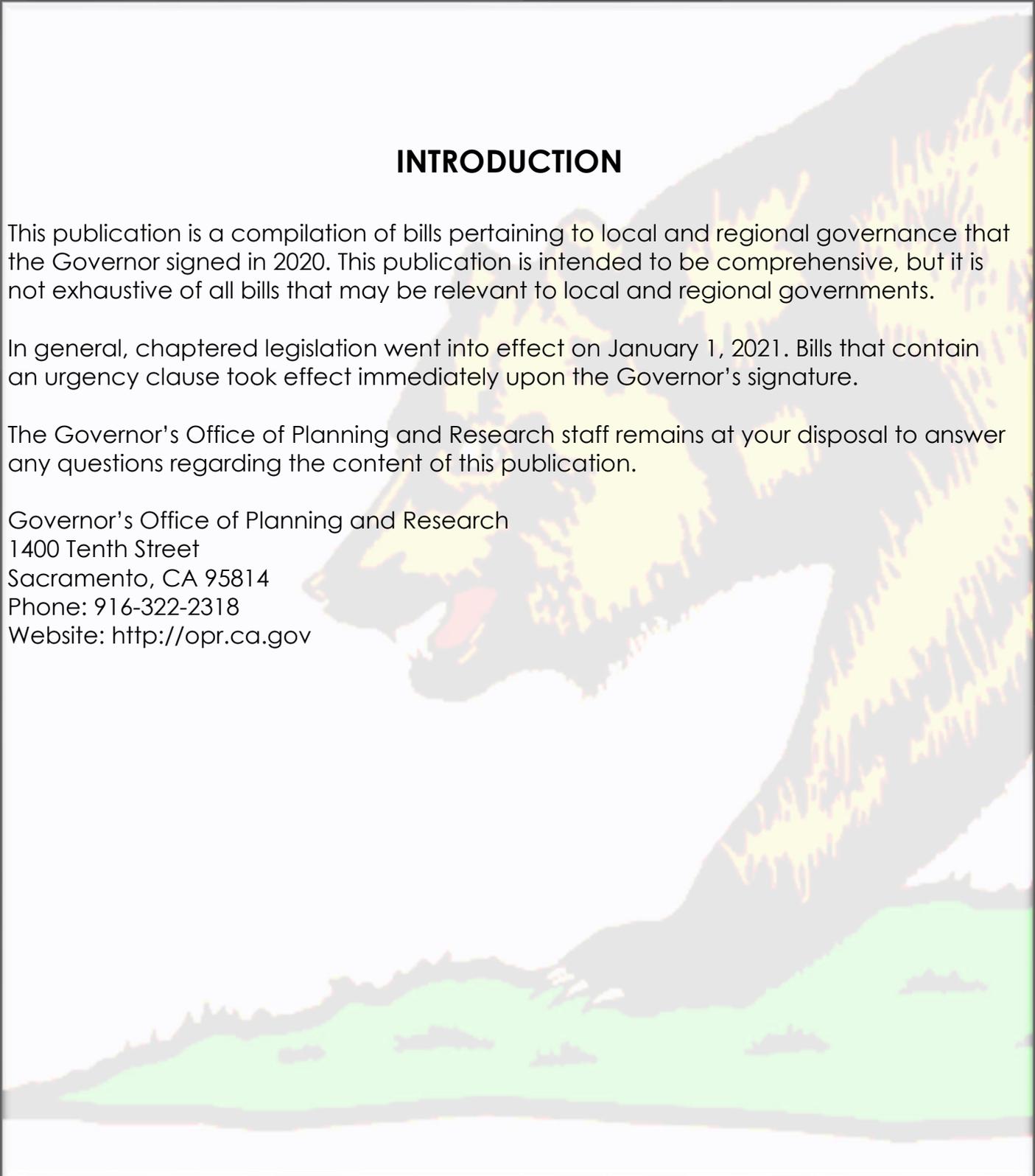




OPR Legislative Summary 2020



**2020
Legislative
Bill
Summary**



INTRODUCTION

This publication is a compilation of bills pertaining to local and regional governance that the Governor signed in 2020. This publication is intended to be comprehensive, but it is not exhaustive of all bills that may be relevant to local and regional governments.

