

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Buffy Wicks, Chair

AB 2011 (Wicks) – As Amended April 18, 2022

SUBJECT: Affordable Housing and High Road Jobs Act of 2022

SUMMARY: Establishes the Affordable Housing and High Road Jobs Act of 2022 (Act), to create a ministerial, streamlined approval process for 100 percent affordable housing in commercially-zoned areas and for mixed-income housing along commercial corridors.

Specifically, **this bill:**

1) **Affordable Housing:** Allows 100 percent affordable housing projects to be a use by right, and subject to a streamlined, ministerial review process, notwithstanding any inconsistent provision of a local government's plans, ordinances, or regulations, if it meets all of the following provisions:

a) **Affordability provisions:**

- i. One hundred percent of the units within the development project, excluding managers' units, are dedicated to lower income households at an affordable rent or, as for-sale homes, an affordable cost; and
- ii. The units must be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

b) **Location provisions:**

- i. It is within a zone where office, retail, or parking are a principally permitted use;
- ii. It is located on a legal parcel or parcels that are located either:
 - A. Within a city where the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau; or
 - B. In an unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
- iii. At least 75 percent of the site perimeter adjoins parcels that are developed with urban uses, as specified;
- iv. It is not adjacent to any site where more than two-thirds of the square footage on the site is dedicated to industrial use, as specified;
- v. It is not on environmentally unsafe or sensitive areas, as specified, such as wetlands, a high or very high fire severity zone unless the site has adopted fire hazard mitigation measures required by existing building standards, a hazardous waste site, an earthquake fault zone, a flood plain or floodway, lands identified for conservation in

an adopted natural community conservation plan, and lands under conservation easement; and

- vi. It is not an existing parcel of land or site that is governed under the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.

c) Objective Design Standards:

- i. It is a multifamily housing project;
- ii. At least 67 percent of the square footage of the new construction associated with the project is designated for residential use;
- iii. The residential density will meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households in that jurisdiction as specified in Housing Element Law. Generally, that density is 30 units per acre in urban areas, 20 units per acre in suburban areas, and 10 units per acre in rural areas;
- iv. It meets the applicable objective zoning standards, objective subdivision standards, and objective design review standards, as specified, for the zone that allows residential use at a greater density between the following:
 - A. The existing zoning designation for the parcel; and
 - B. The closest parcel that allows residential use at a density that meets the density requirements described above, in iii.
- v. The applicable standards are those in effect at the time that the development is submitted to the local government; and
- vi. The applicable standards must not preclude any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to Density Bonus Law.

d) Labor Provisions:

- i. A proponent of a development project approved pursuant to the provisions of this bill must require, in contracts with construction contractors, that all of the labor provisions of this bill's standards will be met in project construction. The proponent must certify this to the local government;
- ii. A development that is not in its entirety a public work, as specified, must be subject to all of the following wage provisions:
 - A. All construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as specified, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate;

- B. The development proponent must ensure that the prevailing wage requirement is included in all contracts for the performance of the work for those portions of the development that are not a public work; and
 - C. All contractors and subcontractors for those portions of the development that are not a public work must maintain and verify payroll records, as specified, and make those records available for inspection and copying. This requirement does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.
- iii. The obligation of the contractors and subcontractors to pay prevailing wages pursuant to this bill are subject to the following enforcement provisions:
- A. They may be enforced by the any of the following:
 - 1. The Labor Commissioner through the issuance of a civil wage and penalty assessment, as specified, within 18 months after the completion of the development;
 - 2. An underpaid worker through an administrative complaint or civil action; and
 - 3. A joint labor-management committee through a civil action, as specified.
 - B. If a civil wage and penalty assessment is issued pursuant to this section, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages, as specified; and
 - C. These enforcement provisions do not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.
- iv. The requirement that the employer pay prevailing wages does not apply to those portions of development that are not a public work if otherwise provided in a bona fide collective bargaining agreement covering the worker;
- v. For a development of 50 or more housing units, the development proponent must require in contracts with construction contractors, and must certify to the local government, that each contractor of any tier who will employ construction craft employees or will let subcontracts for at least 1,000 hours must ensure all of the following:
- A. A contractor with construction craft employees must either participate in an apprenticeship program approved by the State of California Division of Apprenticeship Standards, as specified, or request the dispatch of apprentices

from a state-approved apprenticeship program, as specified. A contractor without construction craft employees must show a contractual obligation that its subcontractors meet these requirements.

