



ACA 1 (Aguiar-Curry) Analysis and Recommendation

TITLE: ACA 1 - Local government financing: affordable housing and public infrastructure: voter approval

AUTHOR(S): Aguiar-Curry (D-Winters)

SPONSOR(S): Author

BACKGROUND:

Voters in several cities and Bay Area counties have recently approved bonds and taxes dedicated to funding local transportation projects and affordable housing. However, in some parts of the Bay Area and across the state, sales tax measures have been presented to voters, but repeatedly fall short of the two-thirds voter approval threshold. In November 2018, local measures in San Jose, Santa Rosa, and Richmond narrowly failed to reach the 66 percent requirement and measures that were successful such as Measure W in San Mateo County barely surpassed the two-thirds threshold after almost a month of vote counting.

PURPOSE:

ACA 1 is a re-introduction of ACA 4 (Aguiar-Curry) from 2017. If approved by two-thirds vote of the Legislature, the bill would place before voters a Constitutional Amendment to lower the vote threshold for local special taxes and bonds to fund affordable housing and public infrastructure projects from two-thirds to 55 percent. The bill defines affordable housing to include housing developments, or portions of housing developments, that provide workforce housing affordable to households earning up to 150 percent of countywide median income, and housing developments that provide housing affordable to lower, low-, or very low-income households. Public infrastructure is defined to include improvements to transit, streets and highways; water protection/quality; sanitary sewers; wastewater treatment; protection of property from sea level rise; parks; open space and recreational facilities; flood control; broadband internet access; and local hospital construction.

BART IMPACT:

ACA 1 would assist Bay Area cities, counties, and special districts in raising local funds to address the regional housing crisis and invest in public infrastructure. BART transit-oriented development and improvements to infrastructure are some of the projects that could benefit from additional funding approved through a lower voter threshold.

KNOWN SUPPORT/OPPOSITION:

Support: Pending.

Opposition: None on file.

OTHER COMMENTS:

BART has long supported proposed constitutional amendments to lower the voter threshold for transportation improvements. Most recently, BART supported ACA 4 and SCA 6 (Wiener) in 2017. ACA

4 was referred to the Assembly Local Government and Appropriations Committees but was never set for a hearing. SCA 6 would have lowered the voter approval threshold for a local government to impose, extend, or increase a special tax for "transportation purposes" from two-thirds to 55 percent. SCA 6 died in the Senate Appropriations Committee.

The Committee to House the Bay Area (CASA), as convened by the Metropolitan Transportation Commission and Association of Bay Area Governments, has included in their CASA Compact a call to lower the voter threshold for special taxes or bonds related to affordable housing and public infrastructure.

STATUS:

Introduced on 12/03/18; pending referral in the Assembly.

RECOMMENDATION:

Support

Watch

Oppose

Analysis completed on 02/19/19.

Assembly Constitutional Amendment

No. 1

**Introduced by Assembly Member Aguiar-Curry
(Coauthors: Assembly Members Chiu, Eggman, Eduardo Garcia,
Gloria, McCarty, Mullin, Santiago, and Ting)**

December 3, 2018

Assembly Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of Article XIII A thereof, by amending Section 2 of, and by adding Section 2.5 to, Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to local finance.

LEGISLATIVE COUNSEL'S DIGEST

ACA 1, as introduced, Aguiar-Curry. Local government financing: affordable housing and public infrastructure: voter approval.

(1) The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions.

This measure would create an additional exception to the 1% limit that would authorize a city, county, or city and county to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure or affordable housing, if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition includes specified accountability requirements.

(2) The California Constitution conditions the imposition of a special tax by a local government upon the approval of $\frac{2}{3}$ of the voters of the

local government voting on that tax, and prohibits these entities from imposing an ad valorem tax on real property or a transactions or sales tax on the sale of real property.

This measure would authorize a local government to impose, extend, or increase a sales and use tax or transactions and use tax imposed in accordance with specified law or a parcel tax, as defined, for the purposes of funding the construction, rehabilitation, or replacement of public infrastructure or affordable housing, if the proposition proposing that tax is approved by 55% of its voters voting on the proposition and the proposition includes specified accountability requirements. This measure would also make conforming changes to related provisions.

(3) The California Constitution prohibits specified local government agencies from incurring any indebtedness exceeding in any year the income and revenue provided in that year, without the assent of $\frac{2}{3}$ of the voters and subject to other conditions. In the case of a school district, community college district, or county office of education, the California Constitution permits a proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, to be adopted upon the approval of 55% of the voters of the district or county, as appropriate, voting on the proposition at an election.

This measure would similarly lower to 55% the voter-approval threshold for a city, county, or city and county to incur bonded indebtedness, exceeding in any year the income and revenue provided in that year, that is in the form of general obligation bonds issued to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure or affordable housing projects, if the proposition proposing that bond includes specified accountability requirements.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring, That the*
- 2 *Legislature of the State of California at its 2017–18 Regular*
- 3 *Session commencing on the fifth day of December 2016, two-thirds*
- 4 *of the membership of each house concurring, hereby proposes to*
- 5 *the people of the State of California, that the Constitution of the*
- 6 *State be amended as follows:*

1 First—That Section 1 of Article XIII A thereof is amended to
2 read:

3 SECTION 1. (a) The maximum amount of any ad valorem
4 tax on real property shall not exceed ~~One 1 percent (1%)~~ of the
5 full cash value of ~~such~~ *that* property. The ~~one 1 percent (1%)~~ tax
6 ~~to~~ *shall* be collected by the counties and apportioned according to
7 law to the districts within the counties.

8 (b) The limitation provided for in subdivision (a) shall not apply
9 to ad valorem taxes or special assessments to pay the interest and
10 redemption charges on any of the following:

11 (1) Indebtedness approved by the voters ~~prior to~~ *before* July 1,
12 1978.

13 (2) Bonded indebtedness ~~for to fund~~ the acquisition or
14 improvement of real property approved on or after July 1, 1978,
15 by two-thirds of the votes cast by the voters voting on the
16 proposition.

17 (3) Bonded indebtedness incurred by a school district,
18 community college district, or county office of education for the
19 construction, reconstruction, rehabilitation, or replacement of
20 school facilities, including the furnishing and equipping of school
21 facilities, or the acquisition or lease of real property for school
22 facilities, approved by 55 percent of the voters of the district or
23 county, as appropriate, voting on the proposition on or after ~~the~~
24 ~~effective date of the measure adding this paragraph.~~ *November 8,*
25 *2000.* This paragraph shall apply only if the proposition approved
26 by the voters and resulting in the bonded indebtedness includes
27 all of the following accountability requirements:

28 (A) A requirement that the proceeds from the sale of the bonds
29 be used only for the purposes specified in ~~Article XIII A, Section~~
30 ~~1(b)(3),~~ *this paragraph*, and not for any other purpose, including
31 teacher and administrator salaries and other school operating
32 expenses.

33 (B) A list of the specific school facilities projects to be funded
34 and certification that the school district board, community college
35 board, or county office of education has evaluated safety, class
36 size reduction, and information technology needs in developing
37 that list.

38 (C) A requirement that the school district board, community
39 college board, or county office of education conduct an annual,

1 independent performance audit to ensure that the funds have been
2 expended only on the specific projects listed.

3 (D) A requirement that the school district board, community
4 college board, or county office of education conduct an annual,
5 independent financial audit of the proceeds from the sale of the
6 bonds until all of those proceeds have been expended for the school
7 facilities projects.