In general, chaptered legislation went into effect on January 1, 2021. Bills that contain an urgency clause took effect immediately upon the Governor's signature.

The Governor's Office of Planning and Research staff remains at your disposal to answer any questions regarding the content of this publication.

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California Environmental Quality Act (CEQA)

AB 168 (Aguiar-Curry) Planning and zoning: annual report: housing development: streamlined approvals

Requires local governments to engage in a tribal consultation process to determine if housing development projects undertaken pursuant to the ministerial approval established by SB 35 (Wiener, 2017) are on sites that contain tribal cultural resources. If the site is likely to contain resources, the local government and tribe must negotiate an enforceable agreement that becomes a condition of approval for the project. If the parties are unable to reach an agreement, the applicant may not pursue approval under SB 35 and must undergo a discretionary approval process. Additionally, local governments would need to include information on their compliance with tribal consultation requirements in their annual planning reports.

Note: This bill contained an urgency clause and took effect upon signature on September 25, 2020.

AB 2421 (Quirk) Land use: permitting: wireless communications: emergency standby generators

Establishes a ministerial approval process for permitting of emergency standby generators for macro cell towers until January 1, 2024. Local agencies would be responsible for approving or denying permits for emergency standby generators within a specified amount of time and emergency generators would be required to meet specified criteria.

AB 2731 (Gloria) California Environmental Quality Act: City of San Diego: Old Town Center redevelopment

Establishes administrative and judicial procedures, including 270-day judicial review, under the California Environmental Quality Act (CEQA) for a mixed-use transportation facility project in the City of San Diego that connects to the airport. To qualify, the project must meet specified criteria, including labor requirements, a reduction in vehicle miles traveled, and be consistent with specified planning documents.

SB 288 (Wiener) California Environmental Quality Act: exemptions: transportation-related projects

Creates a CEQA exemption for certain projects to add or improve transit, bicycle, or pedestrian facilities. The projects must be within a public right-of-way, located in an urban area, use a skilled and trained workforce, and cannot result in the demolition of affordable housing or increase automobile capacity. Projects over \$100 million must undergo a business case and racial equity analysis. This exemption sunsets on January 1, 2023.

SB 974 (Hurtado) California Environmental Quality Act: small disadvantaged community water system: state small water system: exemption

Creates a CEQA exemption for projects that will benefit small (fewer than ten thousand people) disadvantaged community water systems by: providing drinking water to a disadvantaged community with contaminated or depleted drinking water wells; encouraging water conservation; or improving the community water system's water quality, supply, or supply reliability. This exemption sunsets on January 1, 2028.

Climate Resilience

AB 78 (Committee on Budget) Bergeson-Peace Infrastructure and Economic Development Bank

The Climate Catalyst Revolving Loan Fund Act of 2020 establishes the Climate Catalyst Revolving Loan Fund within the State Treasury and administered by the Infrastructure and Economic Development Bank. Funds subsequently appropriated by the Legislature to this account will be available for projects that advance California's climate goals, reduce climate risk, and advance low-carbon technology or infrastructure. The Strategic Growth Council, in consultation with the Labor and Workforce Development Agency, will be required to advise the Legislature on potential categories of investments made by the Climate Catalyst Revolving Loan Fund.

Note: This bill was associated with the 2020-2021 state budget, and took effect upon enactment on June 29, 2020.

AB 2800 (Quirk) Climate change: state infrastructure planning: Climate-Safe Infrastructure Working Group

Repeals the sunset date on an existing law that requires state agencies to consider climate change impacts when planning, designing, building, maintaining, or investing in infrastructure. Additionally, the Climate-Safe Infrastructure Working Group established within the California Natural Resources Agency would be authorized continue its work as resources allow.

SB 1320 (Stern) Climate change: California Climate Change Assessment

Codifies and defines the scope of the California Climate Change Assessment, a responsibility for the Office of Planning and Research to produce, in partnership with the Strategic Growth Council, Natural Resources Agency, Energy Commission, and other relevant state agencies, every five years.

