



State Legislative Update

Key CEQA, Climate, & Housing Bills Passed
in the 2022 Legislative Session

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CEQA Bills

- AB 2011
- SB 118
- SB 886
- SB 922
- AB 185

AB 2011 (Wicks): Affordable Housing and High Road Jobs Act

- Facilitates construction of by-right housing within in-fill areas currently zoned for office, retail and parking uses
- Approval is ministerial, not subject to CEQA
- Housing that is 100% affordable to lower income households permitted anywhere in those areas (so long as not on environmentally sensitive land or adjacent to industrial land)
- Mixed income housing focused on commercial corridors to allow for increased density and new transit (15% of the units must be affordable to lower income households)
- **Rental:** at least 8% very low and 5% extremely low
- **For Sale:** 30% for moderate income households
- Prevailing wage requirements; 50+ units, health benefits required for workers

SB 118: Legislative “Hail Mary” for UC Berkeley Enrollment

- ▶ State Legislature’s response to *Save Berkeley’s Neighborhoods v. The Regents of the University of California*, where court enjoined increases in campus enrollment for 2022. Voids Court’s injunction.
- ▶ Amends **PRC 21080.09** to provide that “Enrollment or changes in enrollment, by themselves, do not constitute a project as defined in Section 21065.”
- ▶ Where campus population will exceed projections in adopted long-range development plan and supporting EIR, and those increases result in significant environmental impacts, the court may order the campus to prepare a new, supplemental/subsequent EIR and must give university 18 months to prepare it before the court can enjoin increases in campus population/enrollment or otherwise issue an injunction.
- ▶ Budget Trailer Bill and immediately effective.

SB 886 (Wiener): University Housing Exemption

- Adds **Section 21080.58** to the Public Resources Code, creating new statutory exemption through January 1, 2030 for university housing development projects carried out by a public university on university-owned property.
- Housing project must meet specific requirements, e.g.
 - ▶ Consistency with the university's long range development plan EIR or master plan EIR;
 - ▶ LEED certified platinum or better;
 - ▶ Within ½ mile of a major transit stop or ½ mile of campus boundary or has 15% lower per capita VMT,
 - ▶ Has a TDM plan,
 - ▶ Will not result in any net increase in GHGs as determined by a third-party evaluation,
 - ▶ Project will pay prevailing wages.

SB 922 (Wiener): Exemption for Transit/Sustainable Transportation Projects

- Expands upon Senator Wiener’s previous legislation (SB 288 in 2020, which sunsets on 1/1/2023) to expedite bike, pedestrian, light rail, and rapid bus projects.
- Amends **PRC 21080.20** and **21080.25**
- Extends existing exemption 7 more years, through 1/1/2030.
- Removes certain eligibility requirements previously required (e.g. now not all projects have to be in urbanized areas).
- Clarifies Adds “active transportation plans” and “pedestrian plans” to list of exempt projects.
- Adds requirement for anti-displacement analysis for projects exceeding \$100 million.
- Adds requirements for projects that exceed \$50 million.

AB 185: School Level 3 Fees

CEQA Portion:

- ▶ Government Code section 65997(a) sets forth the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval or the establishment of conditions for the approval of a development project under CEQA (i.e. related to impacts on enrollment). This includes the ability of school districts to require higher fees.
- ▶ Existing law conditions the inoperation of Section 65997 on the approval of a statewide general obligation bond measure submitted for voter approval that includes funding for construction of K-12 public school facilities.
- ▶ AB 185 adds that Section is inoperable if “provided state resources’ are available” meaning “appropriation for, or deposit into an account that are required to be used for, either the new construction of school facilities or the modernization of school facilities, or both.”
- ▶ Education Omnibus Trailer Bill, immediately effective.

AB 185: School Level 3 Fees (Trailer Bill)

Fees Portion:

- In 1998, SB 50 authorized school districts to charge developer fees at one of three levels (Levels 1, 2, and 3).
- Where the State Allocation Board (SAB) certifies that state funds for new school facility construction are no longer available, Level 3 fees are allowed (e.g. highest level).
- SAB issued notice that no state funds were available in 2016. Then Prop. 51 allocated \$9 billion in bonds to fund construction of schools/community colleges—*but SAB wasn't required to notify schools and thus Level 3 fees persisted.*
- *AB 185 closes this loophole* and clarifies that Level 3 fees may not be imposed starting at the earliest of (1) money being transferred into the new construction account (whether bond or other source) and (2) when the SAB resumes apportioning funds for new construction.