- B. Each contractor with construction craft employees must make health care expenditures for each employee, as specified. A contractor without construction craft employees must show a contractual obligation that its subcontractors comply with this requirement. Qualifying expenditures are credited toward compliance with prevailing wage payment requirements.
- C. A construction contractor is deemed in compliance with the requirements of A and B, above, if it is signatory to a valid collective bargaining agreement that requires utilization of registered apprentices and expenditures on health care for employees and dependents.
- D. The development proponent is subject to the following reporting requirements:
 - 1. They must provide to the local government, on a monthly basis while its construction contracts on the development are being performed, a report demonstrating compliance with the requirements of A and B, above. The reports are considered public records under the California Public Records Act;
 - 2. A development proponent that fails to provide the monthly report is subject to a civil penalty for each month for which the report has not been provided, in the amount of 10 percent of the dollar value of construction work performed by that contractor on the development in the month in question, up to a maximum of \$10,000;
 - 3. Any contractor or subcontractor that fails to comply with the requirements in A and B, above, are subject to a civil penalty of \$200 per day for each worker employed in contravention of those requirements; and
 - 4. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the procedures for issuance of civil wage and penalty assessments, as specified. Penalties must be deposited in the State Public Works Enforcement Fund, as specified.
- E. Each construction contractor is subject to the following requirements:
 - 1. Each construction contractor must maintain and verify payroll records, as specified. Each construction contractor must submit payroll records directly to the Labor Commissioner at least monthly in a format prescribed by the Labor Commissioner, as specified. The records must include a statement of fringe benefits. Upon request by a joint labor-management cooperation committee, the records must be provided, as specified;
 - 2. All construction contractors must report any change in apprenticeship program participation or health care expenditures to the local government within 10 business days, and must reflect those changes on the monthly report.

The reports are considered public records pursuant to the California Public Records Act and all open to public inspection; and

3. A joint labor-management cooperation committee has standing to sue a construction contractor for failure to make health care expenditures pursuant to B., above, as specified.
- 2) **Mixed-Income Housing:** Allows mixed-income housing projects to be a use by right, and subject to a streamlined, ministerial review process, notwithstanding any inconsistent provision of a local government's plans, ordinances, or regulations, if it meets all of the following provisions:
- a) **Affordability provisions:**
 - i. A rental housing development must have a recorded deed restriction that ensures, at a minimum, that for a period of 55 years, 15 percent of the units shall be set at an affordable rent to lower income households;
 - ii. An owner-occupied housing development must have a recorded deed restriction that ensures, at a minimum, either of the following affordability criteria for a period of 45 years:
 - A. Thirty percent of the units must be offered at an affordable housing cost to moderate-income households; or
 - B. Fifteen percent of the units must be offered at an affordable housing cost to lower income households.
 - iii. If the amount of affordable housing required by a local inclusionary housing ordinance exceeds that of this section, then the project must abide by the local inclusionary housing ordinance.
 - b) **Location provisions:**
 - i. The project site meets all of the locational provisions for 100 percent affordable housing projects, as described above;
 - ii. The project site abuts a commercial corridor, which is a road that is not a freeway that has a right-of-way of at least 70 and not greater than 150 feet;
 - iii. The project site has a frontage along the commercial corridor of a minimum of 50 feet;
 - iv. The project site is not greater than 20 acres;
 - v. The development would not require the demolition of:
 - A. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income;
 - B. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power;

C. Housing that has been occupied by tenants within the past 10 years, excluding any manager's units. This provision includes sites previously used for housing that were occupied by tenants, excluding any manager's units, that was demolished within 10 years before the development proponent submits an application pursuant to this bill; and

D. A historic structure that was placed on a national, state, or local historic register.

vi. The property does not contain housing units that are occupied by tenants, and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.

c) **Objective Design Standards:**

i. It is a multifamily housing project;

ii. At least 67 percent of the square footage of the new construction associated with the project is designated for residential use;

iii. The residential density for the development is determined as follows:

A. In a metropolitan jurisdiction, as specified, the residential density for the development must meet or exceed the greater of the following:

1. The residential density allowed on the parcel by the local government;

2. For sites on a commercial corridor of less than 100 feet in width, 40 units per acre;

3. For sites on a commercial corridor of 100 feet in width or greater, 60 units per acre;

4. Notwithstanding 2. and 3. above, for sites within one-half mile of a major transit stop, 80 units per acre.

B. In a jurisdiction that is not a metropolitan jurisdiction, as specified, the residential density for the development must meet or exceed the greater of the following:

