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MCCMC LEGISLATIVE COMMITTEE MEETING

Tuesday, May 26, 2020, 8:00 AM
TELECONFERENCE

JOIN VIDEO MEETING AT THE FOLLOWING LINK: https://zoom.us/j/98412638155
CALL-IN NUMBER (TELEPHONE): 1-669-900-9128
MEETING ID: 984 1263 8155

REGULAR MEETING AGENDA

A. WELCOME/INTRODUCTIONS

B. REPORTS

Matthew Hymel, County Administrator – Report on Excess ERAF Revision
Senator Mike McGuire – Report on Housing Legislation in Current Legislative Session
David Jones/Kyra Ross – Emanuels Jones, Sacramento
Nancy Hall Bennett – League of California Cities

C. COMMITTEE BUSINESS

1. Action Items

a. Education Omnibus Trailer Bill with May Revision Amendments: Excess ERAF Revision
(Legislative Analyst's Office March 6, 2020 Review: https://lao.ca.gov/reports/2020/4193/excess-ERAF-030620.pdf)

2. Watch Items

a. SB 1385 (Caballero) local planning and housing: commercial zones
b. SB 1120 (Atkins) Subdivisions: tentative maps
c. SB 995 (Atkins) Environmental quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2011: housing projects.
d. SB 902 (Wiener) Planning and zoning: housing development: density
e. SB 1085 (Skinner) Density Bonus Law: qualifications for incentives or concessions: student housing for lower income students: moderate-income persons and families: local government constraints.

D. CHAIRS REPORT

- General Committee Update: Chair

E. CALENDAR

Upcoming General MCCMC Meetings:

- Wednesday, May 27, 2020 – Hosted on Zoom

Upcoming MCCMC Legislative Committee Meetings:

- Monday, June 22, 2020, at 8 AM

B. ADJOURN

Senate Housing Production Legislative Package
FACT SHEET

Housing production remains a top priority of the Senate and is key to California's economic recovery. The Senate is proposing a housing production legislative package that would streamline existing housing approval processes at the state and local levels, focus on proposals that would reduce the workload of local planning departments, increase the availability of affordable housing, and build on policies that would accelerate job growth and economic development. The package also includes the budget proposal previously announced by Senate Democrats for a renter/landlord stabilization program.

Housing Production Package

SB 1385 (Caballero): This bill would unlock existing land zoned for commercial office and retail for potential residential development by making housing an eligible use on those sites.

Impact on housing production: Even before COVID-19, many large-scale commercial developers were moving toward mixed-use projects that integrate live/work/play uses into one neighborhood. This trend has only been accelerated by the COVID-19 crisis, and this bill reflects the need to update the development landscape statewide to embrace that evolution and create much-needed housing alongside office and retail.

Requirements:

- The site's density meets or exceeds the level needed to accommodate multifamily affordable housing.
- Local zoning, parking, design, and other ordinances that apply to other areas zoned for multifamily housing in the jurisdiction also apply.
- Any housing development that utilizes this provision complies with any design review or public notice, comment, or hearing process.

The bill also would:

- Allow for streamlined ministerial approval of housing projects on land zoned for office or retail commercial use when the site has been vacant or severely underutilized (less than 50% of available square footage) for at least three (3) years and the project meets the existing requirements for by-right housing:
    a. Consistent with objective zoning, subdivision, and design-review standards.
    b. Does not require demolition of a historic structure.
    c. Located outside of environmentally sensitive areas, as specified.
    d. Provides at least 10% affordable housing (increased to 50% in jurisdictions that are building enough middle-income housing but not enough low-income housing).
    e. Does not affect existing affordable housing, rent-controlled housing, or housing where tenants have resided in the last 10 years.
    f. Provides prevailing wage to all workers (regardless of public works status) and uses a skilled and trained workforce for midsize projects (generally 50-75+ units).
    g. Provides one (1) parking space/unit unless located near transit/in a historic district/near a car-share.

Senate Housing Production Legislative Package
FACT SHEET

SB 1120 (Atkins): Builds off state Accessory Dwelling Unit (ADU) law that allows for at least three units/parcel; further encourages small-scale neighborhood development spearheaded by homeowners by creating a ministerial approval process for duplexes and lot splits that meet local zoning, environmental and tenant displacement standards.

