

POLITICAL
SOLUTIONS
LLC

October 27, 2017

**TO: Connie Juarez-Diroll – Legislative Director, San Mateo County
Jessica Mullin & Mary-Claire Katz – Home For All**

**FROM: Stacy Dwelley, Devon Anderson, and Madison Dwelley
Political Solutions, LLC**

RE: Housing/Affordable Housing Wrap-Up

Political Solutions, LLC (PS) was pleased to join the Home for All meetings via conference line to provide legislative updates including bill status and political dynamics throughout 2017. PS also provided written bill tracker status updates throughout the year as well. We fully anticipate that housing/affordable housing will be another hot button issue in 2018. Already the local government coalition that includes CSAC, Urban Counties of California, the League of California Cities, and the American Planning Association will need clean-up legislation in order to properly implement some of these bills.

After well over a year of mounting pressure from constituents and the media, the Legislature finally took action in 2017 to advance policies aimed at improving the state's housing stock, making it easier to build, and incentivizing local governments to comply with state housing law. Although the year began where it had left off at the end of the 2016 session, with the Governor demanding "by right" legislation and refusing to entertain the idea of a housing bond, the Legislature, lead primarily by the Assembly, was finally able to make progress. What began as 200 housing-related bills was finally narrowed down to a legislative "package" of 16 bills that were sent to the Governor's desk during the last days of September. The bills outlined below reflect not only those bills included in the package, but several others as well that aim to improve California's housing shortage, along with those that Home for All included in their bill tracker.

The entirety of the loosely-knit housing package included the following:

AB 72, AB 73, AB 571, AB 678, AB 879, AB 1397, AB 1505, AB 1515, and AB 1521. SB 2, SB 3, SB 35, SB 166, SB 167, and SB 540.

SB 3 (Beall) Housing Bond

Status: Signed by the Governor – Chapter 365, Statutes of 2017.

San Mateo Position: Support.

SB 3 is a \$4 billion housing bond measure that would require voter approval on the November 2018 ballot. It includes \$3 billion to help subsidize affordable housing projects, with the debt payments coming from the state's general fund; and \$1 billion for the California Department of Veterans Affairs home loan program, which will be repaid through mortgage payments.

The money in the bill is allocated as follows:

Multi-family Rental Housing —\$1.5 billion to the existing Multifamily Housing Program.

Transit Oriented Development Rental Housing—\$0.15 billion to the existing Transit-Oriented Development Implementation Program.

Infill Incentive Grant Program – \$0.3 billion.



Joe Serna, Jr. Farmworker Housing Grant Fund —\$0.3 billion
Local Housing Trust Fund Matching Grant Program – \$0.3 billion
CalHome Program —\$0.3 billion
Self-Help Housing Fund – \$0.15 billion
CalVet Home Loan Program – \$1.0 billion

Throughout much of the legislative year, advocates did not think that SB 3 would make its way to the Governor’s desk, as he has been firm on his stance against bonds, which require debt servicing from the general fund. However, during negotiations to extend the state’s cap and trade program, Assembly Democrats made it known that they desperately wanted the Governor’s commitment to addressing the state’s housing crisis, and would require action in exchange for their efforts on cap and trade.

SB 2 (Atkins) Recording Fees

Status: Signed by the Governor – Chapter 364, Statutes of 2017.

San Mateo Position: Support.

SB 2 creates a permanent funding source for affordable housing projects. It’s projected to raise between \$200-\$300 million per year by adding a \$75 document fee on real estate transactions – excluding new home purchases.

The bill requires that half of the funds collected in the first year be spent on programs for those experiencing homelessness, and the remaining half to be made available to localities to update planning document and zoning ordinances. In year two and beyond, 70% of the funds shall be distributed directly to locals and 30% shall go to the state to be spent for farmworker housing, state incentive programs, and mixed income multifamily residential housing affordable to lower and moderate-income housing.

This bill is several years in the making. Senator Atkins has carried similar legislation in previous sessions, but has always faced staunch opposition from the Realtors Association. With this year’s fee exemption for new home purchases, the Realtors removed their opposition. The bill was supported by a large coalition of business and housing advocates, and after a long struggle, squeaked by the legislature with the bare minimum number of requisite votes.

SB 2 and SB 3 were said by the Administration to be a package deal, and that the Governor would not incur debt without also establishing a permanent funding source and streamlining some of the development hurdles.

SB 166 (Skinner) Housing Accountability Act

Status: Signed by the Governor – Chapter 367, Statutes of 2017.

SB 166 seeks to ensure that localities maintain an ongoing supply of land to meet the locality’s unmet housing needs as outlined in the housing element and to meet its share of the RHNA.

