Legislature to enact legislation that would fund measures to provide for accessible housing-related data and would make legislative findings and declarations in support of that intent.	ABAG= Watch	League= watch  CSAC = watch  MTC = tracking	Watch and Seek Amend.

Bill Number	Current Text	Status	Summary	ABAG Recom.	Positions: League CSAC MTC	L&GO Position
<a href="#">AB 1433</a> (Wood)	Amended 4/27	Assembly Approp. 4/27	<p><b>Climate Adaptation and Resilience Based on Nature Act.</b>  The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms. This bill would create the Climate Adaptation and Resilience Based on Nature Account in the Greenhouse Gas Reduction Fund and would transfer, beginning in the 2017–18 fiscal year, 20% of the annual proceeds of the fund to the account. The bill would, upon appropriation by the Legislature in the annual Budget Act, make available the moneys in the account to the Wildlife Conservation Board for grants and programs that facilitate actions to protect and improve the resilience of natural systems and to reduce emissions of greenhouse gases.</p>	ABAG= Watch	League= watch  CSAC= pending  MTC= tracking	
<a href="#">AB 1585</a> (Bloom)	Amended 4/20 2-year Bill	Assembly 2-year	<p><b>Planning and zoning: affordable housing: single application.</b>  The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law provides for various reforms and incentives intended to facilitate and expedite the construction of affordable housing. Existing law requires the Department of Housing and Community Development, in consultation with each council of governments, to determine existing and projected needs for housing for each region and requires each council of governments or, for cities and counties without a council of governments, the department to adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county and is consistent with specified objectives. This bill would establish in each city, county, and city and county in the state an affordable housing zoning board and procedures by which a public agency or nonprofit organization proposing to build affordable housing units, as defined, or a developer proposing to build a housing project that meets specified affordability criteria, could submit to that board a single application for a comprehensive conditional use or other discretionary permit. The bill would require the board to conduct a public hearing, as provided, and issue a decision approving, approving with conditions, or denying the application and to issue a comprehensive permit if the application is approved or approved with conditions. The bill would require the board to consider the general plan and zoning ordinances of the affected local agency, the share of the regional housing needs of the affected local agency, whether the applicant has made specified certifications relating to the payment of prevailing wages and employment of a skilled and trained workforce, as provided, on the affordable housing units or housing project development, documents or other evidence presented at the hearing, and the recommendations of experts or consultants, if any, retained by the board. The bill would provide that the comprehensive permit would have the same force and effect as a conditional use or other discretionary permit issued by an affected local agency, but would prohibit the board from abrogating a provision of the general plan or zoning ordinances of the affected local agency except to grant a density bonus, as provided.</p>	ABAG= Watch	League= oppose  CSAC= oppose  MTC= tracking	

Bill Number	Current Text	Status	Summary	ABAG Recom.	Positions: League CSAC MTC	L&GO Position
<a href="#">SB 2</a> (Atkins)	Amended 3/23	Senate Appr. suspense file 4/3	<b>Building Homes and Jobs Act.</b> Would enact the Building Homes and Jobs Act. The bill would make legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded, per each single transaction per single parcel of real property, not to exceed \$225.	ABAG= Watch	League = support  CSAC = support  MTC = support	Watch
<a href="#">SB 3</a> (Beall)	Amended 3/28	Senate Appr. suspense file 4/3	<b>Affordable Housing Bond Act of 2018.</b> Would enact the Affordable Housing Bond Act of 2018, which, if adopted, would authorize the issuance of bonds in the amount of \$3,000,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds would be used to finance various existing housing programs, as well as infill infrastructure financing and affordable housing matching grant programs, as provided.	ABAG= Support	League= Support  CSAC = support  MTC= support	Support
<a href="#">SB 5</a> (De Leon)	Amended 3/28	Senate Approp. 3/28	<b>California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018.</b> This bill would enact the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, which, if approved by the voters, would authorize the issuance of bonds in an amount of \$3,000,000,000 pursuant to the State General Obligation Bond Law to finance a drought, water, parks, climate, coastal protection, and outdoor access for all program. The bill would provide for the submission of these provisions to the voters at the June 5, 2018, statewide primary direct election.	ABAG= Support	League= watch  CSAC= pending  MTC= tracking	Support
<a href="#">SB 35</a> (Wiener)	Amended 4/4	Senate Approp. 5/1	<b>Planning and Zoning: affordable housing: streamlined approval process.</b> The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. The Planning and Zoning Law requires a planning agency, after a legislative body has adopted all or part of a general plan, to provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the general plan and progress in meeting the community's share of regional housing needs. This bill would require the planning agency to include in its annual report specified information regarding units of housing, including rental housing and housing designated for homeownership, that have secured all approvals from the local government and special districts needed to qualify for a building permit. The bill would also require the Department of Housing and Community Development to post an annual report submitted pursuant to the requirement described above on its Internet Web site, as provided.	ABAG= Watch	League = oppose  CSAC = oppose unless amended  MTC= tracking	Watch