8 (4) (A) *Bonded indebtedness incurred by a city, county, or city
9 and county for the construction, reconstruction, rehabilitation, or
10 replacement of public infrastructure or affordable housing, or the
11 acquisition or lease of real property for public infrastructure or
12 affordable housing, approved by 55 percent of the voters of the
13 city, county, or city and county as appropriate, voting on the
14 proposition on or after the effective date of the measure adding
15 this paragraph. This paragraph shall apply only if the proposition
16 approved by the voters and resulting in the bonded indebtedness
17 includes all of the following accountability requirements:*

18 (i) *A requirement that the proceeds from the sale of the bonds
19 be used only for the purposes specified in this paragraph, and not
20 for any other purpose, including city, county, or city and county
21 employee salaries and other operating expenses.*

22 (ii) *A list of the specific projects to be funded, and a certification
23 that the city, county, or city and county has evaluated alternative
24 funding sources.*

25 (iii) *A requirement that the city, county, or city and county
26 conduct an annual, independent performance audit to ensure that
27 the funds have been expended only on the specific projects listed.*

28 (iv) *A requirement that the city, county, or city and county
29 conduct an annual, independent financial audit of the proceeds
30 from the sale of the bonds until all of those proceeds have been
31 expended for the public infrastructure or affordable housing
32 projects, as applicable.*

33 (v) *A requirement that the city, county, or city and county post
34 the audits required by clauses (iii) and (iv) in a manner that is
35 easily accessible to the public.*

36 (vi) *A requirement that the city, county, or city and county
37 appoint a citizens' oversight committee to ensure that bond
38 proceeds are expended only for the purposes described in the
39 measure approved by the voters.*

1 (B) For purposes of this paragraph, “affordable housing” shall
2 include housing developments, or portions of housing
3 developments, that provide workforce housing affordable to
4 households earning up to 150 percent of countywide median
5 income, and housing developments, or portions of housing
6 developments, that provide housing affordable to lower, low-, or
7 very low income households, as those terms are defined in state
8 law.

9 (C) For purposes of this paragraph, “public infrastructure”
10 shall include, but is not limited to, projects that provide any of the
11 following:

12 (i) Water or protect water quality.

13 (ii) Sanitary sewer.

14 (iii) Treatment of wastewater or reduction of pollution from
15 stormwater runoff.

16 (iv) Protection of property from impacts of sea level rise.

17 (v) Parks.

18 (vi) Open space and recreation facilities.

19 (vii) Improvements to transit and streets and highways.

20 (viii) Flood control.

21 (ix) Broadband Internet access service expansion in underserved
22 areas.

23 (x) Local hospital construction.

24 (c) (1) Notwithstanding any other provisions of law or of this
25 Constitution, ~~a school districts, district, community college~~
26 ~~districts, and district, or county offices office~~ of education may
27 levy a 55 percent vote ad valorem tax pursuant to *paragraph (3)*
28 *of subdivision (b)*.

29 (2) Notwithstanding any other provisions of law or this
30 Constitution, a city, county, or city and county may levy a 55
31 percent ad valorem tax pursuant to *paragraph (4) of subdivision*
32 *(b)*.

33 Second—That Section 4 of Article XIII A thereof is amended
34 to read:

35 SEC. 4. ~~Cities, Counties and special districts, Except as~~
36 ~~provided by Section 2.5 of Article XIIC, a city, county, or special~~
37 ~~district, by a two-thirds vote of the qualified electors of such~~
38 ~~district, its voters voting on the proposition, may impose special~~
39 ~~taxes on such district, a special tax within that city, county, or~~
40 ~~special district, except an ad valorem taxes tax on real property~~

1 or a ~~transaction~~ *transactions* tax or sales tax on the sale of real
2 property within ~~such City, County~~ *that city, county*, or special
3 district.

4 Third—That Section 2 of Article XIII C thereof is amended to
5 read:

6 SEC. 2. ~~Local Government Tax Limitation.~~ Notwithstanding
7 any other provision of this Constitution:

8 (a) ~~All taxes~~ *Any tax* imposed by ~~any a~~ local government ~~shall~~
9 ~~be deemed to be~~ *is* either ~~a general taxes tax or a special taxes.~~
10 ~~Special purpose districts tax. A special district or agencies, agency,~~
11 ~~including a school districts, shall have no power district, has no~~
12 ~~authority to levy a general taxes. tax.~~

13 (b) ~~No~~ A local government may *not* impose, extend, or increase
14 any general tax unless and until that tax is submitted to the
15 electorate and approved by a majority vote. A general tax ~~shall is~~
16 ~~not be deemed to have been increased if it is imposed at a rate not~~
17 ~~higher than the maximum rate so approved. The election required~~
18 ~~by this subdivision shall be consolidated with a regularly scheduled~~
19 ~~general election for members of the governing body of the local~~
20 ~~government, except in cases of emergency declared by a unanimous~~
21 ~~vote of the governing body.~~

22 (c) Any general tax imposed, extended, or increased, without
23 voter approval, by any local government on or after January 1,
24 1995, and ~~prior to~~ *before* the effective date of this article, ~~shall~~
25 ~~may~~ continue to be imposed only if *that general tax is* approved
26 by a majority vote of the voters voting in an election on the issue
27 of the imposition, which election shall be held ~~within two years~~
28 ~~of the effective date of this article~~ *no later than November 6, 1996,*
29 and in compliance with subdivision (b).

30 (d) ~~No~~ *Except as provided by Section 2.5,* a local government
31 may *not* impose, extend, or increase any special tax unless and
32 until that tax is submitted to the electorate and approved by a
33 two-thirds vote. A special tax ~~shall is~~ not be deemed to have been
34 increased if it is imposed at a rate not higher than the maximum
35 rate so approved.

36 Fourth—That Section 2.5 is added to Article XIII C thereof, to
37 read:

38 SEC. 2.5. (a) The imposition, extension, or increase of a sales
39 and use tax imposed in accordance with the Bradley-Burns Uniform
40 Local Sales and Use Tax Law (Part 1.5 (commencing with Section

1 7200) of Division 2 of the Revenue and Taxation Code) or a
2 successor law, a transactions and use tax imposed in accordance
3 with the Transactions and Use Tax Law (Part 1.6 (commencing
4 with Section 7251) of Division 2 of the Revenue and Taxation
5 Code) or a successor law, or a parcel tax imposed by a local
6 government for the purpose of funding the construction,
7 reconstruction, rehabilitation, or replacement of public
8 infrastructure or affordable housing, or the acquisition or lease of
9 real property for public infrastructure or affordable housing, is
10 subject to approval by 55 percent of the voters in the local
11 government voting on the proposition, if both of the following
12 conditions are met:

13 (1) The proposition is approved by a majority vote of the
14 membership of the governing board of the local government.

15 (2) The proposition contains all of the following accountability
16 requirements:

17 (A) A requirement that the proceeds of the tax only be used for
18 the purposes specified in the proposition, and not for any other
19 purpose, including general employee salaries and other operating
20 expenses of the local government.

21 (B) A list of the specific projects that are to be funded by the
22 tax, and a certification that the local government has evaluated
23 alternative funding sources.

24 (C) A requirement that the local government conduct an annual,
25 independent performance audit to ensure that the proceeds of the
26 special tax have been expended only on the specific projects listed
27 in the proposition.

28 (D) A requirement that the local government conduct an annual,
29 independent financial audit of the proceeds from the tax during
30 the lifetime of that tax.

31 (E) A requirement that the local government post the audits
32 required by subparagraphs (C) and (D) in a manner that is easily
33 accessible to the public.