Impact on housing production: Promotes small-scale neighborhood development (i.e. adding capacity to an existing, typically single-family residential area) in a meaningful way to increase production. Housing stock is being increased thanks to the ADU law, and the small-scale nature of SB 1120 would make success that much more achievable, and could help bolster finances for individual homeowners.

Requirements:

- Ministerial duplexes:
    a. Meets objective zoning and design standards (height, setbacks, etc.).
    b. Does not require demolition of more than one wall of an existing structure (unless deemed vacant).
    c. Located within an urbanized area or urban cluster.
    d. Located outside of environmentally sensitive areas, as specified. However, coastal zones will be included.
    e. Does not require demolition or alteration of affordable housing, rent-controlled housing, Ellis Act housing, or any housing that has had tenants in recent years.
    f. Not allowed in a historic district.
    g. Provides one (1) parking spot/unit unless located near transit/in a historic district/by a car-share program, or unless the local jurisdiction waives parking.

- Ministerial lot splits: Meet the same requirements as duplexes, as well as meet the additional requirements for the resulting parcels:
    a. Must be of equal size.
    b. Must be at least 1,200 sq. ft.
    c. Must meet local requirements to provide easements and public right-of-way.
    d. Have not previously been subject to a ministerial lot split.

Note: Local governments are not required to permit ADUs on sites that exercise these new authorities (although they may). The creation of local ordinances to implement these sections are not subject to CEQA.

Senate Housing Production Legislative Package
FACT SHEET

SB 995 (Atkins): Provides California Environmental Quality Act (CEQA) relief by expanding the existing AB-900 process for Environmental Leadership Development Projects for housing projects, particularly affordable housing.

Impact on housing production: This creates a new tool for housing developers who may have been interested in utilizing the AB 900 process, but did not meet the existing dollar threshold. In addition to creating housing units, it also could carry the benefit of creating numerous construction jobs. According figures compiled by the Governor's Office of Planning and Research and Senate Office of Research, since 2011, 10,573 housing units have been constructed or proposed under projects certified under AB 900, and the law helped create 46,949 high-wage, permanent construction jobs.

Requirements:

- Provide a minimum investment of $15 million dollars (as opposed to the current $100 million threshold).
- Located on an infill site and consistent with the region's sustainable communities strategy.
- Dedicates at least two-thirds of the project for residential use.
- Dedicates a minimum of 15% of residential units as affordable housing (in keeping with other state incentive programs).
- This allows projects to take advantage of an expedited 270-day CEQA litigation process.

The bill also would:

- Broaden application and utilization of the Master Environmental Impact Report (MEIR) process that allows cities to do upfront planning that streamlines housing approvals on an individual project level.
- Pursue additional opportunities to revise local community plans and policies to support more housing, reform funding and administrative processes at state housing entities, and protect and sustain equity in existing neighborhoods.

SB 902 (Wiener) – As Proposed to Be Amended on May 20, 2020: Allows local governments to pass a zoning ordinance that is not subject to CEQA for projects that allow up to 10 units, if they are located in one of the following priority areas:

- A transit-rich area
- A jobs-rich area
- An urban infill site

Impact on housing production: This bill further allows for additional small-scale infill development for local governments who want to spur more housing production. It provides cities with a new tool to rezone for density in a streamlined, expedited way. Currently, cities that want to rezone for more housing - or are required to rezone due to state mandates - face years of process and lawsuits, costing significant taxpayer funds. It is important to note this measure does not waive any of existing or proposed new standards that a local government applies to new housing in their jurisdiction.

Senate Housing Production Legislative Package
FACT SHEET

SB 1085 (Skinner): Enhance existing Density Bonus Law by increasing the number of incentives provided to developers in exchange for providing more affordable units.

Impact on housing production: Increasing the amount of affordable housing for low-income families remains a top priority for the Senate. Unfortunately, the current budget environment doesn't provide for additional public subsidy. Enhancing the Density Bonus Law would allow developers to expand projects, thereby enhancing their profitability, and adding more affordable housing units at no cost to taxpayers.

Declares:

- Modify Density Bonus Law to further incentivize the construction of very low-, low-, and moderate-income housing units.
- Ensure that any additional benefits conferred upon a developer are balanced with the receipt of a public benefit in the form of affordable housing.
- Ensure that density bonus law incentivizes the construction of more housing across all areas of the state.

Senate Budget Proposal (Previously Announced)
Renter/Landlord Stabilization Program: The program would enable agreements between renters, landlords, and the state to resolve unpaid rents over a limited period, as well as make available short-term tax-credits that provide immediate value to landlords at risk of foreclosure.