1. The residential density allowed on the parcel by the local government;

2. For sites on a commercial corridor of less than 100 feet in width, 30 units per acre;

3. For sites on a commercial corridor of 100 feet in width or greater, 50 units per acre; and

4. Notwithstanding 2. and 3. above, for sites within one-half mile of a major transit stop, 70 units per acre.

iv. The height limit applicable to the housing development must be the greater of the following:

- A. The height allowed on the parcel by the local government;
 - B. For sites on a commercial corridor of less than 100 feet in width, 35 feet;
 - C. For sites on a commercial corridor of 110 feet in width or greater, 45 feet;
 - D. Notwithstanding B. and C. above, for sites within one-half mile of a major transit stop, 65 feet.
- v. The property meets the following setback standards:
- A. For the portion of the property that fronts a commercial corridor, the following must occur:
 - 1. No setbacks can be required;
 - 2. All parking must be set back at least 25 feet; and
 - 3. On the ground floor, the development must abut within 10 feet of the property line for at least 80 percent of the frontage.
 - B. For the portion of the property that fronts a side street, which is a road that is not a freeway that has a right-of-way of at least 25 and fewer than 70 feet, the development must abut within 10 feet of the property line for at least 60 percent of the frontage;
 - C. When the property line of a development site abuts a single-family property, as specified, the following must occur:
 - 1. The ground floor of the development project must be set back at 10 feet from the single-family property. The amount required to be set back may be decreased by the local government; and
 - 2. Starting with the third floor of the property, each subsequent floor of the development project must be stepped back from the single-family property in an amount equal to five feet multiplied by the floor number. The amount required to be stepped back may be decreased by the local government.
 - D. When the property line of a development site abuts a property that is not a single-family property, starting with the third floor of the property, each subsequent floor of the development project must be stepped back from the other property in an amount equal to five feet multiplied by the floor number. The amount required to be stepped back may be decreased by the local government.
- vi. No parking can be required, except that this bill does not reduce, eliminate, or preclude the enforcement of any requirement to provide bicycle parking, electric vehicle supply equipment installed parking spaces, or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development;

- vii. It meets the applicable objective zoning standards, objective subdivision standards, and objective design review standards, as specified, for the zone that allows residential use at the residential density determined pursuant to iii, above. If no zone exists that allows such a residential density, the applicable standards are those for the zone that allows the greatest density within the city, county, or city and county;
 - viii. The applicable standards are those in effect at the time that the development is submitted to the local government; and
 - ix. The applicable standards must not preclude any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to Density Bonus Law.
- d) **Labor Provisions:** Same as required for 100 percent affordable projects, as described above.
- 3) **Local review process:** For both 100 percent affordable housing and mixed-income housing projects, the following local review process applies:
- a) The local government's determination of whether the proposed development is in conflict with any of the objective planning standards specified by this bill must occur as follows:
 - i. If the local government determines that the proposed development is in conflict with any of the objective planning standards specified by this bill, it must provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the following timeframes:
 - A. Within 60 days of submittal of the development proposal to the local government if the development contains 150 or fewer housing units; and
 - B. Within 90 days of submittal of the development proposal to the local government if the development contains more than 150 housing units.
 - ii. If the local government fails to provide the required documentation, the development satisfies the required objective planning standards.
 - iii. For purposes of this bill, a development is consistent with the objective planning standards if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.
 - iv. The determination of whether a proposed project submitted pursuant to this section is or is not in conflict with the objective planning standards is not a "project" pursuant to the California Environmental Quality Act (CEQA).
 - b) Design review of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as follows:
 - i. It must be objective;

