

Date of Hearing: June 30, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Cecilia Aguiar-Curry, Chair  
SB 477 (Wiener) – As Amended June 24, 2021

**SENATE VOTE:** 36-0

**SUBJECT:** General plan: annual report.

**SUMMARY:** Adds several components to the annual progress report (APR) on housing development and land use that cities and counties are required to submit to the Department of Housing and Community Development (HCD) related to their general plan. Specifically, **this bill:**

- 1) Requires local agencies to add the following components with respect to the prior year in their APR beginning on January 1, 2024:
  - a) Aggregate level data on the number of applications submitted, the location and total number of developments approved, the total number of building permits issued, and the total number of units (rental and for-sale housing) by area median income category constructed, pursuant to the following laws:
    - i) AB 2162 (Chiu), Chapter 753, Statutes of 2018, which makes supportive housing a use “by right” in areas zoned for multifamily and/or mixed use units.
    - ii) AB 101 (Committee on Budget), Chapter 159, Statutes of 2019, which establishes low-barrier navigation centers, and makes those a use “by right” in areas zoned for multifamily and/or mixed use units.
    - iii) AB 83 (Committee on Budget), Chapter 15, Statutes of 2020, which provides an exemption to the California Environmental Quality Act (CEQA) for certain Project Homekey sites.
  - b) An internet link to a city or county’s website page detailing specified information related to mitigation fees, zoning ordinances, and development standards.
  - c) Information on each housing development project for which an application was submitted, a development was approved, or a building permit was issued, within the local agency, including:
    - i) Whether the housing development project application was submitted pursuant to an accessory dwelling unit (ADU) and/or junior ADU (JADU) statute, or pursuant to a local ordinance adopted pursuant to ADU statute.
    - ii) Whether the project is seeking any bonus, concession, or waiver under density bonus law and if so, each bonus, concession, or waiver as requested and as approved.
    - iii) Whether the project was submitted pursuant to SB 35 (Wiener), Chapter 366, Statutes of 2017.

- iv) Whether the project was submitted pursuant to Project Homekey.
- v) Whether the project received or was subject to certain CEQA exemptions, as specified.
- d) The following information relative to preliminary applications:
  - i) The number of preliminary applications that expired, as specified.
  - ii) The number of projects that submitted a preliminary application that were subsequently subject to an ordinance, policy or standard adopted after the preliminary application was submitted.

**EXISTING LAW:**

- 1) Requires every city and county to adopt a general plan that sets out planned uses for all of the area covered by the plan, and requires the general plan to include seven mandatory elements, including a housing element.
- 2) Requires the housing element to include a review of existing and projected housing needs, determine whether adequate sites with appropriate zoning exist to meet the housing needs of all income levels within the community, and ensure that local regulations provide opportunities for, and do not significantly restrict, the development of housing.
- 3) Requires that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process, which involves three main stages: (a) the Department of Finance and HCD develop regional housing needs estimates at four income levels: very low-income, low-income, moderate-income, and above moderate-income; (b) councils of government (COGs) use these estimates to allocate housing within each region (HCD is to make the determinations where a COG does not exist); and (c) cities and counties incorporate their allocations into their housing elements.
- 4) Establishes HCD oversight of the housing element process, including the following:
  - a) Local governments must submit a draft of their housing element to HCD for review.
  - b) HCD must review the draft housing element, and determine whether it substantially complies with housing element law, in addition to making other findings.
  - c) Local governments must incorporate HCD feedback into their housing element.
  - d) HCD must review any action or failure to act by local governments that it deems to be inconsistent with an adopted housing element. HCD must notify any local government, and at its discretion the office of the Attorney General, if it finds that the jurisdiction has violated state law.
- 5) Requires each city and county to submit an APR to the Governor's Office of Planning and Research (OPR) and HCD by April 1 of each year. The report is to evaluate the general plan's implementation, including how local housing needs have been met (construction of new units, changes to zoning laws, facilitating regulatory hurdles to housing development, etc.).

- 6) Requires HCD to post all city and county APRs on their website within a reasonable time after receipt.
- 7) Requires, under CEQA, lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or an environmental impact report (EIR) for this action, unless the project is exempt from CEQA.
- 8) Establishes a variety of CEQA exempt approval processes for housing development projects that meet specified environmental and social criteria.
- 9) Establishes requirements that a local agency must follow in establishing or imposing development fees, along with processes for developers to challenge those fees.
- 10) Under Density Bonus Law (DBL), requires cities and counties to grant a density bonus and award other incentives or concessions to an applicant for a housing development of five or more units that agrees to set aside a minimum number of units that are affordable to households with low, very-low, or moderate income.

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state mandated local program.