34 (F) A requirement that the local government appoint a citizens'
35 oversight committee to ensure the proceeds of the special tax are
36 expended only for the purposes described in the measure approved
37 by the voters.

38 (b) For purposes of this section, the following terms have the
39 following meanings:

1 (1) “Affordable housing” shall include housing developments,
2 or portions of housing developments, that provide workforce
3 housing affordable to households earning up to 150 percent of
4 countywide median income, and housing developments, or portions
5 of housing developments, that provide housing affordable to lower,
6 low-, or very low income households, as those terms are defined
7 in state law.

8 (2) “Parcel tax” means a special tax imposed upon a parcel of
9 real property at a rate that is determined without regard to that
10 property’s value and that applies uniformly to all taxpayers or all
11 real property within the jurisdiction of the local government.
12 “Parcel tax” does not include a tax imposed on a particular class
13 of property or taxpayers.

14 (3) “Public infrastructure” shall include, but is not limited to,
15 the projects that provide any of the following:

16 (A) Water or protect water quality.

17 (B) Sanitary sewer.

18 (C) Treatment of wastewater or reduction of pollution from
19 stormwater runoff.

20 (D) Protection of property from impacts of sea level rise.

21 (E) Parks.

22 (F) Open space and recreation facilities.

23 (G) Improvements to transit and streets and highways.

24 (H) Flood control.

25 (I) Broadband Internet access service expansion in underserved
26 areas.

27 (J) Local hospital construction.

28 Fifth—That Section 3 of Article XIII D thereof is amended to
29 read:

30 ~~SEC. 3. Property Taxes, Assessments, Fees and Charges~~
31 ~~Limited.—(a) No~~ *An agency shall not assess a tax, assessment, fee,*
32 ~~or charge shall be assessed by any agency upon any parcel of~~
33 ~~property or upon any person as an incident of property ownership~~
34 ~~except:~~

35 (1) The ad valorem property tax imposed pursuant to Article
36 XIII and Article XIII A.

37 (2) Any special tax receiving a two-thirds vote pursuant to
38 Section 4 of Article XIII ~~A:A~~ *or Section 2.5 of Article XIII C.*

39 (3) Assessments as provided by this article.

1 (4) Fees or charges for ~~property related~~ *property-related* services
2 as provided by this article.

3 (b) For purposes of this article, fees for the provision of electrical
4 or gas service ~~shall are~~ not be deemed charges or fees imposed as
5 an incident of property ownership.

6 Sixth—That Section 18 of Article XVI thereof is amended to
7 read:

8 SEC. 18. (a) ~~No~~ A county, city, town, township, board of
9 education, or school district, shall *not* incur any indebtedness or
10 liability in any manner or for any purpose exceeding in any year
11 the income and revenue provided for ~~such~~ *that* year, without the
12 assent of two-thirds of the voters of the public entity voting at an
13 election to be held for that purpose, except that with respect to any
14 such public entity which is authorized to incur indebtedness for
15 public school purposes, any proposition for the incurrence of
16 indebtedness in the form of general obligation bonds for the
17 purpose of repairing, reconstructing or replacing public school
18 buildings determined, in the manner prescribed by law, to be
19 structurally unsafe for school use, shall be adopted upon the
20 approval of a majority of the voters of the public entity voting on
21 the proposition at such election; nor unless before or at the time
22 of incurring such indebtedness provision shall be made for the
23 collection of an annual tax sufficient to pay the interest on such
24 indebtedness as it falls due, and to provide for a sinking fund for
25 the payment of the principal thereof, on or before maturity, which
26 shall not exceed forty years from the time of contracting the
27 indebtedness.

28 (b) Notwithstanding subdivision (a), ~~on or after the effective~~
29 ~~date of the measure adding this subdivision, in the case of any~~
30 ~~school district, community college district, or county office of~~
31 ~~education, any proposition for the incurrence of indebtedness in~~
32 ~~the form of general obligation bonds for the construction,~~
33 ~~reconstruction, rehabilitation, or replacement of school facilities,~~
34 ~~including the furnishing and equipping of school facilities, or the~~
35 ~~acquisition or lease of real property for school facilities, for the~~
36 ~~purposes described in paragraph (3) or (4) of subdivision (b) of~~
37 ~~Section 1 of Article XIII A shall be adopted upon the approval of~~
38 ~~55 percent of the voters of the district or county, school district,~~
39 ~~community college district, county office of education, city, county,~~
40 ~~or city and county, as appropriate, voting on the proposition at an~~

1 election. This subdivision shall apply ~~only~~ to a proposition for the
2 incurrence of indebtedness in the form of general obligation bonds
3 for the purposes specified in this subdivision *only* if the proposition
4 meets all of the accountability requirements of paragraph (3) *or*
5 (4) of subdivision ~~(b) (b)~~, *as appropriate*, of Section 1 of Article
6 XIII A.

7 (c) When two or more propositions for incurring any
8 indebtedness or liability are submitted at the same election, the
9 votes cast for and against each proposition shall be counted
10 separately, and ~~when~~ *if* two-thirds or a majority or 55 percent of
11 the voters, as the case may be, voting on any one of those
12 propositions, vote in favor thereof, the proposition shall be deemed
13 adopted.



SB 42 (Skinner) Analysis and Recommendation

TITLE: SB 42 – Getting Home Safe Act

AUTHOR(S): Skinner (D-Berkeley)

SPONSOR(S): The Young Women’s Freedom Center

BACKGROUND:

Existing law authorizes a county sheriff to discharge a person from a county jail at any time on the last day that the person may be confined. Existing law additionally authorizes a sheriff to offer a voluntary program to a person, upon completion of a sentence served or a release ordered by the court, that would allow the person to stay in jail for up to 16 additional hours or until normal business hours in order to offer the person the ability to be discharged to a treatment center or during daytime hours. County sheriffs offering this program are required to allow the person to make a telephone call to arrange for transportation or to notify his or her bail agent.

PURPOSE:

Beginning June 1, 2020, SB 42 would require a county sheriff to make the release standards, release processes, and release schedules of a county jail available to the public and to incarcerated persons. The bill would provide a person with the right to request that, upon release from a county jail, they be assisted in entering a drug or alcohol rehabilitation program and would require the county jail to provide or arrange transportation directly from jail to a rehabilitation program or hospital free of charge.

SB 42 would also require a person scheduled to be released from jail during normal business hours. If circumstances prevent such a release, then the person would have the option to stay voluntarily up to 16 additional hours. If a person declines this option, they must be provided the opportunity to choose from specified alternatives, such as free transportation to a location of the person’s choosing within the county or within a 100-mile radius. The bill would also require a person who is released from jail after being incarcerated for more than 30 days to be provided with at least 3 days’ supply of any necessary medication.

The bill directs the Board of State and Community Corrections to establish the Late-Night Release Prevention Task Force to be composed of relevant stakeholders, including women and children who have been incarcerated. The task force would be required to submit a report on January 1, 2022, to the relevant policy and budget committees of the Legislature about the progress made by the task force in implementing these provisions and make suggestions for any additional legislation necessary to prevent dangerous late-night releases at county jails throughout California.

BART IMPACT:

Jessica St. Louis was released from Alameda County’s Santa Rita Jail in the early morning hours on July 28, 2018. At the time of her release, she was provided a BART ticket; however, the nearest BART station was located a mile and a half from the jail and was not yet open. Jessica St. Louis was found dead later that day at the passenger pick-up/drop off area of the Dublin/Pleasanton BART Station.