- ii. It must be strictly focused on assessing compliance with criteria required for streamlined, ministerial review of projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submittal of the development to the local government;
- iii. It must be broadly applicable to developments within the jurisdiction;
- iv. It must not in any way inhibit, chill, or preclude the ministerial approval provided by this bill; and
- v. It must be completed within the following timeframes:
 - A. Within 90 days of submittal of the development proposal to the local government pursuant to this section if the development contains 150 or fewer housing units; and
 - B. Within 180 days of submittal of the development proposal to the local government pursuant to this section if the development contains more than 150 housing units.
- c) In addition to the demolition protections specified for mixed-income housing projects in 2)b)v. above, the local government must ensure that the project does not result in the demolition of any units unless the new project results in an least an equal number of overall units and units dedicated to lower income households, as specified;
- d) If the development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act is exempt from the requirements of CEQA;
- e) A local government's approval of a development pursuant to this section is subject to the following expiration timeframes:
 - i. For projects that include public investment in housing affordability, beyond tax credits, and at least 50 percent of the units are affordable to households making at or below 80 percent of the area median income, then the approval cannot expire; and
 - ii. For all other projects, the approval expires in three years, as specified.
- f) If a project approved pursuant to this bill proposed modifications, and the local government has not issued the final building permit required for construction of the development, then the local government must review the modifications within specified timeframes and approve the modification if they meet specified criteria;
- g) A local government must not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive streamlined, ministerial review pursuant to this bill;
- h) A local government must issue a subsequent permit required for a development approved pursuant to the provisions of this bill if the application substantially complies with the development as it was approved, as specified; and

- i) If a public improvement is necessary to implement a development that is approved pursuant to the provisions of this bill, to the extent that the public improvement requires approval from the local government, the local government must not exercise its discretion over any approval relating to the public improvement in a manner that would inhibit, chill, or preclude the development, as specified.
- 4) **State Implementation:** The Department of Housing and Community Development (HCD) may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth by this bill. Any such guidelines or terms adopted are not subject to the Administrative Procedure Act.
- 5) **Severability:** The provisions of this bill are severable, as specified.
- 6) Provides that no reimbursement is required by this Act for certain costs that may be incurred by a local agency or school district because, in that regard, this Act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, as specified, or changes the definition of a crime, as specified. However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs must be made, as specified.

EXISTING LAW:

- 1) Establishes, pursuant to SB 35 (Wiener, Chapter 366, Statutes of 2017), a streamlined, ministerial approval process, not subject to CEQA, for certain infill multifamily affordable housing projects proposed in local jurisdictions that have not met their regional housing needs allocation (RHNA), as follows:
 - a) Requires developments of 11 units or more to meet affordability requirements, as follows:
 - i. In jurisdictions that have not met their targets for lower income or above moderate-income housing, 10 percent of the units must be affordable to lower income households; and
 - ii. In jurisdictions that have met their targets for above moderate-income housing but not lower income housing, 50 percent of the units must be affordable to lower income households.
 - b) Requires developments of 11 units or more to meet labor requirements, including provision of prevailing wage for all projects, and utilization of a skilled and trained workforce for projects that are not providing 100 percent publicly-subsidized housing;
 - c) Prohibits utilization of the streamlined, ministerial approval process in environmentally unsafe or sensitive areas, such as a coastal zone, wetlands, a high or very high fire severity zone unless the site has adopted fire hazard mitigation measures required by existing building standards, a hazardous waste site, an earthquake fault zone, a flood plain or floodway, lands identified for conservation in an adopted natural community conservation plan, and lands under conservation easement;

- d) Prohibits demolition of existing housing as specified, including housing that is subject to a deed restriction or that is currently rented by a tenant, or has been rented by a tenant within the past 10 years;
 - e) Enables local governments to apply objective design standards to the project, as long as such standards do not in any way inhibit, chill, or preclude the ministerial approval of the project;
 - f) Establishes specified timelines for the local government to act to determine that the project conforms with the requirements of this bill and to apply design review; and
 - g) Requires the local government to comply with requirements regarding proposed modifications to the project, subsequent applications affiliated with the project, and implementation of public improvements necessitated by the project (Government Code Section 65913.4).
- 2) Establishes the default zoning densities to determine whether a site is adequately zoned for lower income housing. Generally, these densities are:
- a) 30 units per acre in jurisdictions in metropolitan counties, as specified;
 - b) 20 units per acre in suburban jurisdictions, as specified;
 - c) 15 units per acre in cities within non-metropolitan counties and nonmetropolitan counties with metropolitan areas, as specified; and
 - d) 10 units per acre in unincorporated areas in all non-metropolitan counties not included in the 15 units per acre category, as specified (Government Code Section 65583.2).
- 3) Establishes Employment Regulation and Supervision Law (Labor Code Sections 200 – 2699.8), including the following:
- a) Defining a public work as construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, as specified (Labor Code Section 1720);
 - b) Establishes a process for the Director of Industrial Relations to determine the prevailing wage (Labor Code Section 1773.9);
 - c) Establishes the provisions for apprenticeship programs (Labor Code Section 1777.5);
 - d) Specifies the abilities of the Labor Commissioner to enforce labor laws (Labor Code Section 1741 and 1742); and
 - e) Establishes a process for employers to maintain and verify payroll records and submit them to the Labor Commissioner (Labor Code Sections 1771.4 and 1776).