**COMMENTS:**

- 1) **Author's Statement.** According to the author, "SB 477 significantly expands California's data collection on the effects of state housing laws – to ensure they're working and to be able to fix any deficiencies. California has adopted several laws to help the state resolve its historic 3.5 million home shortage, but with sporadically-reported and limited data, we struggle to quantify exactly how effective they are. It is important that we strengthen California's housing data collection so the state and public can better understand the impact of state housing laws and determine the progress made by various cities and counties in meeting regional housing goals. We currently lack statewide data that would give a clear picture of where and how many units of housing is being built, and if this housing is advancing or reversing racial segregation in California. Without proper data collection standards, we have no way to track how the housing laws passed in the California Legislature are being used."
- 2) **APR Reporting.** Planning and Zoning Law requires each city and county's legislative body to adopt a "general plan" for land use within its jurisdiction, which includes an assessment of the development, zoning, and affordability of housing, known as a "housing element." The local government planning agency in each city and county must then submit an APR by April 1st of each year to the local legislative body, OPR, and HCD. The APR must include information about all proposed and approved development projects, a list of rezoned sites to accommodate housing for each income level, and information on density bonus applications and approvals, among other provisions. The report documents the city's or county's progress towards meeting its general plan goals and RHNA allocation.
- 3) **CEQA Exemptions for Housing Developments.** CEQA requires the state and local governments to study and mitigate, to the extent feasible, the environmental impacts of proposed projects, providing a key protection for the environment and residents of California.

Over the last few years, several bills creating CEQA exemptions for specific types of housing development projects, as well as more general CEQA exemptions for ordinances that allow for additional housing production, were enacted into law.

A CEQA exemption provides a tremendous benefit to property owners, developers, local governments and other parties involved in the approval of a project, as it allows for the project to be completed in an expedited fashion and can insulate the project from CEQA lawsuits. In light of the state's ongoing housing crisis, the Legislature has created several exemptions to CEQA that are designed to increase the production of housing. The protection of resources afforded by CEQA is not exempted lightly. The Legislature balances the risk of allowing projects to proceed without a full environmental review by limiting exemptions to projects that comply with scores of objective standards and criteria. These standards and criteria are an expression of the state's values and ensure that exempt projects do not result in harm to public health and safety and the environment.

- 4) **APR Reporting on CEQA Exemptions.** Several bills pending before the Legislature, as well as several recently enacted laws, create (or created) a CEQA exempt housing approval process and include a requirement for local agencies that approve these projects to report on the projects in the APR. Specifically, SB 35 created a streamlining process for certain multifamily developments and included a requirement for local agencies to include data on any projects approved pursuant to the provisions of SB 35 in the APR. SB 9 (Atkins), which is pending in the Assembly Appropriations Committee, streamlines the approval of duplexes in parcels zoned for single-family housing, streamlines the parcel map approval process for certain types of lot-splits, and requires local agencies to include data in the APR on housing approvals made pursuant to the bill. There are a series of other CEQA exemptions related to housing development projects that do not currently include APR reporting requirements.
- 5) **Bill Summary.** This bill will require local agencies to include data on housing production that is approved under various laws that create CEQA exemptions for housing approvals, or otherwise streamline housing production. This bill will additionally require local agencies to report on preliminary applications that were submitted under the provisions of the Housing Crisis Act SB 330 (Skinner), Chapter 654, Statutes of 2019.

This bill is sponsored by California YIMBY.

- 6) **Arguments in Support.** California YIMBY writes in support, "By passing SB 477, the Legislature will be able to tell when and where these laws are helpful. Knowing where these laws are building housing is important to understanding if these laws are advancing or reversing racial segregation in California; an important co-benefit of eliminating our housing shortage can and should be eliminating our legacy of racial segregation. But currently, we lack statewide data on if these laws are doing that. SB 477 will resolve this data gap by requiring more information on California's existing Annual Progress Report, which local governments send to the state every April 1st to demonstrate their progress towards meeting their Regional Housing Needs Assessments. SB 477 helps advance our progress towards ending the housing crisis by measuring the efficacy of state laws, allowing the Legislature to make informed decisions about the future of those laws, such as how to improve them."
- 7) **Arguments in Opposition.** The California State Association of Counties is opposed unless amended and writes, "Given the significant work involved to track and report the additional data envisioned in SB 477 and the often-limited resources within smaller jurisdictions, we

request an exemption from additional reporting requirements for counties and cities located outside of a metropolitan county as defined by the United States Census Bureau.”

- 8) **Double Referral.** This bill is double-referred to the Housing and Community Development Committee, where it passed on an 8-0 vote on June 22, 2021.

### **REGISTERED SUPPORT / OPPOSITION:**

#### **Support**

Abundant Housing LA  
Bay Area Council  
California Apartment Association  
California Building Industry Association  
California Community Builders  
California Yimby  
Casita Coalition  
Circulate San Diego  
Council of Infill Builders  
Fieldstead and Company, INC.  
Greenbelt Alliance  
Habitat for Humanity California  
Housing Action Coalition  
Modular Building Institute  
San Francisco Bay Area Planning and Research Association  
Sand Hill Property Company  
Silicon Valley At Home (SV@HOME)  
Silicon Valley Community Foundation  
Silicon Valley Leadership Group  
The Two Hundred  
Tmg Partners

#### **Opposition**

California Cities for Local Control  
Catalysts  
Grayburn Avenue Block Club  
Mission Street Neighbors  
New Livable California DbA Livable California  
Riviera Homeowners Association  
City of Torrance

#### **Oppose Unless Amended**

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

**Analysis Prepared by:** Hank Brady / L. GOV. / (916) 319-3958