SB 42 seeks to prevent similar incidences and ensure that people released from county jails can get home safely by limiting the practice of late-night releases. If a person must be released during non-business hours, SB 42 would ensure individuals are given more than a BART ticket and provided access to a phone, free transportation, and other supportive services.

KNOWN SUPPORT/OPPOSITION:

Support: The Young Women’s Freedom Center (sponsor), Essie Justice Group, Anti-Police Terror Project, Communities United for Restorative Youth Justice, Lawyers Committee for Civil Rights, San Francisco Sheriff’s Department, The W. Haywood Burns Institute, Western Center on Law and Poverty

Opposition: None on file.

OTHER COMMENTS:

SB 42 is a re-introduction of Senator Skinner’s SB 1142 from last session. SB 1142 was referred to the Senate Rules Committee, but was never set for a hearing.

STATUS:

Introduced on 12/03/18; referred to the Senate Public Safety Committee on 1/16/19.

RECOMMENDATION:

- Support
- Watch
- Oppose

Analysis completed on 02/19/19.

Introduced by Senator Skinner

December 3, 2018

An act to amend and repeal Section 4024 of, and to add Sections 4024.5 and 4024.6 to, the Penal Code, relating to jails.

LEGISLATIVE COUNSEL'S DIGEST

SB 42, as introduced, Skinner. The Getting Home Safe Act.

Existing law authorizes a county sheriff to discharge a person from a county jail at any time on the last day that the person may be confined that the sheriff considers to be in the best interests of that person. Existing law additionally authorizes a sheriff to offer a voluntary program to a person, upon completion of a sentence served or a release ordered by the court to be effected the same day, that would allow the person to stay in jail for up to 16 additional hours or until normal business hours, whichever is shorter, in order to offer the person the ability to be discharged to a treatment center or during daytime hours, as specified. Existing law authorizes the person to revoke his or her consent and be discharged as soon as possible and practicable. Existing law requires a sheriff offering this program to, whenever possible, allow the person to make a telephone call to arrange for transportation or to notify his or her bail agent, as specified.

This bill would make these provisions inoperative on June 1, 2020, and would repeal it as of January 1, 2021.

The bill, beginning June 1, 2020, would instead require the sheriff to make the release standards, release processes, and release schedules of a county jail available to the public and to incarcerated persons, as specified. The bill would provide a person with the right to request that, upon his or her release from a county jail, he or she be assisted in entering a drug or alcohol rehabilitation program, and would require

the county jail to provide or arrange transportation directly from jail to a rehabilitation program or hospital free of charge immediately upon release from jail. The bill would also require a person scheduled to be released from jail between the hours of 8 a.m. and 5 p.m. or sundown, whichever is later, to be released during that time. The bill would require the sheriff to offer a person scheduled to be released from jail between the hours of 5 p.m. or sundown, whichever is later, and 8 a.m. the option to voluntarily stay in jail for up to 16 additional hours or until normal business hours, as specified. The bill would require the person, if he or she declines this option, to be provided the opportunity to choose from specified alternatives, such as free transportation to a location of the person's choosing within the county or within a 100-mile radius, whichever is further. The bill would also require a person who is released from jail after being incarcerated for more than 30 days to be provided with at least 3 days' supply of any necessary medication. Because this bill would impose new duties on sheriffs and county jails, it would impose a state-mandated local program. The bill would authorize a violation of the rights described in these provisions to be submitted to the Board of State and Community Corrections, Ombudsman. The bill would require the board to convene a stakeholder group that includes women and girls who have been incarcerated to aid in developing protocols for receiving and responding to reports of violations of these provisions.

The bill would also require the Board of State and Community Corrections to establish the Late-Night Release Prevention Task Force. The bill would require the task force to be composed of relevant stakeholders, including women and children who have been incarcerated, and would require the task force, among other duties, to submit a report on January 1, 2022, to the relevant policy and budget committees of the Legislature about the progress made by the task force in implementing these provisions and make suggestions for any additional legislation necessary to prevent dangerous late-night releases at county jails throughout California.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:
- 3 (1) Women of color are more commonly criminalized for
4 noncriminal behavior than other demographic groups and are
5 treated like perpetrators when they call for help or are suffering a
6 crisis.
- 7 (2) The overrepresentation of women of color in our county
8 jails is evidence of these injustices and the disregard with which
9 they are discharged from county jails only worsens the harm they
10 experience as a result.
- 11 (3) Despite legislation passed and signed in 2014 that allowed
12 county jails to voluntarily participate in a program that would
13 reduce the number of late-night releases throughout California,
14 few jails have changed their release policy and, instead, jails
15 continue to regularly release jailed persons during late-night hours.
- 16 (4) The lack of free phone services available to people during
17 detention and the inability to charge personal cell phones upon
18 release exacerbates the danger of late-night releases.
- 19 (5) This practice is especially dangerous for women, including
20 transgender women, who become targets for physical abuse, sexual
21 abuse, and sex trafficking from predators who are familiar with
22 county jail late-night release practices.
- 23 (6) The release of people from a county jail during late-night
24 hours is not only dangerous for the person being released but also
25 for the public health and safety of the community at large.
- 26 (7) Persons who suffer from mental illness or substance
27 addiction are far less likely to be able to access immediate
28 treatment services following a late-night release from county jail.
- 29 (8) Intentional or not, these release policies are cruel and fail
30 to acknowledge the often significant lived trauma that people,
31 especially women, who are involved in the criminal justice system
32 have experienced.
- 33 (9) There is no recidivism prevention or public safety purpose
34 of county jail late-night release policies that would substantiate
35 the need for counties to maintain them. In fact, the lack of access

1 to essential reentry, family reunification, and transportation services
2 means these late-night release policies work contrary to
3 crime-prevention goals.

4 (10) Throughout California, women impacted by these late-night
5 release policies have been thwarted in their efforts to end this
6 practice, indicating that a statewide solution is needed.

7 (b) It is the intent of the Legislature to ensure that people are
8 released with expediency from county jails with conditions that
9 protect their health and maximize the likelihood of their success
10 in preventing rearrest by establishing a statewide release standard
11 for county jails to follow.

12 SEC. 2. Section 4024 of the Penal Code is amended to read:

13 4024. (a) The sheriff may discharge any prisoner from the
14 county jail at such time on the last day such prisoner may be
15 confined as the sheriff shall consider to be in the best interests of
16 the prisoner.

17 (b) (1) Upon completion of a sentence served by a prisoner or
18 the release of a prisoner ordered by the court to be effected the
19 same day, including prisoners who are released on their own
20 recognizance, have their charges dismissed by the court, are
21 acquitted by a jury, are cited and released on a misdemeanor
22 charge, have posted bail, or have the charges against them dropped
23 by the prosecutor, the sheriff may offer a voluntary program to the
24 prisoner that would allow that prisoner to stay in the custody
25 facility for up to 16 additional hours or until normal business hours,
26 whichever is shorter, in order to offer the prisoner the ability to be
27 discharged to a treatment center or during daytime hours. The
28 prisoner may revoke his or her consent and be discharged as soon
29 as possible and practicable.

30 (2) This subdivision does not prevent the early release of
31 prisoners as otherwise allowed by law or allow jails to retain
32 prisoners any longer than otherwise required by law without the
33 prisoner's express written consent.

34 (3) Offering this voluntary program is an act of discretion within
35 the meaning of Section 820.2 of the Government Code.

36 (4) If a prisoner has posted bail and elects to participate in this
37 program, he or she shall notify the bail agent as soon as possible
38 and practicable of his or her decision to participate.