Impact on housing production: While the Senate embarked on the goal of increasing housing production at the beginning of 2020, given COVID-19 and its impacts on Californians, the need arose to also incorporate measures to ensure the state doesn't lose existing rental housing stock. This proposal provides immediate relief to tenants in need to ensure no one is evicted as a result of COVID-19 and/or its economic impacts, while also protecting landlords who operate in good faith and otherwise face foreclosure and, by result, tenant evictions.

(42) School District Reorganization (98-TC-24; Chapter 1192 of the Statutes of 1980; and Chapter 1186 of the Statutes of 1994).
~~(44)~~
(43) Student Records (02-TC-34; Chapter 593 of the Statutes of 1989; Chapter 561 of the Statutes of 1993; Chapter 311 of the Statutes of 1998; and Chapter 67 of the Statutes of 2000).
~~(45)~~
(44) The Stull Act (98-TC-25; Chapter 498 of the Statutes of 1983; and Chapter 4 of the Statutes of 1999).
~~(46)~~
(45) Threats Against Peace Officers (CSM 96-365-02; Chapter 1249 of the Statutes of 1992; and Chapter 666 of the Statutes of 1995).
~~(47)~~
(46) Training for School Employee Mandated Reporters (14-TC-02; Chapter 797 of the Statutes of 2014).
~~(48)~~
(47) Uniform Complaint Procedures (03-TC-02; Chapter 1117 of the Statutes of 1982; Chapter 1514 of the Statutes of 1988; and Chapter 914 of the Statutes of 1998).
~~(49)~~
(48) Williams Case Implementation I, II, and III (05-TC-04, 07-TC-06, and 08-TC-01; Chapters 900, 902, and 903 of the Statutes of 2004; Chapter 118 of the Statutes of 2005; Chapter 704 of the Statutes of 2006; and Chapter 526 of the Statutes of 2007).
(g) Notwithstanding Section 10231.5, on or before November 1 of each fiscal year, the Superintendent of Public Instruction shall produce a report that indicates the total amount of block grant funding each school district, county office of education, and charter school received in that fiscal year pursuant to this section. Funding apportioned pursuant to subparagraph (B) of paragraph (2) of subdivision (c) shall be excluded from this reporting requirement. The Superintendent of Public Instruction shall provide this report to the appropriate fiscal and policy committees of the Legislature, the Controller, the Department of Finance, and the Legislative Analyst's Office.

Excess Educational Revenue Augmentation Fund Calculation Penalty

Section 97.2 of the Revenue and Taxation Code is amended to read:

(New for May Revision)

97.2. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section shall be modified for the 1992–93 fiscal year pursuant to subdivisions (a) to (d), inclusive, and for the 1997–98 and 1998–99 fiscal years pursuant to subdivision (e), as follows:
(a) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each county shall be reduced by the dollar amounts indicated as follows, multiplied by 0.953649:

	Property Tax Reduction per County
Alameda	$ 27,323,576
Alpine	5,169
Amador	286,131
Butte	846,452
Calaveras	507,526
Colusa	186,438
Contra Costa	12,504,318
Del Norte	46,523
El Dorado	1,544,590
Fresno	5,387,570
Glenn	378,055
Humboldt	1,084,968
Imperial	998,222
Inyo	366,402
Kern	6,907,282
Kings	1,303,774
Lake	998,222
Lassen	93,045
Los Angeles	244,178,806
Madera	809,194
Marin	3,902,258

Mariposa	40,136
Mendocino	1,004,112
Merced	2,445,709
Modoc	134,650
Mono	319,793
Monterey	2,519,507
Napa	1,362,036
Nevada	762,585
Orange	9,900,654
Placer	1,991,265
Plumas	71,076
Riverside	7,575,353
Sacramento	15,323,634
San Benito	198,090
San Bernardino	14,467,099
San Diego	17,687,776
San Francisco	53,266,991
San Joaquin	8,574,869
San Luis Obispo	2,547,990
San Mateo	7,979,302
Santa Barbara	4,411,812
Santa Clara	20,103,706
Santa Cruz	1,416,413
Shasta	1,096,468

