

Date of Hearing: June 22, 2021

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT  
David Chiu, Chair  
SB 477 (Weiner) – As Amended May 20, 2021

**SENATE VOTE:** 36-0-4

**SUBJECT:** General plan: annual report

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

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

- e) Whether the project received or was subject to a CEQA exemption pursuant to Section 65457 of the Government Code, Sections 21080.50, 21081.3, 21094.5, 21099, 21155.1, 21155.2, 21155.4, 21159.22, 21159.23, 21159.24, 21159.25, or 21159.28 of the Public Resources Code, or Sections 15168, 15183, 15183.3, 15303, or 15332 of Title 14 of the California Code of Regulations.

**EXISTING LAW:**

- 1) Requires each city and county to draft and adopt a general plan, which must include a housing element, to shape the future growth of its community (Government Code Section 65000).
- 2) Requires the housing element to include a review of existing and projected housing needs, determine whether adequate sites with appropriate zoning exist to meet the housing needs of all income levels within the community, and ensure that local regulations provide opportunities for, and do not significantly restrict, the development of housing (Government Code Section 65000).
- 3) Requires that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process, which involves three main stages: (a) the Department of Finance and HCD develop regional housing needs estimates at four income levels: very low-income, low-income, moderate-income, and above moderate-income; (b) councils of government (COGs) use these estimates to allocate housing within each region (HCD is to make the determinations where a COG does not exist); and (c) cities and counties incorporate their allocations into their housing elements (Government Code Sections 65580 through 65589.11).
- 4) Establishes HCD oversight of the housing element process, including the following:
  - a) Local governments must submit a draft of their housing element to HCD for review;
  - b) HCD must review the draft housing element, and determine whether it substantially complies with housing element law, in addition to making other findings;
  - c) Local governments must incorporate HCD feedback into their housing element; and
  - d) HCD must review any action or failure to act by local governments that it deems to be inconsistent with an adopted housing element. HCD must notify any local government, and at its discretion the office of the Attorney General, if it finds that the jurisdiction has violated state law (Government Code Section 65585).
- 5) Requires each city and county to submit an APR to the Governor's Office of Planning and Research (OPR) and HCD by April 1 of each year. The report is to evaluate the general plan's implementation, including how local housing needs have been met (construction of new units, changes to zoning laws, facilitating regulatory hurdles to housing development, etc.) (Government Code Section 65400).
- 6) Requires HCD to post all city and county APRs on their website within a reasonable time after receipt (Government Code Section 65400).

- 7) Authorizes a court to issue a judgement to compel compliance should a city or county fail to submit their APR within 60 days of the statutory deadline (Government Code Section 65400).
- 8) Establishes a CEQA-exempt ministerial approval process for select multifamily affordable housing projects proposed in local jurisdictions that have not met their RHNA allocation (Government Code Section 65913.4).
- 9) Makes supportive housing a “use by right” in any zone that permits multifamily and mixed use units, facilitating the development of affordable and supportive housing projects (Government Code Section 65651).
- 10) Defines low-barrier navigation centers as high-quality, low-barrier, service-enriched shelters focused on moving people into permanent housing while connecting them with services, and until January 1, 2027, requires low barrier navigation center developments to be a use by right in areas zoned for mixed uses and nonresidential zones permitting multifamily uses if the development meets certain requirements (Government Code Section 65662).
- 11) Establishes a CEQA exemption for Project Home Key developments if certain requirements are met. This exemption applies to initial applications submitted to a city or county on or before April 30, 2021, and sunsets on July 1, 2021 (Health and Safety Code Section 50675.1.2).
- 12) Requires ministerial approval for a building permit to construct an ADU, provided the ADU was contained within an existing single-family home among other requirements (Government Code Section 65583.1)
- 13) Requires ministerial approval for an ADU or JADU within a proposed or existing structure, or within the same footprint of the existing structure, provided the space has exterior access from the proposed or existing structure and other requirements (such as setbacks) are met (Government Code Sections 65852.2 and 65852.22).
- 14) Establishes CEQA, which requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of a proposed project, and to reduce those environmental impacts to the extent possible. CEQA applies when a development project requires discretionary approval from a local government agency (Public Resources Code Section 21000).
- 15) Establishes several categories of housing development projects that are exempt from CEQA requirements, including exemptions for transit-oriented housing, infill housing, and interim motel conversions among others. (See Comments for a more detailed discussion of CEQA and the specific CEQA categorical exemptions listed in this bill). (Public Resources Code Section 21080 through 21159).
- 16) Establishes requirements that a city must follow in establishing or imposing development fees, along with processes for developers to challenge those fees. Requires a city, county, or special district that to post on their Internet Websites information regarding the current schedule of mitigation fees, exactions, and affordability requirements imposed by that jurisdiction applicable to a housing development project; zoning ordinances and development

standards that apply to each parcel; a list of projects located within military use airspace or low-level flight path; current and five previous annual fee reports; and an archive of impact fee nexus studies (Government Code Section 65940.1; Health and Safety Code Section 50452).