39 (5) A sheriff offering this program shall, whenever possible,
40 allow the prisoner volunteering to participate in the program to

1 make a telephone call to either arrange for transportation, or to
2 notify the bail agent pursuant to paragraph (4), or both.

3 (c) *This section shall become inoperative on June 1, 2020, and*
4 *as of January 1, 2021, is repealed.*

5 SEC. 3. Section 4024.5 is added to the Penal Code, to read:

6 4024.5. (a) This section shall be known as the Getting Home
7 Safe Act.

8 (b) The rights established in this section apply to any person
9 being released from a county jail, including, but not limited to, a
10 person who has completed a sentence served, been ordered by the
11 court to be released, been released on his or her own recognizance,
12 been released because his or her charges have been dismissed by
13 the court, is acquitted by a jury, is cited and released on a
14 misdemeanor charge, has posted bail, has complied with pretrial
15 release conditions, or has had the charges dropped against him or
16 her by the prosecutor.

17 (c) (1) A county sheriff shall make the release standards, release
18 processes, and release schedules of a county jail available to the
19 public and shall post them online to the sheriff's Internet Web site.
20 The sheriff shall also make the release standards, release processes,
21 and release schedules of a county jail available to a person when
22 he or she is booked into a county jail and while he or she is
23 incarcerated in a county jail.

24 (2) The release standards shall include the list of rights
25 enumerated in this section and the timeframe for the expedient
26 release of a person following the determination to release that
27 person by a judge, jury, or appropriate county staff member.

28 (d) (1) A person shall have the right to request that, upon his
29 or her release from a county jail, he or she be assisted in entering
30 a drug or alcohol rehabilitation program. The person shall be
31 allowed to make this request upon, or subsequent to, being booked
32 into a county jail.

33 (2) If the person chooses to enter a drug or alcohol rehabilitation
34 program upon release from jail, the county jail shall provide or
35 arrange transportation directly to a rehabilitation program or
36 hospital free of charge immediately upon release.

37 (e) A person incarcerated in or recently released from a county
38 jail shall have access to up to three free telephone calls from a
39 telephone in the county jail to plan for a safe and successful release

1 and shall also have access to a free cell phone charging station
2 upon release from jail to charge his or her personal cell phone.

3 (f) (1) A sheriff shall offer a person scheduled to be released
4 from jail between the hours of 5 p.m. or sundown, whichever is
5 later, and 8 a.m. the option to voluntarily stay in jail for up to 16
6 additional hours or until normal business hours, whichever is
7 shorter, in order to offer the person the ability to be discharged
8 during daytime hours.

9 (2) A person shall provide his or her written consent before
10 choosing to stay voluntarily in jail as described in paragraph (1).
11 However, a person may revoke his or her written consent at any
12 time and be discharged from jail as soon as possible and
13 practicable.

14 (g) A person scheduled to be released from county jail between
15 the hours of 8 a.m. and 5 p.m. or sundown, whichever is later, shall
16 be released during that time. If the person is scheduled to be
17 released from jail between the hours of 5 p.m. or sundown,
18 whichever is later, and 8 a.m., and he or she has declined the option
19 described in subdivision (f), he or she shall be provided the
20 opportunity to choose from both of the following alternatives:

21 (1) A safe place to wait for a person he or she knows to pick
22 him or her up with adequate and sufficient ability to charge his or
23 her own personal cell phone and access to a free public telephone.

24 (2) Free transportation to a location of the person's choosing
25 within the county or within a 100-mile radius, whichever is further.

26 (h) A person who is released from jail after being incarcerated
27 for more than 30 days shall receive at least three days' supply of
28 any necessary medication.

29 (i) This section does not prevent the early release of a person
30 as otherwise allowed by law or allow a county jail to retain a person
31 any longer than otherwise required or allowed by law without the
32 person's express written consent.

33 (j) (1) A violation of the rights established by this act may be
34 submitted to the Board of State and Community Corrections,
35 Ombudsman.

36 (2) (A) For purposes of developing protocols for receiving and
37 responding to reports of violations of the rights established by this
38 act, the board shall convene a stakeholder group that includes
39 women and girls who have been incarcerated to aid in this effort.

1 (B) For purposes of this paragraph, “woman” means an
2 individual who self-identifies her gender as a woman, without
3 regard to her designated sex at birth.

4 (k) This section shall become operative on June 1, 2020.

5 SEC. 4. Section 4024.6 is added to the Penal Code, to read:

6 4024.6. (a) (1) The Board of State and Community Corrections
7 shall establish the Late-Night Release Prevention Task Force.

8 (2) The task force shall be composed of relevant stakeholders,
9 including women and children who have been incarcerated.

10 (b) The task force shall do both of the following:

11 (1) Prepare any and all materials related to the implementation
12 of the Getting Home Safe Act.

13 (2) Develop recommended requirements for county jails to
14 maintain records that adequately document the implementation of
15 the Getting Home Safe Act, including how these records will be
16 maintained and made available to the public.

17 (c) (1) The task force shall submit a report on January 1, 2022,
18 to the relevant policy and budget committees of the Legislature
19 about the progress made by the task force in implementing this
20 section and make suggestions for any additional legislation
21 necessary to prevent dangerous late-night releases at county jails
22 throughout California.

23 (2) The requirement for submitting a report imposed under
24 paragraph (1) is inoperative on January 1, 2026, pursuant to Section
25 10231.5 of the Government Code.

26 (d) For purposes of this section, “woman” means an individual
27 who self-identifies her gender as a woman, without regard to her
28 designated sex at birth.

29 SEC. 5. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.



SB 50 (Wiener) Analysis and Recommendation

TITLE: SB 50 – Planning and zoning: housing development: equitable communities incentive

AUTHOR(S): Senate: Wiener (D-San Francisco), Caballero (D-Salinas), Hueso (D-San Diego), Moorlach (R-Costa Mesa), Skinner (D-Berkeley)

Assembly: Burke (D-Marina Del Rey), Kalra (D-San Jose), Kiley (R-Rocklin), Low (D-Campbell), Rivas (D-Hollister), Ting (D-San Francisco), Wicks (D-Oakland)

SPONSOR(S): California YIMBY, Non-Profit Housing Association of Northern California

BACKGROUND:

Local governments play a lead role in determining the location and amount of housing in their jurisdictions, including which developments will be located near high-quality transit corridors. Legislative leaders, who believe the state needs to do more to address the housing crisis, have successfully passed measures related to planning and zoning, density bonuses, and parking requirements. These measures include SB 35 (Wiener, 2017), which created a streamlined, ministerial approval process for eligible housing projects in localities that fail to meet their Regional Housing Needs Assessment target. Attempting to build on these efforts, Senator Wiener introduced SB 827 in 2018, that would have established state minimum zoning near high quality transit. The bill died in the Senate Transportation and Housing Committee.

PURPOSE:

SB 50, modeled after SB 827, establishes a new “equitable communities incentive” (ECI) option that a local jurisdiction would be required to offer a developer proposing a project that is either a “transit-rich housing project” or a “job-rich housing project.” SB 50 would exempt a transit-rich or job-rich housing project from various local requirements including a waiver from controls on density; parking minimums; and maximum height requirements of 45 feet for projects within a one-half mile radius of transit and 55 feet within a one-quarter mile radius of transit. Eligible housing projects, which include an unspecified percent of affordable housing, would also receive up to three additional concessions or incentives outlined in current Density Bonus Law. A developer proposing a project may be eligible for streamlined, ministerial approval if the project is in an area zoned to allow housing and complies with other specified local standards.