The bill also amends California’s existing “No Net Loss” zoning law, ensuring that cities maintain an ongoing supply of identified sites for housing construction at each income level. It also expand the definition of “lower residential density” if the local jurisdiction has not adopted a housing element for the current planning period or the adopted housing element is not in substantial compliance.

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

Status: Signed by the Governor – Chapter 368, Statutes of 2017.

SB 167 makes a number of changes to California’s Housing Accountability Act, aimed at making local agencies and governments more accountable in regards to affordable housing projects. SB 167 is intended to complement SB 166 by ensuring more housing is built once sites are identified. The bill would prohibit 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 a preponderance of the evidence in the record.

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

Status: Signed by the Governor – Chapter 366, Statutes of 2017.

Senate Bill 35 seeks to create a streamlined approval process for housing when cities are not meeting the housing creation goals required by the Regional Housing Needs Assessment (RHNA). Under SB 35, if cities aren’t on track to meet those goals, then approval of projects will be streamlined if they meet a set of objective criteria, including affordability, density, zoning, historic, and environmental standards, and if they meet rigorous standards for construction labor.

This “streamlining” bill is a result of the Governor’s request that any housing package contain some regulatory relief for developers. SB 35 was initially drafted to be a fairly substantial reform bill, but after much stakeholder involvement, including input from local government, labor, and the environmental community, the bill was amended to be more narrowly tailored.

The Department of Housing & Community Development will be releasing guidance at some point related to SB 35.

[SB 229 \(Wieckowski\)](#) Accessory Dwelling Units

Status: Signed by the Governor – Chapter 594, Statutes of 2017.

Clean-up to the ADU-related statute recently enacted by clarifying that an ADU may be rented, but not sold separately from the primary home; includes special districts and water corporations for purposes of fees so that no connection fees or capacity charges occur when an existing structure is converted; also clarifies tandem parking and allows HCD to comment on local ADU ordinances.

[SB 277 \(Bradford\)](#) Land use: zoning regulations

Status: 2 year bill.

SB 277 would authorize the legislative body of a city or county to establish inclusionary housing requirements as a condition of the development of residential rental units, and also requires the ordinance adopted by the city or county to provide alternative means of compliance, which can include in-lieu fees, land dedication, offsite construction, or acquisition and rehabilitation of existing units.

This bill is in response to the decision in *Palmer v. City of Los Angeles*, which established that rental housing could in fact apply inclusionary policies to rental housing.

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

Status: Signed by the Governor – Chapter 369, Statutes of 2017.

SB 540, which is sponsored by the League of California Cities, allows for a single environmental review to be completed for all projects within specific areas identified by cities and counties as Workforce Housing Zones, by preparing an EIR pursuant to the CEQA and by adopting a specific plan streamlining the environmental review process and incentivizing housing construction in these zones. Extensive environmental reviews for these zones would be conducted at the front-end, providing developers with a clear picture of the conditions for development (including traffic mitigation measures, parking requirements, design review standards and environmental mitigation). After the specific plan is adopted and the zone is formed, the local government would be allowed to impose a specific plan fee upon all persons seeking governmental approvals within the zone.

This bill authorizes at least 50% of total housing units within a WHOZ to be affordable to persons or families at or below moderate income. Requires each development project to include at least 10% of the units affordable for lower income households.

[SB 711 \(Hill\)](#) Electrical Corporations and Gas Corporations: Rates and Charges

Status: Signed by the Governor – Chapter 467, Statutes of 2017.

Requires the PUC to make an effort to minimize bill volatility for residential gas and electric customers.

[AB 53 \(Steinorth\)](#) Personal Income Taxes: Deduction: Home Ownership Savings Account

Status: Held on the Assembly Appropriations Suspense File.

This bill would have created a homeownership savings account and allowed individuals to deduct that contribution (\$7,000 if filing jointly) from their annual taxes.

[AB 71 \(Chiu\)](#) Income taxes: credits: low-income housing: farmworker housing

Status: 2 year bill.

San Mateo Position: Support.

This bill would increase the tax credits allocated for the CTCAC affordable housing by an additional \$300,000,000, and would allocate to farmworker housing projects \$25,000,000 per year of that amount. The bill would also modify the definition of applicable percentage depending on whether the building is a new or existing building and federally subsidized, or a building that is at least 15 years old, serving households of very low income or extremely low income, and will complete substantial rehabilitation.

This bill marks the second attempt at this policy in the same number of years. Last year, Assemblymember Chiu ran a similar measure, but was told by the Administration that he would have to look for a funding source for the program, since general fund contributions were not an option. In order to pay for the \$300,000,000 increase, this bill proposed to eliminate the mortgage interest deduction on second homes. This proposal was strongly opposed by the Association of Realtors, and failed to move past the Assembly.

[AB 72 \(Santiago\) Housing](#)

Status: Signed by the Governor – Chapter 370, Statutes of 2017.