- 17) Requires cities and counties to grant the following when a developer applies for a permit to build a housing development with a specific percentage of affordable units: a density bonus, certain incentives or concessions such as reduced parking standards, and a waiver of development standards that would prevent the developer from using the density bonus or incentives.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

**Author's statement:** According to the author, "SB 477 significantly expands California's data collection on the effects of state housing laws – to ensure they're working and to be able to fix any deficiencies. California has adopted several laws to help the state resolve its historic 3.5 million home shortage, but with sporadically-reported and limited data, we struggle to quantify exactly how effective they are. It is important that we strengthen California's housing data collection so the state and public can better understand the impact of state housing laws and determine the progress made by various cities and counties in meeting regional housing goals. We currently lack statewide data that would give a clear picture of where and how many units of housing is being built, and if this housing is advancing or reversing racial segregation in California. Without proper data collection standards, we have no way to track how the housing laws passed in the California Legislature are being used."

**Background:** Existing law, the Planning and Zoning Law, requires each city and county's legislative body to adopt a "general plan" for land use within its jurisdiction, which includes an assessment of the development, zoning, and affordability of housing known as a "housing element". The local government planning agency in each city and county must then submit an APR by April 1<sup>st</sup> of each year to the local legislative body, OPR, and HCD. The APR must include information about all proposed and approved development projects, a list of rezoned sites to accommodate housing for each income level, and information on density bonus applications and approvals, among other provisions. The report documents the city or county's progress towards meeting its general plan goals and RHNA allocation.

**CEQA approval process:** CEQA applies when a development project requires discretionary approval from a local government agency. If a project is "by right" (also known as "as of right"), meaning that it complies with local zoning and planning regulations, then CEQA review is generally not required. When a local agency has discretion over a project, the agency's CEQA evaluation begins with deciding whether an activity qualifies as a project subject to CEQA review. A "project" is "an activity that may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment undertaken, supported, or approved by a public agency." If a proposed activity is deemed a "project" under CEQA, the agency must then decide whether the project is exempt from compliance with CEQA under either a statutory exemption or a categorical exemption.

Statutory exemptions are activities the state Legislature has excluded from CEQA despite potential environmental impacts. If a project is statutorily exempt, it can be implemented without a CEQA evaluation. Categorical exemptions include projects that do not have a significant impact on the environment, as deemed by the Secretary of the California Natural Resources Agency. As with statutory exemptions, if a project is categorically exempt, no formal evaluation is required, and the project can be implemented without a CEQA evaluation. Despite these exemptions, if a city chooses not to grant these permits to a project subject to an exemption (which would constitute a violation of state law), a developer's only option is to sue.

***CEQA exemptions and streamlining:*** This bill would require local governments to report in their APR whether any housing development projects received an exemption from, or were subject to, the following CEQA exemptions and streamlining statutes:

1. ***Interim motel conversions:*** SB 450 (Umberg, Chapter 344, Statutes of 2020) exempts interim motel housing projects from CEQA so long as the project does not expand more than 10 percent of the floor area of any individual living unit in the structure, and does not substantially impact surrounding traffic, noise, or air or water quality. This exemption sunsets January 1, 2025 (Public Resources Code Section 21080.50).
2. ***Aesthetic impacts of infill housing:*** For certain projects that involve refurbishing, converting, or replacing an abandoned or dilapidated building, AB 2341 (Mathis, Chapter 298, Statutes of 2018) allows a city or county to bypass a consideration of the aesthetic impact of the project as required by CEQA, so long as the new structure would not significantly exceed the height of the existing building, or create a new source of significant light or glare. This provision sunsets in January 1, 2024. (Public Resources Code Section 21081.3).
3. ***Streamlining for urban infill housing:*** SB 226 (Simitian, Chapter 469, Statutes of 2011) streamlines CEQA review procedures for a variety of urban infill projects, such as retail, commercial, and public building development (Public Resources Code 21094.5).
4. ***Aesthetic and parking impacts of infill projects:*** Under SB 743 (Steinberg, Chapter 386, Statutes of 2013), OPR is tasked with proposing revisions to CEQA transportation impact guidelines to facilitate infill development. This law requires that aesthetic and parking impacts of residential, mixed-use, and employment center projects on infill sites are not to be considered significant impacts on the environment for purposes of CEQA (Public Resources Code 21099).
5. ***Transit oriented projects:*** SB 743 also established a CEQA exemption for residential, mixed-use, and employment center projects that are consistent with a previously adopted plan, and are located within a half mile of a major transit stop (Public Resources Code 21155.4).
6. ***Transit oriented infill projects:*** A CEQA exemption also is in place for certain residential infill projects adjacent to public transit: SB 375 (Steinberg, Chapter 728, Statutes of 2008), (Public Resources Code 21155.1 and 21155.2).