Sierra	97,103
Siskiyou	467,390
Solano	5,378,048
Sonoma	5,455,911
Stanislaus	2,242,129
Sutter	831,204
Tehama	450,559
Trinity	50,399
Tulare	4,228,525
Tuolumne	740,574
Ventura	9,412,547
Yolo	1,860,499
Yuba	842,857

(2) Notwithstanding paragraph (1), the amount of the reduction specified in that paragraph for any county or city and county that has been materially and substantially impacted as a result of a federally declared disaster, as evidenced by at least 20 percent of the cities, or cities and unincorporated areas of the county representing 20 percent of the population within the county suffering substantial damage, as certified by the Director of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of five million dollars ($5,000,000) determined for that county or city and county pursuant to subparagraph (B) of paragraph (3).
(3) On or before October 1, 1992, the Director of Finance shall do all of the following:
(A) Determine the population of each county and city and county in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.
(B) Determine for each county and city and county as described in subparagraph (A) its share of five million dollars ($5,000,000) on the basis of that county's population relative to the total population of all counties described in subparagraph (A).
(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).
(b) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each city, except for a newly incorporated city that did not receive property tax revenues in the 1991–92 fiscal year, shall be

reduced by 9 percent. In making the above computation with respect to cities in Alameda County, the computation for a city described in paragraph (6) of subdivision (a) of Section 100.7, as added by Section 73.5 of Chapter 323 of the Statutes of 1983, shall be adjusted so that the amount multiplied by 9 percent is reduced by the amount determined for that city for "museums" pursuant to paragraph (2) of subdivision (h) of Section 95.

(2) Notwithstanding paragraph (1), the amount of the reduction determined pursuant to that paragraph for any city that has been materially and substantially impacted as a result of a federally declared disaster, as certified by the Director of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of fifteen million dollars ($15,000,000) determined for that city pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each city in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each city as described in subparagraph (A) its share of fifteen million dollars ($15,000,000) on the basis of that city's population relative to the total population of all cities described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(4) In the 1992–93 fiscal year and each fiscal year thereafter, the auditor shall adjust the computations required pursuant to Article 4 (commencing with Section 98) so that those computations do not result in the restoration of any reduction required pursuant to this section.

(c) (1) Subject to paragraph (2), the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall be reduced by 35 percent. For purposes of this subdivision, "revenues that are pledged to debt service" include only those amounts required to pay debt service costs in the 1991–92 fiscal year on debt instruments issued by a special district for the acquisition of capital assets.

(2) No reduction pursuant to paragraph (1) for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Special Districts (not including any annual revenues from fiscal years following the 1989–90 fiscal year). With respect to any special district, as defined pursuant to subdivision (m) of Section 95, that is allocated property tax revenue pursuant to this chapter but does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, the auditor shall determine the total annual revenues for that special district from the information in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Counties. With respect to a special district that did not exist in the 1989–90 fiscal year, the auditor may use information from the first full fiscal year, as appropriate, to determine the total annual revenues for that special district. No reduction pursuant to paragraph (1) for any countywide water agency that does not sell water at retail shall exceed an amount

equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.
(3) The auditor in each county shall, on or before January 15, 1993, and on or before January 30 of each year thereafter, submit information to the Controller concerning the amount of the property tax revenue reduction to each special district within that county as a result of paragraphs (1) and (2). The Controller shall certify that the calculation of the property tax revenue reduction to each special district within that county is accurate and correct, and submit this information to the Director of Finance.
(A) The Director of Finance shall determine whether the total of the amounts of the property tax revenue reductions to special districts, as certified by the Controller, is equal to the amount that would be required to be allocated to school districts and community college districts as a result of a three hundred seventy-five million dollar ($375,000,000) shift of property tax revenues from special districts for the 1992–93 fiscal year. If, for any year, the total of the amount of the property tax revenue reductions to special districts is less than the amount as described in the preceding sentence, the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall, subject to subparagraph (B), be reduced by an amount up to 5 percent of the amount subject to reduction for that district pursuant to paragraphs (1) and (2).
(B) No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the most recent State Controller's Report on Financial Transactions Concerning Special Districts. No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.
(C) In no event shall the amount of the property tax revenue loss to a special district derived pursuant to subparagraphs (A) and (B) exceed 40 percent of that district's property tax revenues or 10 percent of that district's total revenues, from whatever source.
(4) For the purpose of determining the total annual revenues of a special district that provides fire protection or fire suppression services, all of the following shall be excluded from the determination of total annual revenues:
(A) If the district had less than two million dollars ($2,000,000) in total annual revenues in the 1991–92 fiscal year, the revenue generated by a fire suppression assessment levied pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.
(B) The total amount of all funds, regardless of the source, that are appropriated to a district, including a fire department, by a board of supervisors pursuant to Section 25642 of the Government Code or Chapter 7 (commencing with Section 13890) of Part 2.7 of Division 12 of the Health and Safety Code for fire protection. The amendment of this subparagraph by Chapter 290 of the Statutes of 1997 shall not be construed to affect any exclusion from the total annual revenues of a special district that was authorized by this subparagraph as it read prior to that amendment.