This bill would require the Department of Housing and Community Development to review any action or failure to act by a city or county that it determines is inconsistent with an adopted housing element. The measure would allow HCD to refer violations to the Office of the Attorney General from California's General Fund to bring these local governments into compliance with statewide housing law so they do not continue hindering the development our state sorely needs.

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

Status: Signed by the Governor – Chapter 371, Statutes of 2017.

This bill would allow a city or county to establish a housing sustainability district that authorizes residential use within the district through the ministerial issuance of a permit. This would also allow a city or county to apply to OPR for approval for a zoning incentive payment. Housing built subject to a housing sustainability district would require prevailing wage. This bill is similar in nature to SB 540.

[AB 74 \(Chiu\) Housing](#)

Status: Signed by the Governor – Chapter 777, Statutes of 2017.

AB 74 creates the Housing for a Healthy California Program to provide rental assistance to individuals who are homeless and receive services from the Whole Person Care pilot program, Health Homes, or another locally controlled funding source.

[AB 166 \(Salas\) Building Homes and Jobs Act: recording fee: hardship refund](#)

Status: 2 year bill.

AB 166 would authorize low- and very low-income property owners to claim a hardship refund of fees paid in connection with a property refinancing transaction, as imposed by SB 2, the Building Homes and Jobs Act. This bill as a last minute "gut and amend" that was intended to help gain several of the votes needed to pass SB 2.

[AB 199 \(Chu\) Public works: private residential projects](#)

Status: Governor's Desk.

In its original state, this bill changed the definition of a "public works" to include any work resulting from an "agreement" between a governmental entity and their private partner. This language, of course, was immediately opposed by many in the affordable housing community and larger development community. Through much negotiating, the bill applies the definition of a "public works" to projects built pursuant to an agreement with a state agency, redevelopment agency, or local public housing authority. AB 199 would require such projects receiving public financing to be deemed public works and be paid at the prevailing wage.

[AB 352 \(Santiago\) State Housing Law: efficiency units](#)

Status: Signed by the Governor – Chapter 400, Statutes of 2017.

Prohibits a city/county that adopts an ordinance permitting efficiency units from placing certain limitations on them.

[AB 494 \(Bloom\)](#) Accessory Dwelling Units

Status: Signed by the Governor – Chapter 602, Statutes of 2017.

Provides clarification that an ADU can be rented, but not sold separately from the primary residence; cleans-up the parking and setback provisions as well.

[AB 571 \(Garcia\)](#) Farmworker housing: income taxes: insurance tax: credits: low-income housing: migrant farm labor centers.

Status: Signed by the Governor – Chapter 372, Statutes of 2017.

AB 571 allows farmworker housing developments that receive 4% federal LIHTCs that are in qualified census tracts (QCT) or designated development areas (DDA) to receive state LIHTCs and makes qualified farmworker housing developments eligible for state LIHTCs of 75% of the qualified basis of the building over four years.

[AB 678 \(Bocanegra\)](#) Housing Accountability Act.

Status: Signed by the Governor – Chapter 373, Statutes of 2017.

This bill makes a number of changes to the Housing Accountability Act to ensure that local agencies do not disapprove housing projects without good cause. Changes to HAA include requiring a court to impose a fine in a minimum amount of \$10,000 per housing unit in the housing development project if a court finds a violation of the HAA, and changes the evidentiary standard for a local agency to disapprove a housing development project from “substantial” evidence in the record to “clear and convincing” evidence in the record. This bill is the same as SB 167 (Skinner).

[AB 879 \(Grayson\)](#) Planning and Zoning: housing element.

Status: Signed by the Governor – Chapter 374, Statutes of 2017.

Makes numerous changes to the housing element law and requires HCD to complete a study evaluating the reasonableness of local fees charged to new developments.

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

Status: Vetoed.

This bill would require the city attorney or county counsel to determine, within 15 days after a proposed initiative measure is filed, to determine whether the measure constitutes a project subject to CEQA. If the city believes that the project would fall under CEQA, the jurisdiction will be required to comply with the requirements of CEQA and conduct the environmental review. The proponent of the measure would then be responsible for paying for the review. Upon completion of the review, the ordinance would be submitted to the voters at a special election. This bill would prohibit a development agreement that changes land use designation from being amended or approved through the initiative process.

[AB 915 \(Ting\)](#) Planning and Zoning: density bonus: affordable housing ordinances: City and County of San Francisco

Status: Held on the Senate Appropriations Suspense File.

Authorizes San Francisco to apply its inclusionary housing ordinance to the total number of units in a proposed development, including any additional units granted under the Density Bonus Law, upon approval from HCD.

[AB 943 \(Santiago\)](#) Land use regulations: local initiatives: voter approval

Status: 2 year bill.