Housing Bills

- SB 6
- AB 2221
- AB 2334
- AB 2234
- AB 682
- AB 2653

SB 6 (Caballero): The Middle-Class Housing Act of 2022

- Permits residential use on commercially zoned (retail and office) property without a rezoning
- Not ministerial and subject to CEQA
- No BMR requirements but may still be subject to local inclusionary requirements
- Can invoke the Housing Accountability Act to limit local discretion and SB 35 (even though project is not compliant with underlying zoning)
- Applicant must commit to both prevailing wage and skilled and trained workforce requirements
- Effective July 1, 2023

AB 2221 (Quirk and Silva): Various Updates to ADU Law

- Allows construction of ADUs in new multi-family buildings
- Permitting agencies must return comments on proposed ADU within 60 days
- City prohibited from precluding construction of ADU within front setback
- Nullifies local ADU ordinances that conflict with state requirements as of January 1, 2023

AB 2234 (Rivas & Grayson): Post-Entitlement Applications for Housing Projects

- ▶ Adds **Section 65913.3** to the Permit Streamlining Act (PSA) regarding post-entitlement phase permits. Local agencies must:
 - ▶ compile a list of information required for “a postentitlement phase permit” and post examples of approved permits
 - ▶ determine whether a postentitlement application is complete **within 15 business days** after receipt of the application, otherwise it is deemed complete under the PSA.
 - ▶ if deemed incomplete, agency must provide a list of incomplete items and a “description of how the application can be made complete.” List becomes the exclusive list to make an incompleteness/completeness finding thereafter.
 - ▶ **Housing development projects of 25 units or less = 30 business days** to review & approve or list comprehensive request for revisions. **26+ units = 60 business days.**
 - ▶ If agency makes a finding that postentitlement phase permit might have a specific, adverse impact on public health or safety, deadlines don’t apply.

AB 2234 (Rivas & Grayson): Post-Entitlement Applications for Housing Projects

- ▶ **Tolling** of time periods if local agency requires review of application by outside entity, but agency must notify applicant of tolling.
- ▶ Requires the local agency to provide **administrative appeal process** regarding incompleteness determinations and denials.
 - ▶ For housing development projects of **25 units or less** - final written determination must be provided no later than **60 business days** after receipt of appeal. For **26+ units**, it is **90 business days**.
- ▶ Failure to abide by Section 65913.3 deadlines constitutes a “**disapproval**” of a “housing development project” under the HAA.
- ▶ Adds Section 65913.3.5 to the PSA, larger cities must provide an option for post-entitlement phase permits to be applied for, completed, and retrieved on their websites and until such time shall accept applications by email.

AB 682 (Bloom): DBL/Shared Housing

- ▶ **AB 682 – Removes Road-Blocks for Shared Housing / Co-Living**
 - Incorporates revisions regarding “**shared housing building developments**” defined as a residential or mixed-use structure, with 5+ shared units and 1+ common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. Can include non-shared units if they are no more than 25% of the floor area.
 - Shared housing can now qualify for DBL benefits (10% low income / 5% very low / senior / 100%)
 - Cities/Counties cannot require minimum unit sizes or minimum bedrooms for shared housing building developments.

****AB 2334 and AB 682** both revised the DBL, sections are operable based on approval and timing of each bill.

AB 2334 (Wicks) – DBL / Base Density and Low VMT Areas

- **Incentives/Concessions:** Projects entitled to 4 incentives/concessions, if within a “very low vehicle travel area in a designated county” may also receive a height increase of up to 3 stories or 33 feet.
- For **100% affordable housing development**, if located in a very low vehicle travel area within a designated county, no maximum controls on density.
 - “**Very low vehicle travel area**” means urbanized area where existing residential development generates VMT per capita that is below 85 percent of either regional VMT per capita or city VMT per capita.
 - “**Designated county**” = Alameda, Contra Costa, Los Angeles, Marin, Napa, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma, and Ventura.
- “**Maximum allowable residential density**” or “**base density**” revised to mean the “maximum number of units” allowed under GP/SP/Zoning, where a range is used it means the max under that range, and where inconsistencies “**the greater shall prevail.**” Where density is not provided as du/acre, DBL now provides means of calculation.
- “**Development standard**” now includes minimum lot area/unit requirements.

AB 2653 (Santiago) – Housing Elements

- Existing law requires cities and counties to provide annual reports to OPR and HCD regarding the status of implementation of the general plan. (Gov. Code, 65400(a)(2).)
- AB 2653 now requires additional information in APRs:
 - detail on whether housing development applications received in the past year are subject to a ministerial or discretionary approval process;
 - the number of new housing units built,
 - the number of housing units demolished,
 - information specifying rental versus for-sale housing and
 - details regarding approved projects that benefit from AB 2011 (GC 65912.100) or the State Density Bonus Law.
- Authorizes HCD to request corrections to the housing element portion of the annual report within 90 days of receipt, requires planning agency to make corrections within 30 days, after which HCD can reject non-compliant portions. (Gov. Code 65400(b)(1)(A).)