(C) The revenue received by a district as a result of contracts entered into pursuant to Section 4133 of the Public Resources Code.
(5) For the purpose of determining the total annual revenues of a resource conservation district, all of the following shall be excluded from the determination of total annual revenues:
(A) Any revenues received by that district from the state for financing the acquisition of land, or the construction or improvement of state projects, and for which that district serves as the fiscal agent in administering those state funds pursuant to an agreement entered into between that district and a state agency.
(B) Any amount received by that district as a private gift or donation.
(C) Any amount received as a county grant or contract as supplemental to, or independent of, that district's property tax share.
(D) Any amount received by that district as a federal or state grant.
(d) (1) The amount of property tax revenues not allocated to the county, cities within the county, and special districts as a result of the reductions calculated pursuant to subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund to be established in each county. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1991–92 fiscal year.
(2) (A) The auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district and county office of education in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district and county office of education. In no event shall any additional money be allocated from the fund to a school district or county office of education upon that school district or county office of education becoming an excess tax school entity.
(B) Commencing with fiscal year 2018-19, if a county auditor-controller fails to allocate Educational Revenue Augmentation Fund revenues in accordance with the guidance provided by the Department of Finance, the Department of Finance may request a writ of mandate to require the county auditor-controller to immediately perform this duty. Such actions may be filed only in the County of Sacramento and shall have priority over other civil matters. Any county in which the county auditor-controller fails to perform the duties under this paragraph shall be subject to a civil penalty of 10 percent of the excess, additional, or remaining funds that would otherwise have been allocated to county superintendents of schools, cities, counties, and cities and counties pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Sections 97.2 and 97.3 or Article 4 (commencing with Section 98) had this section not been enacted plus 1.5 percent of the amount owed to taxing entities for each month that the duties are not performed. The civil penalties shall be payable to those school districts and county offices of education within the county that are not excess tax school entities, pursuant to subparagraph (A).

(3) The auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the fund to a community college district upon that district becoming an excess tax school entity.
(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2).
(B) (i) (I) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this subclause shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code.
(II) For the 2007–08 fiscal year and for each fiscal year thereafter, both of the following apply:
(ia) In allocating the revenues described in subclause (I), the auditor shall apportion funds to the appropriate special education local plan area to cover the amount determined in Section 56836.173 of the Education Code.
(ib) Except as otherwise provided by sub-subclause (ia), property tax revenues described in subclause (I) shall not be apportioned to special education programs funded pursuant to Section 56836.173 of the Education Code.
(III) If, for the 2000–01 fiscal year or any fiscal year thereafter, any additional revenues remain after the implementation of subclauses (I) and (II), the auditor shall allocate those remaining revenues among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year.
(IV) A county Educational Revenue Augmentation Fund shall not be required to provide funding for special education programs funded pursuant to Section 56836.173 of the Education Code or any predecessor to that section for a fiscal year prior to the 2007–08 fiscal year that it has not already provided for these programs prior to the beginning of the 2007–08 fiscal year.
(ii) For the 1995–96 fiscal year only, clause (i) shall have no application to the County of Mono and the amount allocated pursuant to clause (i) in the County of Marin shall not exceed five million dollars ($5,000,000).
(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 shall not exceed that portion of two million five hundred thousand

dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.
(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars ($8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999). This clause shall be operative for the 1999–2000 fiscal year only to the extent that moneys are appropriated for purposes of this clause in the Budget Act of 1999 by an appropriation that specifically references this clause.
(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.
(5) For purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993–94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.
(e) (1) For the 1997–98 fiscal year:
(A) The amount of property tax revenue deemed allocated in the prior fiscal year to any city subject to the reduction specified in paragraph (2) of subdivision (b) shall be reduced by an amount that is equal to the difference between the amount determined for the city pursuant to paragraph (1) of subdivision (b) and the amount of the reduction determined for the city pursuant to paragraph (2) of subdivision (b).
(B) The amount of property tax revenue deemed allocated in the prior fiscal year to any county or city and county subject to the reduction specified in paragraph (2) of subdivision (a) shall be reduced by an amount that is equal to the difference between the amount specified for the county or city and county pursuant to paragraph (1) of subdivision (a) and the amount of the reduction determined for the county or city and county pursuant to paragraph (2) of subdivision (a).