SB 50 also contains provisions to address concerns regarding displacement and affordability. These provisions include: prohibition on demolishing buildings currently or recently occupied by renters; an inclusionary zoning policy that can only be met by providing housing for low, very low, or extremely low-income households; and delayed implementation in sensitive communities at risk of gentrification and displacement.

BART IMPACT:

SB 50 is complimentary to many aspects of BART’s Transit Oriented Develop (TOD) Policy because it incentivizes the building of housing near transit. BART stations by nature are major transit stops and could see an increase in the number of housing units built within a half-mile radius. Denser housing near BART

could increase ridership as data shows that residents within a half-mile of BART are twice as likely to walk, bike or take transit for their commute trip, and own fewer cars. In addition, housing next to high-quality transit offers a sustainable way to ensure ongoing ridership, which helps reduce freeway congestion and greenhouse gas emissions related to vehicle trips.

In relation to AB 2923 (Chiu) passed last session, SB 50 has the potential to impact future residential developments pursued on BART-owned land. The bill only applies to sites already zoned for residential use and does not apply to public/unzoned sites or commercial zoned sites. SB 50 does not interfere with BART's process for setting TOD standards for stations, but in some cases may provide additional incentives to a developer. For example, SB 50 grants eligible projects a waiver from maximum automobile parking requirements. BART's TOD Guidelines currently have a maximum parking requirement of 0.375 - 1 spot per unit depending on the station place type. SB 50 also grants residential developments located within a one-quarter mile radius of major transit a waiver from maximum height requirements less than 55 feet. This is potentially equal or greater than heights in the TOD Guidelines for stations designated as Neighborhood/Town Center (five stories).

As SB 50 progresses through the legislative process, staff may wish to continue to work with the author's office to understand the interplay between SB 50 and BART's authority through AB 2923.

KNOWN SUPPORT/OPPOSITION:

Support:

Abundant Housing Los Angeles; American Association of Retired Persons; Bay Area Council; Bay Area Housing Advocacy Coalition, California Apartment Association, California Asian Pacific Islander Chamber of Commerce, California Association of Realtors, California League of Conversation Voters; California Renters Legal Advocacy and Education Fund (CaRLA); California YIMBY (Sponsor); Council of Infill Builders; Councilmember Adrian Fine, City of Palo Alto; Councilmember Herb Perez, City of Foster City; Grow The Richmond; Los Angeles Chamber of Commerce; Mayor Gabe Quinto, City of El Cerrito; Mayor John Bauters, City of Emeryville; Mayor London Breed, City and County of San Francisco; Mayor Libby Schaaf, City of Oakland; Mayor Darrell Steinberg, City of Sacramento; Mayor Deborah Penrose, City of Half Moon Bay; Mission YIMBY; People for Housing - Orange County Yimby; Progress Noe Valley; San Francisco Housing Action Coalition; San Francisco Planning and Urban Research (SPUR); Silicon Valley Community Foundation; Silicon Valley Leadership Group; State Building and Construction Trades Council, AFL-CIO; Supervisor David Canepa of San Mateo County; Up For Growth, California; Valley Industry Commerce Association; Vice Mayor David Hagele, City of Sonoma; Supervisor Jim Sperring, Solano County; YIMBY Action

Opposition: Pending

OTHER COMMENTS:

In 2017, BART supported Wiener's SB 827. The bill would have exempted a transit-rich housing project within a half-mile of a major transit stop or quarter-mile of a stop on a "high quality transit corridor" from various local requirements including maximum controls on density and minimum parking.

The Committee to House the Bay Area (CASA), as convened by the Metropolitan Transportation Commission and Association of Bay Area Governments, has included in their CASA Compact a call for minimum zoning near transit to address the Bay Area's affordable housing needs.

STATUS:

Introduced on 12/13/18; referred to Senate Committee on Housing and Senate Committee on Governance and Finance on 1/24/19.

RECOMMENDATION:

Support

Watch

Oppose

Analysis completed on 2/19/19.



SB 50 (Wiener) Analysis and Recommendation

TITLE: SB 50 – Planning and zoning: housing development: equitable communities incentive

AUTHOR(S): Senate: Wiener (D-San Francisco), Caballero (D-Salinas), Hueso (D-San Diego), Moorlach (R-Costa Mesa), Skinner (D-Berkeley)

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SPONSOR(S): California YIMBY, Non-Profit Housing Association of Northern California

BACKGROUND:

Local governments play a lead role in determining the location and amount of housing in their jurisdictions, including which developments will be located near high-quality transit corridors. Legislative leaders, who believe the state needs to do more to address the housing crisis, have successfully passed measures related to planning and zoning, density bonuses, and parking requirements. These measures include SB 35 (Wiener, 2017), which created a streamlined, ministerial approval process for eligible housing projects in localities that fail to meet their Regional Housing Needs Assessment target. Attempting to build on these efforts, Senator Wiener introduced SB 827 in 2018, that would have established state minimum zoning near high quality transit. The bill died in the Senate Transportation and Housing Committee.

PURPOSE:

SB 50, modeled after SB 827, establishes a new “equitable communities incentive” option that a local jurisdiction would be required to offer a developer proposing a project that is either a “transit-rich housing project” or a “job-rich housing project.” SB 50 would exempt a transit-rich or job-rich housing project from various local requirements including a waiver from controls on density; parking minimums; and maximum height requirements of 45 feet for projects within a one-half mile radius of transit and 55 feet within a one-quarter mile radius of transit. Eligible housing projects, which include an unspecified percent of affordable housing, would also receive up to three additional concessions or incentives outlined in current Density Bonus Law. A developer proposing a project may be eligible for streamlined, ministerial approval if the project is in an area zoned to allow housing and complies with other specified local standards.

SB 50 also contains provisions to address concerns regarding displacement and affordability. These provisions include: a prohibition on demolishing buildings currently or recently occupied by renters; an inclusionary zoning policy that can only be met by providing housing for low, very low, or extremely low-income households; and delayed implementation in sensitive communities at risk of gentrification and displacement.

BART IMPACT:

SB 50 is complimentary to many aspects of BART’s Transit Oriented Development (TOD) Policy because it incentivizes the building of housing near transit. BART stations by nature are major transit stops and could see an increase in the number of housing units built within a half-mile radius. Denser housing near BART

could increase ridership as data shows that residents within a half-mile of BART are twice as likely to walk, bike or take transit for their commute trip, and own fewer cars. In addition, housing next to high-quality transit offers a sustainable way to ensure ongoing ridership, which helps reduce freeway congestion and greenhouse gas emissions related to vehicle trips.

In relation to AB 2923 (Chiu and Grayson) passed last session, SB 50 has the potential to impact future residential developments pursued on BART-owned land. The bill only applies to sites already zoned for residential use and does not apply to public/unzoned sites or commercial zoned sites. SB 50 does not interfere with BART's process for setting TOD standards for stations, but in some cases may provide additional incentives to a developer. For example, SB 50 grants eligible projects a waiver from maximum automobile parking requirements. BART's TOD Guidelines currently have a maximum parking requirement of 0.375 - 1 spot per unit depending on the station place type. SB 50 also grants residential developments located within a one-quarter mile radius of major transit a waiver from maximum height requirements less than 55 feet. This is potentially equal or greater than heights in the TOD Guidelines for stations designated as Neighborhood/Town Center (five stories).

As SB 50 progresses through the legislative process, staff may wish to continue to work with the author's office to understand the interplay between SB 50 and BART's authority through AB 2923.