**Overlaps with other bills, Section 1.7 and 2.3 of the Bill are the operable portions.



Wildlife / Habitat

➤ AB 2344

AB 2344: Wildlife Connectivity for Transportation Projects

- Requires Caltrans to create an inventory of connectivity needs for safe wildlife passage by July 1, 2024
- Inventory must be updated every 2 years
- Department of Fish and Wildlife consultation
- For new projects on State highway system that add a traffic lane or has potential to significantly impair wildlife connectivity, Caltrans required to perform an assessment to identify potential wildlife connectivity barriers and any need for improved permeability
- Caltrans permitted to use compensatory mitigation credits to satisfy remediation requirements with DFW concurrence
- Caltrans to prepare connectivity design guidelines by July 1, 2025

Climate Oil & Gas, and Public Health Bills

- AB 1279
- SB 905
- SB 1020
- SB 1137
- ARB Resolution 22-12

AB 1279 (Muratsuchi): CA Climate Crisis Act

- Adds **Section 38562.2** to Health & Safety Code: the “California Crisis Act”
- Declares the policy of the state to:
 - Achieve “**net zero greenhouse gas emissions**” by **2045 or sooner**, and **net negative greenhouse gas emissions thereafter**,
 - Ensure that by 2045, statewide anthropogenic greenhouse gas emissions are reduced to at least 85% below the 1990 levels.
- Requires the California Air Resources Board (CARB) to:
 - Work with state agencies on updates to the scoping plan to achieve new goals;
 - Identify and implement a variety of policies and strategies that enable carbon dioxide removal solutions and carbon capture, utilization, and storage technologies in California;
 - Submit a report by 12/31/2025 regarding the feasibility and tradeoffs of achieving the two goals;
 - Report annually to the Joint Legislature Committee on Climate Change on progress.

**Contingent on the enactment of SB 905 (which also passed)

SB 905 (Caballero) – Carbon Sequestration

- Adds Article 2 to Division 26 of H& SC (Section 39741 et seq.) entitled: **Carbon Capture, Removal, Utilization, and Storage Program.**
- Requires the California Air Resources Board (CARB) to:
 - Establish a program to evaluate the efficacy, safety, and viability of carbon capture, utilization, and storage technology (“CCUS”) for emissions from industrial, commercial, and energy-related facilities or sources.
 - Adopt regulations to implement this section.
 - Report to the Legislature every two years starting in 2025.
 - Adopt regulations for a unified permit application for the construction and operation of carbon dioxide capture, removal, or sequestration projects for the purpose of expediting these projects and create an optional unified permit application.
 - Hold at least three public workshops prior to adopting a unified permit application.
 - Develop a centralized public database to track CCUS and CDR technologies

SB 905 (Caballero) – Carbon Sequestration

- Requires the Natural Resources Agency to publish a framework by 7/1/2025 for governing agreements regarding 2 or more tracts of land overlying the same geologic storage reservoir for purposes of managing, developing, and operating a carbon capture, removal, or sequestration Project. (PRC 71461.)
- Adds new definitions of carbon dioxide capture project, etc. in PRC 3132.
- Includes provisions regarding title to any geologic storage reservoir. (PRC 71462.)
- Includes financial responsibility provisions for operators. (PRC 71464.)
- Requires the Cal. Geological Survey to establish the Geologic Carbon Sequestration Group to provide independent expertise and regulatory guidance to CARB. (PRC 2213.)
- Prohibits injection of CO₂ into Class II wells for purposes of oil recovery.

**Contingent on enactment of AB 1279, which also passed.

SB 1020: Clean Energy, Jobs and Affordability Act of 2022 (Senator Laird)

- Moves State toward 100% renewable energy by 2045
- Adds interim targets to require renewable energy and zero-carbon resources to supply 90% of all retail electricity sales by 2035 and 95% by 2040
- Will require all state agencies to rely on 100% renewable energy and zero carbon resources to serve state agency facilities by 2030
- Establishes a Climate Equity and Trust fund

SB 1137 (Gonzalez): Oil & Gas Location Restrictions / Health Protection Zones

- Adds Article 4.6 to Ch. 1 of Div. 3 of the PRC, entitled “Health Protection Zones”
- Defines “**Health protection zone**” as the “area within 3,200 feet of a sensitive receptor” which includes a residence, preschools and K-12 schools, playgrounds, parks, universities and colleges, community resource center/youth center, hospitals, retirement homes, nursing homes, live-in housing, prisons, detention centers, and any building housing a business that is open to the public. (PRC 3280.)
- Bans the creation of new oil and gas wells within HPZ starting 1/1/2023. (PRC 3281.)
- Adds a significant number of new requirements for existing oil and gas production facilities and wellheads within a HPZ (notices, operating hours, light pollution, new reporting requirements.) (PRC 3283, 3283.)

**The California Independent Petroleum Association (CIPA) is pursuing a referendum proposition to reverse the legislation.

CARB Resolution 22-12 – Advanced Clean Cars II Regulations

- California Air Resources Board approved more aggressive zero-emission vehicle targets.
- Builds upon Governor Newsom’s 2020 Executive Order N-79-20, which established the State’s goal that 100 percent of in-state sales of new passenger cars and trucks be zero emission by 2035;
- By 2035 all new passenger cars, light trucks and SUVs sold in California must be zero emissions.
- Does not impact the continued use and sale of existing gas-powered cars.

Thank you!

The background features a complex, abstract design of overlapping geometric shapes in various shades of blue, ranging from light sky blue to deep navy blue. The shapes are primarily triangles and quadrilaterals, creating a dynamic, layered effect. The right side of the image is dominated by a solid, dark blue vertical band. The overall aesthetic is clean, modern, and professional.