WATCH ITEMS

SB 1385 (Caballero) local planning and housing: commercial zones.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a housing element. Existing law requires that the housing element include, among other things, an inventory of land suitable and available for residential development. If the inventory of sites does not identify adequate sites to accommodate the need for groups of all households pursuant to specified law, existing law requires the local government to rezone sites within specified time periods and that this rezoning accommodate 100% of the need for housing for very low and low-income households on sites that will be zoned to permit owner-occupied and rental multifamily residential use by right for specified developments.

This bill, the Neighborhood Homes Act, would deem a housing development project, as defined, an authorized use on a neighborhood lot that is zoned for office or retail commercial use under a local agency's zoning code or general plan. The bill would require the density for a housing development under these provisions to meet or exceed the density deemed appropriate to accommodate housing for lower income households according to the type of local jurisdiction, including a density of at least 20 units per acre for a suburban jurisdiction. The bill would provide that a housing development under these provisions is subject to the local zoning, parking, and design ordinances, and any design review or other public notice, comment, hearing, or procedure applicable to a housing development in a zone with the applicable density. The bill would provide that the local zoning designation applies if the existing zoning designation for the parcel allows residential use at a density greater than that required by these provisions. The bill would authorize a local agency that met its share of the regional housing need, as specified, to exempt a neighborhood lot from these provisions if the local agency concurrently reallocates the lost residential density to other lots so that there is no net loss in residential production capacity in the jurisdiction. ~~This~~ *The* bill would specify that it does not alter or affect the application of any housing, environmental, or labor law applicable to a housing development authorized by these provisions, including, but not limited to, the California Coastal Act, the California Environmental Quality Act, the Housing Accountability Act, obligations to affirmatively further fair housing, and any state or local affordability laws or tenant protection laws. ~~This~~ *The* bill would require an applicant of a housing development under these provisions to provide notice of a pending application to each commercial tenant of the neighborhood lot.

The Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project, as defined for purposes of the act, for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based on a preponderance of the evidence in the record. That act states that it shall not be construed to prohibit a local agency from requiring a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need, except as provided. That act further provides that a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

The bill would provide that for purposes of the Housing Accountability Act, a proposed housing

development project is consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if the housing development project is consistent with the standards applied to the parcel pursuant to specified provisions of the Neighborhood Homes Act.
The Planning and Zoning Law, until January 1, 2026, also authorizes a development proponent to submit an application for a multifamily housing development that is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit, if the development satisfies specified objective planning standards, including a requirement that the site on which the development is proposed is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least $^2/_3$ of the square footage of the development designated for residential use. Under that law, the proposed development is also required to be consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time the development is submitted to the local government.
This bill would permit the development to be proposed for a site zoned for office or retail commercial use if the site has no existing commercial or residential tenants on 50% or more of its total square footage for a period of at least 3 years prior to the submission of the application. The bill would also provide that a project located on a neighborhood lot, as defined, shall be deemed consistent with objective zoning standards, objective design standards, and objective subdivision standards if the project meets the standards applied to the parcel pursuant to the Neighborhood Homes Act.

The Mello-Roos Community Facilities Act of 1982 authorizes a local agency to establish a community facilities district to finance various services, including police protection, fire protection, recreation programs, and library services, and provides for the annexation of territory to an existing community facilities district.