KNOWN SUPPORT/OPPOSITION:

Support:

Abundant Housing Los Angeles; American Association of Retired Persons; Bay Area Council; Bay Area Housing Advocacy Coalition, California Apartment Association, California Asian Pacific Islander Chamber of Commerce, California Association of Realtors, California League of Conversation Voters; California Renters Legal Advocacy and Education Fund (CaRLA); California YIMBY (Sponsor); Council of Infill Builders; Councilmember Adrian Fine, City of Palo Alto; Councilmember Herb Perez, City of Foster City; Grow The Richmond; Los Angeles Chamber of Commerce; Mayor Gabe Quinto, City of El Cerrito; Mayor John Bauters, City of Emeryville; Mayor London Breed, City and County of San Francisco; Mayor Libby Schaaf, City of Oakland; Mayor Darrell Steinberg, City of Sacramento; Mayor Deborah Penrose, City of Half Moon Bay; Mission YIMBY; People for Housing - Orange County Yimby; Progress Noe Valley; San Francisco Housing Action Coalition; San Francisco Planning and Urban Research (SPUR); Silicon Valley Community Foundation; Silicon Valley Leadership Group; State Building and Construction Trades Council, AFL-CIO; Supervisor David Canepa of San Mateo County; Up For Growth, California; Valley Industry Commerce Association; Vice Mayor David Hagele, City of Sonoma; Supervisor Jim Spring, Solano County; YIMBY Action

Opposition: Pending

OTHER COMMENTS:

In 2017, BART supported Wiener's SB 827. The bill would have exempted a transit-rich housing project within a half-mile of a major transit stop or quarter-mile of a stop on a "high quality transit corridor" from various local requirements including maximum controls on density and minimum parking.

The Committee to House the Bay Area (CASA), as convened by the Metropolitan Transportation Commission and Association of Bay Area Governments, has included in their CASA Compact a call for minimum zoning near transit to address the Bay Area's affordable housing needs.

STATUS:

Introduced on 12/13/18; referred to Senate Committee on Housing and Senate Committee on Governance and Finance on 1/24/19.

RECOMMENDATION:

Support

Watch

Oppose

Analysis completed on 2/19/19.

Introduced by Senator Wiener
(Coauthors: Senators Caballero, Hueso, Moorlach, and Skinner)
(Coauthors: Assembly Members Burke, Kalra, Kiley, Low,
Robert Rivas, Ting, and Wicks)

December 3, 2018

An act to add Chapter 4.35 (commencing with Section 65918.50) to Division 1 of Title 7 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as introduced, Wiener. Planning and zoning: housing development: equitable communities incentive.

Existing law, known as the Density Bonus Law, requires, when an applicant proposes a housing development within the jurisdiction of a local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or for the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

This bill would require a city, county, or city and county to grant upon request an equitable communities incentive when a development proponent seeks and agrees to construct a residential development, as defined, that satisfies specified criteria, including, among other things, that the residential development is either a job-rich housing project or a transit-rich housing project, as those terms are defined; the site does not contain, or has not contained, housing occupied by tenants or accommodations withdrawn from rent or lease in accordance with specified law within specified time periods; and the residential development complies with specified additional requirements under

existing law. The bill would require that a residential development eligible for an equitable communities incentive receive waivers from maximum controls on density and automobile parking requirements greater than 0.5 parking spots per unit, up to 3 additional incentives or concessions under the Density Bonus Law, and specified additional waivers if the residential development is located within a 1/2-mile or 1/4-mile radius of a major transit stop, as defined. The bill would authorize a local government to modify or expand the terms of an equitable communities incentive, provided that the equitable communities incentive is consistent with these provisions.

The bill would include findings that the 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 bill would also declare the intent of the Legislature to delay implementation of this bill in sensitive communities, as defined, until July 1, 2020, as provided.

By adding to the duties of local planning officials, 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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 4.35 (commencing with Section
2 65918.50) is added to Division 1 of Title 7 of the Government
3 Code, to read:

4
5 CHAPTER 4.35. EQUITABLE COMMUNITIES INCENTIVES

6
7 65918.50. For purposes of this chapter:

8 (a) "Affordable" means available at affordable rent or affordable
9 housing cost to, and occupied by, persons and families of extremely
10 low, very low, low, or moderate incomes, as specified in context,
11 and subject to a recorded affordability restriction for at least 55
12 years.

1 (b) "Development proponent" means an applicant who submits
2 an application for an equitable communities incentive pursuant to
3 this chapter.

4 (c) "Eligible applicant" means a development proponent who
5 receives an equitable communities incentive.

6 (d) "FAR" means floor area ratio.

7 (e) "High-quality bus corridor" means a corridor with fixed
8 route bus service that meets all of the following criteria:

9 (1) It has average service intervals of no more than 15 minutes
10 during the three peak hours between 6 a.m. to 10 a.m., inclusive,
11 and the three peak hours between 3 p.m. and 7 p.m., inclusive, on
12 Monday through Friday.

13 (2) It has average service intervals of no more than 20 minutes
14 during the hours of 6 a.m. to 10 a.m., inclusive, on Monday through
15 Friday.

16 (3) It has average intervals of no more than 30 minutes during
17 the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

18 (f) "Job-rich housing project" means a residential development
19 within an area identified by the Department of Housing and
20 Community Development and the Office of Planning and Research,
21 based on indicators such as proximity to jobs, high area median
22 income relative to the relevant region, and high-quality public
23 schools, as an area of high opportunity close to jobs. A residential
24 development shall be deemed to be within an area designated as
25 job-rich if both of the following apply:

26 (1) All parcels within the project have no more than 25 percent
27 of their area outside of the job-rich area.

28 (2) No more than 10 percent of residential units or 100 units,
29 whichever is less, of the development are outside of the job-rich
30 area.

31 (g) "Local government" means a city, including a charter city,
32 a county, or a city and county.

33 (h) "Major transit stop" means a site containing an existing rail
34 transit station or a ferry terminal served by either bus or rail transit
35 service.

36 (i) "Residential development" means a project with at least
37 two-thirds of the square footage of the development designated
38 for residential use.

39 (j) "Sensitive community" means an area identified by the
40 Department of Housing and Community Development, in

1 consultation with local community-based organizations in each
2 region, as an area vulnerable to displacement pressures, based on
3 indicators such as percentage of tenant households living at, or
4 under, the poverty line relative to the region.

5 (k) "Tenant" means a person residing in any of the following:

6 (1) Residential real property rented by the person under a
7 long-term lease.

8 (2) A single-room occupancy unit.

9 (3) An accessory dwelling unit that is not subject to, or does
10 not have a valid permit in accordance with, an ordinance adopted
11 by a local agency pursuant to Section 65852.22.

12 (4) A residential motel.

13 (5) Any other type of residential property that is not owned by
14 the person or a member of the person's household, for which the
15 person or a member of the person's household provides payments
16 on a regular schedule in exchange for the right to occupy the
17 residential property.

18 (l) "Transit-rich housing project" means a residential
19 development the parcels of which are all within a one-half mile
20 radius of a major transit stop or a one-quarter mile radius of a stop
21 on a high-quality bus corridor. A project shall be deemed to be
22 within a one-half mile radius of a major transit stop or a one-quarter
23 mile radius of a stop on a high-quality bus corridor if both of the
24 following apply:

25 (1) All parcels within the project have no more than 25 percent
26 of their area outside of a one-half mile radius of a major transit
27 stop or a one-quarter mile radius of a stop on a high-quality bus
28 corridor.