Wildfires & Natural Disasters

AB 3074 (Friedman) Fire prevention: wildfire risk: defensible space: ember-resistant zones

Requires homes in very high fire hazard severity zones to maintain an ember-resistant zone within five feet of the structure, and use more intensive fuel-reduction measures between five and 30 feet of the structure. Local agencies must provide notice to those who violate these requirements before imposing penalties. These requirements would not apply to new structures until the Board of Forestry and Fire Protection updates its guidance document on fuels reduction to account for these changes. The Board must undertake this update before January 1, 2023, subject to an appropriation from the Legislature.

Land Use and Planning

Housing

AB 725 (Wicks) General plans: housing element: moderate-income and above moderate-income housing: suburban and metropolitan jurisdictions

Beginning in 2022, a metropolitan jurisdiction to allocate 25% of its housing planned for moderate-income individuals to sites with zoning that allows at least four units of housing, but no more than 100 units per acre. 25% of the jurisdiction's housing planned for above moderate-income housing must be located on sites where zoning allows at least four units of housing. These provisions do not apply to unincorporated areas, nor does it apply to housing element revisions due on or before January 1, 2021.

AB 831 (Grayson) Planning and zoning: housing: development application modifications

Authorizes a development proponent of a project approved under the ministerial approval process created by SB 35 (Wiener, 2017) to request a modification to the project if the request is submitted in writing prior to the issuance of the final building permit required for construction. Local governments must approve the modification if it is consistent with the objective planning standards in place at the time of submission of the original application, and the local government cannot reconsider prior determinations unaffected by the modification. Objective planning standards adopted after the initial approval may apply if the number of units or square footage increases by 15% or more, the number of units or square footage increases by 5% or more and there is an imminent threat to health and safety and there is no feasible alternative, or objective standards in the California Building Code (Title 24 of the California Code of Regulations) apply.

Additionally, if a project seeking approval under SB 35 (Wiener, 2017) requires a public improvement (such as a bicycle lane, sidewalk, transit stop, traffic light, utility connection, retaining wall, etc.) on land owned by the local government, the local government may not exercise discretion over the public improvement in any way that inhibits, chills, or precludes the development.

Note: This bill contained an urgency clause and took effect upon signature on September 28, 2020.

AB 1561 (C. Garcia) Planning and zoning: housing element and entitlement exclusions

Authorizes the Department of Housing and Community Development to allow local governments to include in their housing elements an analysis of the constraints on housing for people with characteristics identified under the Unruh Civil Rights Act, beginning in 2024. Extends the time allotted for a California Native American Tribe to respond to a request for consultation by 30 days for any housing development application deemed complete between March 4, 2020, and December 31, 2021. Extends, by 18 months, the expiration of a housing development entitlement issued before March 4, 2020, that would expire before December 31, 2021. This extension does not apply to development entitlements extended by at least 18 months before January 1, 2020.

AB 1851 (Wicks) Religious institution affiliated housing development projects: parking requirements

Prohibits a local agency from requiring replacement of religious-use parking spaces that a religious institution affiliated housing development project proposes to eliminate, provided that no more than 50% of the existing parking spaces are eliminated. The local agency cannot deny the housing development permit on the basis of a parking reduction if the project eliminates less than 50% of the institution's parking spaces. Additionally, local governments may not require, as a condition of approval for the housing development project, that the developer cure a pre-existing deficit in the number of religious-use parking spaces. The number of religious-use parking spaces must count toward the number of spaces otherwise required for the housing development project approval, and the local agency may require the development project to provide up to one parking space per unit.

AB 2345 (Gonzalez) Planning and zoning: density bonuses: annual report: affordable housing

Requires a local government's annual report on the implementation of the general plan to include information regarding density bonuses within the jurisdiction. Requires housing development projects that qualify for a density bonus by providing 100% of the units at rates affordable to lower-income households to provide all units (total units and density bonus units) at affordable rates, except up to 20% of the units may be provided at rates affordable to moderate-income households. The bill further changes criteria and calculations related to affordability, numbers of incentives and concessions, density bonus, and parking requirements provided under Density Bonus Law. A local government that has adopted a housing program that provides incentives for additional density and affordability that exceed the density bonuses required under Density Bonus Law as written through December

31, 2020, would not need to amend its program to comply with the changes made by this bill.