This bill would authorize an applicant seeking to develop a housing project on a neighborhood lot to request that a local agency establish a Mello-Roos Community Facilities District, or to request that the neighborhood lot be annexed to an existing community facilities district, as specified, to finance improvements and services to the units proposed to be developed. The bill would prohibit any further proceedings to be taken to annex the territory, or to authorize that annexation in the future, for a period of one year from the decision of the legislative body at the hearing on the annexation if a specified number or groups of persons, including 50% or more of the registered voters or 6 registered voters, whichever is more, residing within the territory proposed for annexation or proposed to be annexed in the future, file written protests with the legislative body. The bill would prohibit a local agency from imposing any development, impact, or mitigation fee, charge, or exaction in connection with the approval of a development project to the extent that those facilities and services are funded by a community facilities district established pursuant to these provisions.
By imposing new duties on local agencies with regard to local planning and zoning, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.
This bill would provide that no reimbursement is required by this act for a specified reason.
DIGEST KEY
Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes
League Position: Watch

SB 1120 (Atkins) Subdivisions: tentative maps

SB 1120, as amended, Atkins. Subdivisions: tentative maps.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill would require a proposed housing development containing 2 residential units to be considered ministerially, without discretionary review or hearing, in zones where allowable uses are limited to single-family residential development if the proposed housing development meets certain requirements, including that the proposed housing development would not require demolition or alteration requiring evacuation or eviction of an existing housing unit that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval, or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill would require a city or county to ministerially approve a parcel map for an urban lot split that meets certain requirements, including that the parcel does not contain housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

~~This~~

The bill would *also* extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months, and would make other conforming or nonsubstantive changes.

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. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: ~~no~~*yes* Local Program: ~~no~~*yes*

SB 995 (Atkins) Environmental quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2011: housing projects.

SB 995, as amended, Atkins. Environmental quality: Jobs and Economic Improvement Through Environmental Leadership Act of ~~2011.~~ *2011: housing projects.*

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 *(EIR)* 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 authorizes the preparation of a master EIR and authorizes the use of the master EIR to limit the environmental review of subsequent projects that are described in the master EIR, as specified.*

This bill would require a lead agency to prepare a master EIR for a general plan, plan amendment, plan element, or specified plan for housing projects where the state has provided funding for the preparation of the master EIR.

The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 authorizes the Governor, until January 1, 2020, to certify projects that meet certain requirements for streamlining benefits provided by that act related to compliance with CEQA and streamlining of judicial review of action taken by a public agency. The act provides that if a lead agency fails to approve a project certified by the Governor before January 1, 2021, the certification expires and is no longer valid. The act requires a lead agency to prepare the record of proceedings for the certified project concurrent with the preparation of the environmental documents. The act is repealed by its own terms on January 1, 2021.

This bill *would additionally include housing projects meeting certain conditions as projects eligible for certification. The bill* would extend the authority of the Governor to certify a project to January 1, 2024. The bill would provide that the certification expires and is no longer valid if the lead agency fails to approve a certified project before January 1, 2025. The bill would instead repeal the act on January 1, 2025. Because the bill would extend the obligation of the lead agency to prepare concurrently the record of proceedings, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

League Position: Watch

SB 902 Planning and Zoning: housing development density.

SB 902, as amended, Wiener. Planning and zoning: ~~neighborhood multifamily project: use by right:~~ *housing development:* density.

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 requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

~~Existing law, until January 1, 2026, authorizes a development proponent to submit an application for a multifamily housing development that satisfies specified planning objective standards to be subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit.~~

~~This bill would provide that a neighborhood multifamily project is a use by right in zones where~~

~~residential uses are permitted if the project is not located in a very high fire severity zone, does not demolish sound rental housing or housing that has been placed on a national or state historic register, follows specified local objective criteria, and meets specified density requirements. The bill would define use by right to mean that the local government's review of the housing development may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a project for purposes of the California Environmental Quality Act (CEQA).~~

This bill would ~~additionally~~ authorize a local government to pass an ~~ordinance~~ *ordinance, notwithstanding any local restrictions on adopting zoning ordinances,* to zone any parcel for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill ~~site.~~ *site, as those terms are defined. In this regard, the bill would require the Department of Housing and Community Development, in consultation with the Office of Planning and Research, to determine jobs-rich areas and publish a map of those areas every 5 years, commencing January 1, 2022, based on specified criteria.* The bill would specify that an ordinance adopted under these provisions is not a project for purposes of ~~CEQA.~~ *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 does not apply to the approval of ministerial projects.~~

~~By requiring local planning officials to approve housing developments as a use by right under certain circumstances, this bill would expand the above-described exemption from CEQA for the ministerial approval of projects.~~

~~By adding to the duties of local planning officials, this bill would impose a state-mandated local program.~~

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.~~

DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: ~~yes~~*no*

League Position: Watch

SB 1085 (Skinner) Density Bonus Law: qualifications for incentives or concessions: student housing for lower income students: moderate-income persons and families: local government constraints.