FISCAL EFFECT: Unknown

COMMENTS:

Author’s Statement: According to the author, “This bill combines some of the best ideas advanced in the Legislature over the last several years for promoting affordable housing development with a requirement to create ‘high road’ jobs. To effectively take on our state’s housing issues, I firmly believe we need to do both. This legislation gives us all the opportunity to work together toward our shared goal: Building more affordable housing for struggling Californians, while also growing the thriving, high-wage construction workforce every community needs.”

California’s Housing Crisis: California is in the midst of a housing crisis. Only 24 percent of households can afford to purchase the median priced single-family home – 50 percent less than the national average, and 33 percent less than at the start of the pandemic.¹ Over half of renters – and 80 percent of low-income renters – are “rent burdened,” in households paying more than 30 percent of their income toward housing, which means they have less to pay for other essentials such as food, transportation, and health care.² In 2020, over 160,000 Californians experienced homelessness on a given night.³ Californians rank housing affordability and homelessness as the two most important issues for the state to address.⁴

A major cause of our housing crisis is the mismatch between the supply of housing and the need for housing. While there are various estimates of the size of this mismatch, they all concur that the deficit is in the millions of units. The Statewide Housing Plan adopted by HCD earlier this year, determined that, to address this mismatch, in the next eight years, California needs approximately 2.5 million units of housing, including one million units affordable to lower income households.⁵ That would require production of over 300,000 units a year. According to HCD, the state needs 180,000 units of housing built a year to keep up with demand – including about 80,000 units of housing affordable to lower-income households. By contrast, production in the past decade has been under 100,000 units per year – including less than 10,000 units of affordable housing.⁶ This underproduction has further exacerbated our longstanding housing crisis.

Reasons for the Housing Crisis: There are myriad reasons that supply has not kept pace with demand. First, the demand for housing has been strong for decades, as California has been an attractive place to move because of its economic opportunities, social opportunities, and high quality natural amenities. The result is that the population growth in California in the past 50 years has been 20 million people – a figure that on its own would exceed the total population of all but two other states.

Second, there are limited places to build. California’s topography – particularly the coastal mountain ranges – limit the places that are feasible to build. This means that newly developed areas have to be further from existing cities, unlike in places with less topographical constraints, like Texas.

¹ [California Association of Realtors Housing Affordability Index](#). Data for the 3rd quarter of 2021.

² HCD, [California Statewide Housing Plan](#), February 2018, Table 1.2

³ [The 2020 Annual Homeless Assessment Report \(AHAR\) to Congress \(huduser.gov\)](#)

⁴ UC Berkeley’s Institute of Governmental Studies, April 2022: <https://escholarship.org/uc/item/7sn293xs>

⁵ Data from [Roadmap Home 2030](#), California Housing Partnership Corporation and Housing California, 2021.

⁶ <https://www.hcd.ca.gov/policy-research/housing-challenges.shtml>

Third, local governments have made it difficult to build housing – particularly dense, multi-family housing. This is due to a combination of general resistance to new housing from existing residents and a post-Prop 13 landscape where municipal finances are better served through commercial development than residential. The result is that multifamily housing is illegal to build in most of the state – in two-thirds of jurisdictions, multifamily housing is allowed on less than 25 percent of land.⁷

Fourth, in most jurisdictions, the process to approve new housing is arduous, unpredictable, and expensive. It often requires multiple levels of approval from local governments, and navigation of an environmental review process that greatly empowers opponents of new housing.