A housing development project that receives a waiver on maximum density is only eligible for a waiver or reduction of development standards if it is located near a major transit stop, unless the local agency agrees to additional waivers or reductions of development standards. Specifies that the calculation of proximity to a major transit stop be measured from any point on the site of the proposed project and any point on the property where the transit stop is located. A developer may request that the local government waive parking requirements on a project if it meets specified affordability requirements and either provides unobstructed access to a major transit stop, or provides housing to individuals over 62 years of age who will be served by paratransit service or have unobstructed access to a fixed bus route.

AB 2553 (Ting) Shelter crisis declarations

Extends to any local government an existing law that allowed specified local governments, during a declared shelter crisis, to suspend health, housing, habitability, planning and zoning, or safety regulations related to homeless shelters upon adoption of an ordinance that ensures minimal public health and safety standards. Local governments must develop a plan to address the shelter crisis, subject to state review. Under these conditions, actions taken by a local government to make public land available for homeless shelters are not subject to CEQA. The bill also expands the definition of "homeless shelter" for the purposes of these provisions to include a parking lot owned by the jurisdiction. The sunset date of these provisions would be extended from 2023 to 2026 under this bill.

Note: this bill contained an urgency clause and took effect upon signature on September 25, 2020.

AB 3182 (Ting) Housing: governing documents: rental or leasing of separate interests: accessory dwelling units

Requires common interest developments to allow at least 25% of their owners to rent or lease their units. Accessory dwelling units and junior accessory dwelling units do not count toward this cap, but common interest developments may restrict short-term rentals of 30 days or less. Homeowners that are currently renting out their units would not lose their right to rent due to the cap. Common interest developments must amend their governing documents to reflect these requirements by December 31, 2021. A common interest development that violates these requirements may be liable for a civil penalty of up to \$1,000.

AB 3308 (Gabriel) School districts: employee housing

Specifies that the Teacher Housing Act of 2016 permits school districts to restrict occupancy of land owned by the district to teachers and district employees. This includes authorization for developers and school districts using tax credits for affordable rental housing to restrict

occupancy to teachers and district employees so long as no other applicable laws are violated. A school district may allow local public employees or other members of the public to occupy housing created through the act, but the district retains the right to give preference to teachers and district employees.

SB 940 (Beall) Housing Crisis Act of 2019: City of San Jose

Authorizes the City of San Jose to proactively change a zoning ordinance to a more intensive use, and within one year, subsequently reduce the intensity of use of another parcel, so long as there is no net loss of housing capacity. The City must publish information regarding this reduction in the intensity of use on its website and in an annual report on implementation of the general plan, which must also be sent to the Legislature. These provisions would become inoperative when the sixth cycle update of the City's housing element is due.

Local Government

SB 146 (Beall) Regional transportation plans: sustainable communities strategies: procedural requirements

Allows Metropolitan Planning Organizations to hold public outreach meetings required for the development of a Sustainable Communities Strategy electronically or over the phone if the meeting is not subject to the Brown Act. These provisions would sunset on January 1, 2023.

Transportation

AB 1286 (Muratsuchi) Shared mobility devices: agreements

Requires operators of shared mobility devices to enter into an agreement with, or obtain a permit from, local governments prior to operating within their jurisdiction. The shared mobility provider must maintain general liability coverage of at least \$1 million for each occurrence of injury or property damage, and at least \$5 million in coverage for all occurrences. A local government that authorizes use of shared mobility devices within its jurisdiction on or after January 1, 2021, must adopt rules for the operation, maintenance, and parking of shared mobility devices before they become available in the jurisdiction. Jurisdictions that authorized the use of shared mobility devices prior to January 1, 2021, must adopt these rules by January 1, 2022.

SB 895 (Archuleta) Energy: zero-emission fuel, infrastructure, and transportation technologies

Replaces an authorization for the State Energy Resources and Conservation Commission to provide technical assistance and support for the development of zero-emission fuels, fueling infrastructure, and transportation technologies.

Sustainable Economic Development

AB 639 (Cervantes) California Workforce Development Board: port automation and climate change

Requires the Workforce Development Board and Labor and Workforce Development Agency to convene a stakeholder-driven process to develop recommendations regarding cost-effective policies and programs to mitigate the impacts of port automation and the transition to low- and zero-emissions port infrastructure and operations on workers and adjacent communities.