SB 1085, as amended, Skinner. Density Bonus Law: qualifications for incentives or concessions: student housing for lower income students: moderate-income persons and families: local government constraints.

(1) Existing law, known as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development in the city or county 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 agrees to, among other things, construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents, including lower income students. Existing law ~~defines "housing development," for these purposes, to mean a development project for 5 or more residential units, as specified, and~~ defines "incentives or concessions"

to include, among other things, regulatory incentives or concessions proposed by the developer or the city or county that result in identifiable and actual cost reductions to provide for affordable housing costs, as specified.

This ~~bill would instead define "housing development," for those purposes, to mean any residential development project for two or more units, as specified. The~~ bill would revise that definition of "incentives or concessions" to include those proposed regulatory incentives or concessions that the developer determines result in identifiable and actual cost reductions to provide for affordable housing ~~costs~~ *costs.*

(2) Existing law requires the amount of a density bonus and the number of incentives or concessions a qualifying developer receives to be *pursuant to a certain formula* based on the total number of units in the housing development, excluding the units added by a density bonus awarded pursuant to the Density Bonus Law or any local law granting a greater density bonus.

This bill would require a unit designated to satisfy the inclusionary zoning requirements of a city or county to be included in the total number of units on which a density bonus and the number of incentives or concessions are based.

This bill *would require a city or county to grant a density bonus and certain incentives or concessions if the developer agrees to construct a housing development that will contain a specified percentage of units for households of low or moderate incomes and for which the rent is 30% below the market rate for that city or county. The bill* would require a city or county to grant one incentive or concession for a project that will contain a specified percentage of units for lower income students in a student housing development. *The bill would make various changes to the above-referenced formula, including, among others, increasing the percentage density bonus to 40% for housing developments that have 11% of its units for very low income households.*

~~Existing~~

(3) Existing law requires the planning agency of the city or county to provide to the department, the Office of Planning and Research, and the legislative body of the city or county, by April 1 of each year, an annual report that includes, among other things, the city or county's progress in meeting its share of the regional housing needs.

This bill would require the planning agency to include in that report the number of units in a student housing development for lower income students for which the developer was granted a density bonus.

~~(3)Existing law requires a city or county to grant a density bonus and certain incentives or concessions if the developer agrees to construct a common interest development that will contain a specified percentage of units for persons and families of moderate income, as specified, if all units in the development are offered to the public for purchase.~~

~~This bill instead would require a city or county to grant that density bonus and those incentives or concessions if the developer agrees to construct a housing development that will contain that specified percentage of units for persons and families of moderate income, as specified.~~

~~This bill additionally would require a city or county to grant a density bonus and certain incentives or concessions if the developer agrees to construct a housing development that will contain a specified percentage of units for households of low or moderate incomes and for which the rent is 20% percent below the market rate for that city or county.~~

(4) Existing law authorizes a city or county to refuse a concession or incentive if the city or county makes a written finding, based upon substantial evidence that the concession or incentive would have a specified adverse impact on public health and safety, the physical environment, or real property listed in the California Register of Historical Resources.

This bill would remove the specified adverse impact on the physical environment from the list of reasons for which a city or county is authorized to refuse a concession or incentive.

~~This bill would prohibit a city or county from disapproving a development application for a housing development that qualifies for a density bonus unless the city or county makes a written finding based~~

~~on substantial evidence that approval of the development application would have a specified adverse impact on public health and safety.~~

Existing law prohibits a city or county from applying any development standard that will have the effect of physically precluding the construction of a development meeting the criteria for a density bonus at the densities or with the concessions or incentives permitted by certain provisions of the Density Bonus Law. Existing law authorizes an applicant to submit to a city or county a proposal for the waiver or reduction of such a development standard and to request a meeting with the city or county, and requires a court to award reasonable attorney's fees and costs of suit to the plaintiff if the court finds that the refusal to grant a waiver or reduction violates certain provisions of the Density Bonus Law. Existing law prohibits these provisions from being interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specified adverse impact upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

This bill would remove the specified impact upon the physical environment from the limitations on the above-described requirement that a local government waive or reduce development standards.

This bill would prohibit fees relating to affordable housing, including inclusionary zoning fees, in-lieu fees, and public benefit fees, from being imposed on a housing development's affordable units or bonus units.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

League Position: Watch