This proposal requires an ordinance or amendment to an ordinance that is proposed by an initiative measure and that is submitted to the voters of a city, county, or city and county that would reduce density or stop development or construction to be approved by 55 percent of the votes cast in order to take effect.

This measure was authored in response to Measure S in Los Angeles, which would have placed a moratorium on development. This measure failed to make it out of the Senate Appropriations Committee.

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

Status: Held on the Senate Appropriations Suspense File.

This bill would require the Energy Commission, by January 1, 2020, to establish nonbinding statewide targets that are cost effective and feasible 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.

[AB 1157 \(Mullin\)](#) School Property: School District Advisory Committees: Teacher and School District Employee Housing: Property Tax Exemption

Status: Signed by the Governor – Chapter 717, Statutes of 2017.

Exempts a school district from convening an advisory committee related to surplus property if the sale or lease of property is for the construction or reconstruction/renovation of rental housing facilities for school district employees.

[AB 1193 \(Gloria\)](#) Property tax: welfare exemption: low-income housing

Status: Signed by the Governor – Chapter 756, Statutes of 2017.

AB 1193 seeks to change the welfare property tax exemption such that the exemption applies to affordable, rent restricted units, which are in compliance with their regulatory agreements, instead of the exemption being contingent upon tenant income remaining below 80% AMI, AB 1193 would maintain the property tax exemption as long as rents remain restricted and the tenant was originally income-qualified

**[AB 1397 \(Low\)](#) Local planning: housing element: inventory of land for residential development
Status: Signed by the Governor – Chapter 375, Statutes of 2017.**

This bill would require the inventory of land contained in a housing element to be available for residential development, and for the housing element to include vacant sites and sites that have realistic and demonstrated potential for redevelopment to meet the locality's housing need for a designated income level.

**[AB 1505 \(Bloom\)](#) Land use: zoning regulations
Status: Signed by the Governor – Chapter 376, Statutes of 2017.**

This bill would authorize local governments to adopt ordinances requiring, as a condition of development of residential rental units, that the development include a certain percentage of residential rental units affordable to and occupied by moderate-income, lower income, very low income, or extremely low-income households.

This bill, similar to SB 277, seeks to codify the ability of local governments to place income requirements on rental units in response to *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles (2009) 175 Cal.App.4th 1396*

This bill was being pushed actively by housing advocates who see it as a critical step to ensuring continued development of affordable housing.

**[AB 1521 \(Bloom\)](#) Land Use: notice of proposed change: assisted housing developments
Status: Signed by the Governor – Chapter 377, Statutes of 2017.**

Modifies the requirements related to the sale of assisted housing developments to preserve affordability and enhance the oversight and enforcement role of HCD.

**[AB 1568 \(Bloom\)](#) Enhanced infrastructure financing districts
Status: Signed by the Governor – Chapter 562, Statutes of 2017.**

AB 1568 establishes the Neighborhood Infill and Transit Improvements (NIFTI) Act in Enhanced Infrastructure Financing District (EIFD) law and allows EIFDs to receive sales and use and transaction and use taxes for affordable housing purposes
The revenues would be used specifically to fund an area that is an infill site, and the bill requires that 20% of the funds be used for housing purposes.

**[AB 1598 \(Mullin\)](#) Affordable Housing Authorities
Status: Signed by the Governor – Chapter 764, Statutes of 2017.**

Allows a city or county to create an affordable housing authority to fund affordable housing, similar to a Community Revitalization and Investment Authority (CRIA).

**[AB 1637 \(Gloria\)](#) City of San Diego: County of Santa Clara: housing authority: middle-income housing projects.
Status: Signed by the Governor – Chapter 801, Statutes of 2017.**

This bill would authorize a housing authority to develop and finance a middle-income housing project if the project receives gap financing. The bill would prohibit financial assistance from any public or private source from being used to provide gap financing to units that will be occupied at market-rate rents.

**[ACA 4 \(Aguiar-Curry\)](#) Local Government Financing: affordable housing and public infrastructure: voter approval
Status: 2 year bill.**

Would lower the local voter-approval threshold to 55% for affordable housing purposes.

2018 Proposed Ballot Initiative

Among the myriad of other proposed initiatives that are attempting to make their way onto the 2018 ballot, an [initiative related to affordable housing](#) was recently submitted to the Attorney General's office. The idea here is to allow cities/counties to strengthen rent control laws by repealing the Costa-Hawkins Rental Housing Act. The Act, passed in 1995, restricts the types of housing that can be covered under local rent control ordinances.

Process-wise, the Governor's Department of Finance and the non-partisan Legislative Analyst's Office must prepare a fiscal impact report within 50 days. The AG typically releases title/summary for signature gathering about 65 days after an initiative is filed with them.