

Date of Hearing: March 20, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Christopher M. Ward, Chair

AB 2144 (Grayson) – As Introduced February 6, 2024

SUBJECT: General plan: annual report: housing data

SUMMARY: Adds evidence of compliance with existing law requirements for local governments to post fee schedules and other information on their websites to the list of information local governments must provide in their Annual Progress Report (APR) by April 1 of each year.

EXISTING LAW:

- 1) Requires a planning agency to provide an APR to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development (HCD) by April of each year that includes all of the following:
 - a) The status of the general plan and progress in its implementation;
 - b) The progress in meeting its share of the regional housing needs, including the need for extremely low-income households, and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing included in the housing element;
 - c) The number of housing development applications received in the prior year, including whether each housing development application is subject to a ministerial or discretionary approval process;
 - d) The number of units included in all development applications in the prior year;
 - e) The number of units approved and disapproved in the prior year;
 - f) The degree to which the approved general plan complies with the guidelines developed in existing law for addressing specified matters, including environmental justice matters, collaborative land use planning of adjacent civilian and military lands, consultation with Native American tribes, and road and highway safety;
 - g) A listing of sites rezoned to accommodate that portion of the city or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the housing element's site inventory and any sites that may have been required to be identified under the No Net Loss Zoning law;
 - h) The number of housing units demolished and new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category by area median income that each housing unit satisfies;
 - i) Certain information regarding funding that may have been allocated via the Local Government Planning Support Grants Program;

- j) The progress of the city or county in adopting or amending its general plan or local open-space element in compliance with its obligations to consult with California Native American tribes and to identify and protect, preserve, and mitigate impacts to tribal places, features, and objects;
 - k) Specified information related to density bonus applications; and
 - l) Specified information related to Affordable Housing and High Road Jobs Act of 2022 applications. (Government Code (GC) Section 65400(a)(2)(A)-(M))
- 2) Requires HCD to post APR reports on its website within a reasonable time of receiving the reports. (GC 65400(c))
- 3) Requires a city, county, or special district that has a website to make all of the following available on its website, as applicable:
- a) A current schedule of fees, exactions, and affordability requirements imposed by that city, county, or special district, including any dependent special districts of the city or county, applicable to a proposed housing development project;
 - b) All zoning ordinances and development standards adopted by the city or county presenting the information, which must specify the zoning, design, and development standards that apply to each parcel;
 - c) The list of information that will be required to be provided by any applicant for a development project;
 - d) The current and five previous annual fee reports or financial reports that were required under specified existing law relating to the imposition of development fees, fees for water or sewer connections, or capacity charges; and
 - e) An archive of impact fee nexus studies, cost of service studies, or equivalent, conducted by that city, county, or special district on or after January 1, 2018. (GC 65940.1(a)(1))
- 4) Requires a city, county, or special district to update the information made available under 3) within 30 days of any changes. (GC 65940.1(a)(2))
- 5) Requires a city or county to request from a development proponent, upon issuance of a certificate of occupancy or the final inspection, whichever occurs last, the total amount of fees and exactions associated with the project for which the certificate was issued. Requires the city or county to post this information on its website, and update it at least twice per year. (GC 65940.1(a)(3)(A))

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "AB 1483 (Grayson, 2019) was a significant step forward in providing greater transparency on development impact fees, and it required jurisdictions to provide information on impact fee schedules, nexus fees studies, and other information that could help inform a developer of a jurisdiction's impact fees. Despite the

progress made on providing greater transparency on development impact fees, recent reports by SPUR and the Turner Center found that there were significant shortcomings in compliance with the requirements of AB 1483 by many jurisdictions. While many jurisdictions have provided the information required by AB 1483, fee schedules often did not provide all applicable fees and other requirements of the bill were not being adequately complied with.

AB 2144 would enhance enforcement of existing law by requiring jurisdictions to show evidence in their Annual Progress Report that they are complying with the requirements of AB 1483. This will be a useful tool to ensure that jurisdiction are complying with impact fee transparency requirements and ultimately improve accessibility in housing development.”

Recent Work on Impact Fees: Concerned that mitigation fees may be increasing the cost of housing, in 2017 the Legislature enacted AB 879 (Grayson), Chapter 374, which required the Department of Housing and Community Development (HCD) to complete a study to evaluate the reasonableness of local fees charged to new developments. On August 7, 2019, HCD released the study, performed by the Turner Center for Housing Innovation. The study’s findings concerned three categories: fee transparency; fee structure; and fee design. Among other conclusions, the study argued that fees can be a barrier to development and raise prices of both new and existing homes. However, the study also noted that local governments face substantial fiscal constraints and thus have turned to fees as a source of revenue to fund public services for new developments.

Consistent with previous studies by the Turner Center and others, the report found that fee transparency could be substantially improved. According to the study, many jurisdictions did not post their fee schedules or their nexus studies online, making it hard for developers to know their costs ahead of time. Meanwhile, other jurisdictions have adopted best practices, such as offering an estimate of the fees that a project would pay. The study recommended requiring local governments to post fees and nexus studies online, as well as annual reports on fee collections, and requiring jurisdictions to provide fee estimates.

To address transparency concerns, the Legislature in 2019 enacted AB 1483 (Grayson), Chapter 662, which required a city, county, or special district that has a website to post on their websites the following information, as applicable:

- A current schedule of mitigation fees, exactions, and affordability requirements imposed by the city, county, or special district, including any dependent special districts of the city or county, applicable to a housing development project, in a manner that clearly identifies the fees that apply to each parcel;
- All zoning ordinances and development standards, including which standards apply to each parcel;
- A list that cities and counties must develop under existing law of projects located within military use airspace or low-level flight path;
- The current and five previous annual fee reports or the current and five previous annual financial reports that local agencies must compile under to existing law; and
- An archive of impact fee nexus studies, cost of service studies, or equivalent, conducted by the city, county, or special district on or after January 1, 2018.