7. *Streamlining for Environment Impact Reports (EIRs) for infill housing*: SB 375 also provides relief from EIRs that would otherwise be required when applying for a permit for a project involving infill housing (Public Resources Code 21159.28).
8. *Affordable Housing Exemption*: SB 1925 (Sher, Chapter 1039, Statutes of 2002) created CEQA exemptions for several projects, including: certain residential projects that provide affordable urban or agricultural employee housing; low-income housing projects; and certain infill housing in urbanized areas. AB 1804 (Berman, Chapter 670, Statutes of 2018) carved out a narrow CEQA exemption for multifamily residential and mixed-use housing projects in unincorporated areas of counties that meet certain conditions. AB 1804 built on existing categorical CEQA exemptions pertaining to infill projects in urban areas (Public Resources Code 21159.22, 21159.23, and 21159.2).

***Expanding APRs – other attempts***: Despite a number of attempts by the Legislature in recent years to add reporting requirements for other statutes that streamline housing development through revision of the APR, only two of these efforts have become law: SB 35 and density bonus law. This bill would require the collection of data to evaluate the effectiveness of these other streamlining measures, including AB 2162 (Chiu, Chapter 753, Statutes of 2018), AB 83 (Committee on Budget, Chapter 15, Statutes of 2020), and AB 101 (Committee on Budget, Chapter 159, Statutes of 2019).

***HCD Data Strategy***: In 2019, AB 1483 (Grayson, Chapter 662, Statutes of 2019) required HCD to include a 10-year housing data strategy that identifies the data needed to enforce existing housing laws and to inform the Statewide Housing Plan (Health and Safety Code Section 50452). HCD is required to complete a Statewide Housing Plan every 10 years. The next Statewide Housing Plan will be released in January 2022.

***Data requirements for smaller jurisdictions***: Small jurisdictions (e.g. those without Councils of Governments (COGS) or in non-Metropolitan Planning Organization (MPO) regions) may lack the expertise and/or resources to accurately record detailed data related to housing development projects. Decreasing the frequency with which these jurisdictions must report the data required by this bill in their APR could help these regions better meet their reporting requirements. However, given that these regions are also likely to have fewer development projects when compared to a large city with its own MPO, the delayed implementation timeline already required by this bill (January 2024), will help give HCD time to provide any technical assistance necessary to smaller jurisdictions to adequately meet their new data collection and reporting requirements.

***Arguments in Support***: Supporters of the bill argue that more comprehensive data can help determine which housing laws are successful, and which are not. They argue that robust data collection can inform effective housing laws in the future. According to the Silicon Valley Leadership Group, a supporter of the bill, “SB 477 will resolve [the state’s housing] data gap by requiring more information on California’s existing Annual Progress Report, which local governments send to the state every April 1st to demonstrate their progress toward meeting their Regional Housing Needs Assessments. This bill advances our progress toward ending the housing crisis by measuring the efficacy of state laws and allowing the Legislature to make informed decisions about the future of those laws.”

***Arguments in Opposition:*** Opponents of the bill argue that this bill significantly increases the burden on local planning and community development departments. According to the California Cities for Local Control who have an “oppose” position on the bill, “This bill imposes unfunded and unnecessary burdens on cities. It expands record keeping and reporting requirements for cities’ annual reporting requirements to HCD.”

The California State Association of Counties, Urban Counties of California, and the Rural County Representatives of California have an oppose unless amended position on the bill. They argue that changes to APR requirements would be best implemented after HCD completes their stakeholder process to develop a housing data strategy to inform what data is most useful to collect, and give local governments ample time to adjust to new reporting requirements. In addition, they suggest three changes to streamline the data reporting in the bill to reduce the requirements on local governments. Specifically, these groups propose the following changes: (1) Exempt non-MPO areas from additional reporting requirements, (2) Remove CEQA-related reporting requirements until after the Legislature takes action on AB 819 (Levine), which would expand CEQA reporting to the OPR’s Statewide Clearinghouse, and (3) Remove duplicative requirements in the current version of the bill (e.g. do not require reporting on both a sample of density bonus projects as well as every individual density bonus project).