29 (2) No more than 10 percent of the residential units or 100 units,
30 whichever is less, of the project are outside of a one-half mile
31 radius of a major transit stop or a one-quarter mile radius of a stop
32 on a high-quality bus corridor.

33 65918.51. (a) A local government shall, upon request of a
34 development proponent, grant an equitable communities incentive,
35 as specified in Section 65918.53, when the development proponent
36 seeks and agrees to construct a residential development that
37 satisfies the requirements specified in Section 65918.52.

38 (b) It is the intent of the Legislature that, absent exceptional
39 circumstances, actions taken by a local legislative body that

1 increase residential density not undermine the equitable
2 communities incentive program established by this chapter.

3 65918.52. In order to be eligible for an equitable communities
4 incentive pursuant to this chapter, a residential development shall
5 meet all of the following criteria:

6 (a) The residential development is either a job-rich housing
7 project or transit-rich housing project.

8 (b) The residential development is located on a site that, at the
9 time of application, is zoned to allow housing as an underlying
10 use in the zone, including, but not limited to, a residential,
11 mixed-use, or commercial zone, as defined and allowed by the
12 local government.

13 (c) (1) If the local government has adopted an inclusionary
14 housing ordinance requiring that the development include a certain
15 number of units affordable to households with incomes that do not
16 exceed the limits for moderate-income, lower income, very low
17 income, or extremely low income specified in Sections 50079.5,
18 50093, 50105, and 50106 of the Health and Safety Code, and that
19 ordinance requires that a new development include levels of
20 affordable housing in excess of the requirements specified in
21 paragraph (2), the residential development complies with that
22 ordinance.

23 (2) If the local government has not adopted an inclusionary
24 housing ordinance, as described in paragraph (1), and the residential
25 development includes _____ or more residential units, the residential
26 development includes onsite affordable housing for households
27 with incomes that do not exceed the limits for extremely low
28 income, very low income, and low income specified in Sections
29 50093, 50105, and 50106 of the Health and Safety Code. It is the
30 intent of the Legislature to require that any development of _____
31 or more residential units receiving an equitable communities
32 incentive pursuant to this chapter include housing affordable to
33 low, very low or extremely low income households, which, for
34 projects with low or very low income units, are no less than the
35 number of onsite units affordable to low or very low income
36 households that would be required pursuant to subdivision (f) of
37 Section 65915 for a development receiving a density bonus of 35
38 percent.

39 (d) The site does not contain, or has not contained, either of the
40 following:

1 (1) Housing occupied by tenants within the seven years
2 preceding the date of the application, including housing that has
3 been demolished or that tenants have vacated prior to the
4 application for a development permit.

5 (2) A parcel or parcels on which an owner of residential real
6 property has exercised his or her rights under Chapter 12.75
7 (commencing with Section 7060) of Division 7 of Title 1 to
8 withdraw accommodations from rent or lease within 15 years prior
9 to the date that the development proponent submits an application
10 pursuant to this chapter.

11 (e) The residential development complies with all applicable
12 labor, construction employment, and wage standards otherwise
13 required by law and any other generally applicable requirement
14 regarding the approval of a development project, including, but
15 not limited to, the local government's conditional use or other
16 discretionary permit approval process, the California
17 Environmental Quality Act (Division 13 (commencing with Section
18 21000) of the Public Resources Code), or a streamlined approval
19 process that includes labor protections.

20 (f) The residential development complies with all other relevant
21 standards, requirements, and prohibitions imposed by the local
22 government regarding architectural design, restrictions on or
23 oversight of demolition, impact fees, and community benefits
24 agreements.

25 (g) The equitable communities incentive shall not be used to
26 undermine the economic feasibility of delivering low-income
27 housing under the state density bonus program or a local
28 implementation of the state density bonus program, or any locally
29 adopted program that puts conditions on new development
30 applications on the basis of receiving a zone change or general
31 plan amendment in exchange for benefits such as increased
32 affordable housing, local hire, or payment of prevailing wages.

33 65918.53. (a) A residential development that meets the criteria
34 specified in Section 65918.52 shall receive, upon request, an
35 equitable communities incentive as follows:

36 (1) Any eligible applicant shall receive the following:

37 (A) A waiver from maximum controls on density.

38 (B) A waiver from maximum automobile parking requirements
39 greater than 0.5 automobile parking spots per unit.

1 (C) Up to three incentives and concessions pursuant to
2 subdivision (d) of Section 65915.

3 (2) An eligible applicant proposing a residential development
4 that is located within a one-half mile radius, but outside a
5 one-quarter mile radius, of a major transit stop and includes no
6 less than ____ percent affordable housing units shall receive, in
7 addition to the incentives specified in paragraph (1), waivers from
8 all of the following:

9 (A) Maximum height requirements less than 45 feet.

10 (B) Maximum FAR requirements less than 2.5.

11 (C) Notwithstanding subparagraph (B) of paragraph (1), any
12 maximum automobile parking requirement.

13 (3) An eligible applicant proposing a residential development
14 that is located within a one-quarter mile radius of a major transit
15 and includes no less than ____ percent affordable housing units
16 shall receive, in addition to the incentives specified in paragraph
17 (1), waivers from all of the following:

18 (A) Maximum height requirements less than 55 feet.

19 (B) Maximum FAR requirements less than 3.25.

20 (C) Notwithstanding subparagraph (B) of paragraph (1), any
21 maximum automobile parking requirement.

22 (4) Notwithstanding any other law, for purposes of calculating
23 any additional incentive or concession in accordance with Section
24 65915, the number of units in the residential development after
25 applying the equitable communities incentive received pursuant
26 to this chapter shall be used as the base density for calculating the
27 incentive or concession under that section.

28 (5) An eligible applicant proposing a project that meets all of
29 the requirements under Section 65913.4 may submit an application
30 for streamlined, ministerial approval in accordance with that
31 section.

32 (b) The local government may modify or expand the terms of
33 an equitable communities incentive provided pursuant to this
34 chapter, provided that the equitable communities incentive is
35 consistent with, and meets the minimum standards specified in,
36 this chapter.

37 65918.54. The Legislature finds and declares that this chapter
38 addresses a matter of statewide concern rather than a municipal
39 affair as that term is used in Section 5 of Article XI of the

1 California Constitution. Therefore, this chapter applies to all cities,
2 including charter cities.

3 65918.55. (a) It is the intent of the Legislature that
4 implementation of this chapter be delayed in sensitive communities
5 until July 1, 2020.

6 (b) It is further the intent of the Legislature to enact legislation
7 that does all of the following:

8 (1) Between January 1, 2020, and _____, allows a local
9 government, in lieu of the requirements of this chapter, to opt for
10 a community-led planning process aimed toward increasing
11 residential density and multifamily housing choices near transit
12 stops.

13 (2) Encourages sensitive communities to opt for a
14 community-led planning process at the neighborhood level to
15 develop zoning and other policies that encourage multifamily
16 housing development at a range of income levels to meet unmet
17 needs, protect vulnerable residents from displacement, and address
18 other locally identified priorities.

19 (3) Sets minimum performance standards for community plans,
20 such as minimum overall residential development capacity and
21 the minimum affordability standards set forth in this chapter.

22 (4) Automatically applies the provisions of this chapter on
23 January 1, 2025, to sensitive communities that do not have adopted
24 community plans that meet the minimum standards described in
25 paragraph (3), whether those plans were adopted prior to or after
26 enactment of this chapter.

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 a local agency or school district has the authority to levy service
30 charges, fees, or assessments sufficient to pay for the program or
31 level of service mandated by this act, within the meaning of Section
32 17556 of the Government Code.