A city, county, or special district must update this information on their website within 30 days of any change. The bill also defines “exaction” to mean:

- A construction excise tax;
- A requirement that the housing development project provide public art or an in-lieu payment;
- Mello-Roos taxes on new housing units; and
- Dedications of parkland or in-lieu fees imposed pursuant to the Quimby Act (which governs the exactions local governments may require for parkland).

These requirements went into effect on January 1, 2020.

SPUR Report on Compliance with AB 1483: In May 2021, SPUR and the Turner Center released the policy brief, “How Much Does It Cost to Permit a House?” which examined compliance with AB 1483 and contained recommendations for further improvement of the transparency of development fees.¹ SPUR and Turner Center analyzed the websites of 50 cities and 10 counties to evaluate whether those jurisdictions were posting the required information on fee schedules, nexus studies, affordability requirements, etc. They found many jurisdictions had not come into compliance with the law and their websites had incomplete or unreliable information regarding those fees and requirements. Comprehensive fee schedules were available on less than half of websites, another 40% had outdated or incomplete schedules, and over three-quarters of jurisdictions did not have nexus studies posted at all.

The author and sponsors indicate this low website posting rate and inconsistency of available information points to the need for additional mechanisms to bring local governments into compliance with the law’s requirements.

Annual Progress Reports: Current law requires all local jurisdictions to provide housing information annually to HCD via the APR, including the following information from the prior year and/or for the current eight-year housing element cycle:

- The number of housing development applications received, and whether those applications are subject to ministerial or discretionary approval;
- The number of units included in all development applications;
- The number of units approved and disapproved;
- For each income category, the number of net new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy;
- A unique site identifier (such as assessor’s parcel number) for each entitlement, building permit, or certificate of occupancy; and
- The overall progress in meeting its share of regional housing needs.

This bill adds evidence of compliance with AB 1483’s fee and development standards posting requirements to the list of information that local jurisdictions must include in their APRs. Evidence, while not defined, presumably could include links to the websites local governments are required to publish to host their fee schedule and other data.

Arguments in Support: According to the bill’s sponsor, SPUR, “A 2018 study conducted by the Turner Center for Housing Innovation at the University of California, Berkeley, found that fees

¹ <https://www.spur.org/publications/policy-brief/2021-07-23/how-much-does-it-cost-permit-house>

and exactions can amount to up to 18 percent of the median home price, that these fees and exactions are extremely difficult to estimate, and that fees and exactions continue to rise in California while decreasing nationally. Further, escalating fee and exaction costs make it more difficult for builders to deliver new housing for sale or rent at affordable prices. ... AB 2144 is a 'good government' measure that seeks to provide greater sunlight, transparency and accessibility to the sum total of all development impact fees imposed on new residential development."

Arguments in Opposition: None on file.

Related Legislation:

AB 1820 (Schiavo) of the current legislative session, among other things, would allow a development proponent submitting a preliminary application for a residential or mixed-use development to request from the local agency a preliminary fee and exaction estimate, and require the local agency to provide such estimate within 10 business days of submission of the preliminary application. This bill is currently pending a hearing before this committee.

SB 477 (Wiener) of 2021, among other things, would have required a local government to provide in its APR a link to the website containing the information required to be posted related to development fee schedules, nexus studies, and associated development standards. The bill was vetoed by the Governor, with the following message:

This bill would require a city or county planning agency to include specified information for proposed housing development projects within its jurisdiction in its annual report.

I strongly agree that in order to solve California's housing crisis, we must require more accountability at every level of government. That's why I signed AB 1483 (Chapter 662, Statutes of 2019) to require the Department of Housing and Community Development to develop a data strategy as part of the statewide housing plan - implementation is currently underway and the Department will produce its recommendations in January, on-time.

As HCD continues its work to implement AB 1483, I am directing the Department to consider including data on the effectiveness of various housing laws, as this bill contemplates. Building this analysis into the existing data process is the more appropriate approach to this issue, as opposed to creating a new requirement while the Department is mid-stream on implementing the thoughtful provisions of AB 1483.

As the Department completes this important work, further statutory changes may be necessary to implement any recommendations. I look forward to working with the Legislature next year to enact potential improvements identified by the Department.

AB 1483 (Grayson), Chapter 662, Statutes of 2019: Among other things, required local governments and special districts to post a schedule of fees, exactions, affordability requirements, zoning ordinances, development standards, and annual fee or financial reports on their websites. Also required local entities to post an archive of impact fee nexus studies and cost of service studies, and to update this information within 30 days of any changes to this information.

AB 879 (Grayson), Chapter 374, Statutes of 2017: Among other things, required HCD to complete a study to evaluate the reasonableness of local fees charged to new developments, and include findings and recommendations regarding potential changes to the Mitigation Fee Act to substantially reduce fees for residential development.

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 (Sponsor)
Abundant Housing LA
California Apartment Association
California Building Industry Association (CBIA)
California Community Builders
California Community Builders
California Hispanic Chambers of Commerce
California Housing Consortium
CivicWell
Housing Action Coalition
Housing Action Coalition (UNREG)
Housing Trust Silicon Valley
MidPen Housing
YIMBY Action

Opposition

None on file.

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