***Related Legislation:***

AB 68 (Quirk-Silva, 2021): Expands the requirements of what must be included in HCD’s annual report, and revitalizes the quadrennial Statewide Housing Plan. *This bill is currently pending referral in the Senate.*

AB 215 (Chiu, 2021): Requires cities or counties making poor progress towards their regional housing needs to meet with HCD for a mid-cycle housing element consultation, and to adopt pro-housing policies. *This bill is pending consideration in the Senate Housing Committee.*

AB 819 (Levine, 2021): Requires a lead agency, as defined, to post CEQA-mandated environmental review documents electronically to their websites, and to submit those to the State Clearinghouse electronically. *This bill is pending consideration in the Senate Environmental Quality Committee.*

AB 1322 (R. Rivas, 2021): Creates a procedure for local governing bodies to determine that a local, voter-approved measure is in violation of state housing law, including establishing a judicial process to validate the governing body’s determination. *This bill is pending consideration in the Senate Governance and Finance Committee.*

SB 581 (Atkins, 2021): Requires cities and counties to disclose in their APRs whether they are a party to a court action related to a violation of state housing law, and the status of that action. *This bill is pending consideration in the Assembly Appropriations Committee.*

***Committee Amendments***

1. Change projects for which disclosure of a CEQA exemption is not required from those requiring discretionary approval to those requiring ministerial approval. Subdivision (a)(2)(L)(v)(II) of Section 2 of the bill is amended as follows:

(II) This clause does not apply to a project that is not subject to Division 13 (commencing with Section 21000) of the Public Resources Code due to *discretionary ministerial* approvals.

2. Add reporting requirements for projects submitted with a preliminary application pursuant to SB 330 (Government Code Section 65941.1) both at the aggregate and individual project levels. Section 2 of the bill subdivision (a)(2)(L)(vii) is added as follows:

*(vii) Whether the project was submitted with a preliminary application pursuant to Section 65941.1.*

A new subdivision (a)(2)(O) is also added after (a)(2)(N) in Section 2 as follows:

*(O) The following information with respect to preliminary applications submitted in accordance with Section 65941.1:*

*(i) The number of instances in which a preliminary application expired pursuant to subdivision (d) of Section 65941.1.*

*(ii) The number of instances in which a preliminary application expired pursuant to subdivision (d) of Section 65941.1.*

*(iii) The number of times the city or county subjected a housing development project to an ordinance, policy, or standard adopted after the submittal of a preliminary application based on one of the circumstances identified in paragraph (2) of subdivision (o) of Section 65589.5*

*(OP)* The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its internet website within a reasonable time of receiving the report.

3. Clarify the scope of project level data that will be added to the APR by specifying that the data added should be related to projects for which an application was submitted, a development was approved, or a building permit was issued. Section 2 of the bill at subdivision (a)(2)(L) is amended as follows:

(L) All of the following information, with respect to the prior year, regarding each housing development project located within the local agency *for which an application was submitted, a development was approved, or a building permit was issued.*

**Double-referred:** This bill was also referred to the Assembly Committee on Local Government where it will be heard should it pass out of this committee.



**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California YIMBY (Sponsor)  
San Francisco Bay Area Planning and Urban Research Association (SPUR) (Co-Sponsor)  
American Planning Association, California Chapter  
Bay Area Council  
California Apartment Association  
California Association of Realtors  
California Community Builders  
California Community Economic Development Association (CCEDA)  
California Narcotic Officers' Association  
Casita Coalition  
CBIA  
Chan Zuckerberg Initiative  
Circulate San Diego  
Council of Infill Builders  
Councilmember Zach Hilton, City of Gilroy  
East Bay for Everyone  
Fieldstead and Company  
Generation Housing  
Greenbelt Alliance  
Habitat for Humanity California  
Housing Action Coalition  
Long Beach YIMBY  
Modular Building Institute  
Mountain View YIMBY  
San Fernando Valley YIMBY  
Sand Hill Property Company  
Silicon Valley Community Foundation  
Silicon Valley Leadership Group  
South Pasadena Residents for Responsible Growth  
SPUR  
SV@Home  
Terner Center for Housing Innovation at the University of California, Berkeley  
The Greenlining Institute  
The Two Hundred  
TMG Partners  
Zillow Group

**Opposition**

A Better Way Forward to House California  
California Cities for Local Control  
Catalysts

Century Glen HOA  
Citizens Preserving Venice  
City of Torrance  
Crescenta Highlands Neighborhood Association  
Franklin Corridor Coalition  
Hollywoodland Homeowners Association  
Miracle Mile Residential Association  
Mission Street Neighbors  
New Livable California DbA Livable California  
Northwest Glendale Homeowners Association  
Pleasanton; City of  
Riviera Homeowners Association  
Save Our Single Family Neighborhoods  
South Shores Community Association  
Torrance; City of  
Verdugo Woodlands West Homeowners Association  
West Torrance Homeowners Association

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