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<a href="#">SB 435</a> (Dodd)	Amended 5/2	Senate Approp. 5/2	<p><b>Williamson Act: payments to local governments</b></p> <p>The Williamson Act, also known as the California Land Conservation Act of 1965, authorizes a city or county to enter into contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Existing law sets forth procedures for reimbursing cities and counties for property tax revenues not received as a result of these contracts and continuously appropriates General Fund moneys for that purpose. Existing law requires the Secretary of the Natural Resources Agency to direct the Controller to make annual payments out of these moneys to an eligible city, county, or city and county for each acre of land that is within its regulatory jurisdiction and assessed under specified provisions of the Revenue and Taxation Code. The amount of payment is \$5 per acre of prime agricultural land and \$1 per acre of all other land devoted to open-space uses of statewide significance, as defined, or, in counties which have adopted farmland security zones, as provided, \$8 per acre of land that is within, or within 3 miles of the sphere of influence of, each incorporated city. This bill would reduce the amount per acre paid to a city, county, or city and county under these provisions to \$2.50 for prime agricultural land, \$0.50 for all other land devoted to open-space uses of statewide significance, and, for counties that have adopted farmland security zones, \$4 for land that is within, or within 3 miles of the sphere of influence of, each incorporated city. This bill, commencing July 1, 2017, would require the Secretary of the Natural Resources Agency to direct the Controller to pay an additional subvention of funds to a county, city, or city and county that meets specified criteria upon determination by the Strategic Growth Council that the county, city, or city and county has adopted measures to protect and conserve resource lands and farmland that further the implementation of the applicable regional sustainable communities strategy, as provided. The bill would provide that the amount of the additional subventions would be \$2.50 for prime agricultural land, \$0.50 for all other land devoted to open-space uses of statewide significance, and \$4 for land enrolled in a farmland security zone that is within, or within 3 miles of the sphere of influence of, each incorporated city.</p>	ABAG= Watch	League= watch  CSAC= pending  MTC= tracking	
<a href="#">SB 540</a> (Roth)	Amended 4/18	Senate Approp. Hearing May 5th	<p><b>Workforce Housing Opportunity Zone.</b></p> <p>The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. This bill would authorize a local government to establish a Workforce Housing Opportunity Zone by preparing an EIR pursuant to CEQA and adopting a specific plan that is required to include text and a diagram containing specified information. The bill would require a local government that proposes to adopt a Workforce Housing Opportunity Zone to hold public hearings on the specific plan. The bill would authorize a local government, after a specific plan is adopted and the zone is formed, to impose a specific plan fee upon all persons seeking governmental approvals within the zone. The bill would require a local government to comply with certain requirements when amending the specific plan for the zone, including seeking a new EIR. The bill would require a local government to notify the county auditor within 60 days after establishing a zone, and to notify the county auditor of the number of housing units added. The bill would authorize a transfer from the Controller to the Governor's Office of Planning and Research for purposes of establishing this loan program.</p>	ABAG= Support	League= support  CSAC= pending  MTC= tracking	

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<a href="#">SB 564</a> (McGuire)	Amended 4/18	Assembly Desk 4/24	<p><b>Joint powers authorities: Water Bill Savings Act.</b></p> <p>Existing law, the Marks-Roos Local Bond Pooling Act of 1985, authorizes joint powers authorities, among other powers, to issue bonds and loan the proceeds to local agencies to finance specified types of projects and programs. This bill would enact the Water Bill Savings Act, which would authorize a joint powers authority to provide funding for a customer of a local agency or its publicly owned utility to acquire, install, or repair a water efficiency improvement on the customer's property served by the local agency or its publicly owned utility. The bill would require the customer to repay the authority through an efficiency charge on the customer's water bill to be established and collected by the local agency or its publicly owned utility on behalf of the authority pursuant to a servicing agreement. The bill would authorize the authority to issue bonds to fund the program. The bill would require an efficiency improvement to comply with certain provisions of the CalConserve Water Use Efficiency Revolving Loan Program.</p>	<b>ABAG=</b> <b>Support</b>	<b>League =</b> watch  <b>CSAC =</b> pending  <b>MTC =</b> no position	<b>Support</b>