Finally, housing is very expensive to build, requiring access to substantial financing to cover the costs of materials and labor. At certain moments – particularly during the 2008-2010 Great Recession – the lack of access to private financing killed or delayed many potential housing projects. Public financing for affordable housing is also insufficient to meet the demand – despite substantial increases in the past three years. Material costs have also risen, particularly given the global supply chain uncertainties exacerbated by the COVID-19 pandemic. Finally, and as will be discussed in greater detail below, the deficit of skilled construction workers and supervision has resulted in lengthened construction schedules and increased costs.⁸

Recent State Efforts to Address the Housing Crisis: In the past several years, the state has taken a series of steps to facilitate new housing and help address the housing crisis. These include policies such as allowing accessory dwelling units by right,⁹ reforming single family zoning,¹⁰ and reforming the process local governments use to determine how much, where, and how to plan for housing.¹¹ The state has also enacted measures to expedite the approval of affordable housing. This includes measures to make supportive housing a by right use,¹² and make affordable and market-rate housing by right in jurisdictions where housing production is below identified targets.¹³ This also includes measures to regulate and normalize the housing approval process,¹⁴ and limit the ability of local governments to deny, delay, or diminish projects that otherwise meet all of local objective standards.¹⁵

In addition to the land use policies detailed above, the state has substantially increased its investment in affordable housing in the past three years, including \$10 billion in the 2021-22 budget and a proposed \$12 billion in the 2022-23 budget. This increased investment has enabled

⁷ UC Berkeley Turner Center, *Land Use in California*, 2019: <https://californialanduse.org>

⁸ UC Berkeley Turner Center, *Perspectives: Practitioners Weigh in on Drivers of Rising Housing Construction Costs in San Francisco*, 2018: https://turnercenter.berkeley.edu/wp-content/uploads/2020/08/San_Francisco_Construction_Cost_Brief_-_Turner_Center_January_2018.pdf

⁹ AB 2299 (Bloom), Chapter 735, Statutes of 2016 and SB 1069 (Wieckowski), Chapter 720, Statutes of 2016.

¹⁰ SB 9 (Atkins), Chapter 162, Statutes of 2021.

¹¹ This includes many bills, including AB 72 (Santiago), Chapter 370, Statutes of 2017, AB 1397 (Low), Chapter 375, Statutes of 2017, SB 166 (Skinner), Chapter 367, Statutes of 2017, AB 686 (Santiago) Chapter 958, Statutes of 2018, AB 1771 (Bloom) Chapter 989, Statutes of 2018, and SB 828 (Wiener), Chapter 974, Statutes of 2018.

¹² AB 2162 (Chiu), Chapter 753, Statutes of 2018.

¹³ SB 35 (Wiener), Chapter 366, Statutes of 2017.

¹⁴ SB 330 (Skinner), Chapter 654, Statutes of 2019.

¹⁵ AB 1515 (Daly), Chapter 378, Statutes of 2017, and SB 167 (Skinner), Chapter 368, Statutes of 2017.

the state to nearly double its production of publicly subsidized affordable housing from 2018 to 2020.¹⁶

Increasing the Affordability of Housing through the Affordable Housing and High Road Jobs Act of 2022: This bill, the Affordable Housing and High Road Jobs Act of 2022, is intended to build on and greatly accelerate the recent efforts by the state to facilitate the construction of more affordable housing. It would allow do so as follows:

Approval process:

This bill would require housing to be “by right” if it conforms to the provisions below regarding affordability, location, objective standards, and labor. In being by right, it would not be subject to a local government’s discretionary approval process and would be exempt from the California Environmental Quality Act. Local governments would be able to apply objective standards and design review processes as long as they do not conflict with the provisions in the bill and do not preclude development of the housing.

Affordability requirements:

This bill would require at least 15 percent of new units be affordable to lower-income households, generally defined as those making 80 percent of the area median income (AMI) or less. Affordable units would be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units. Mixed-income, for-sale projects could, alternatively, provide least 30 percent of the units at affordable levels to moderate-income households (generally defined as those making between 80-120 percent AMI). The option for a for-sale project to direct 30 percent of its units to moderate-income households could result in a substantial increase in homeownership opportunities for that demographic.

Location requirements:

This bill facilitates the development of two kinds of housing – 100-percent affordable housing, and mixed-income housing. To qualify to utilize the by right provisions of this bill, both kinds of housing projects must be located in zones where office, retail, or parking are a principally permitted use. Mixed-income housing projects would be limited to sites that abut a “commercial corridor,” which is a local road with a right-of-way of 70 to 150 feet (generally, four to six lanes). These commercial corridors are typically the location of strip retail centers and parking lots. Directing new development along these existing thoroughfares can facilitate transit use and other non-vehicular modes of transportation.

By allowing housing in zones where residential development may not currently be permitted, this bill expands the potential sites where housing can be developed, while directing development away from existing residential neighborhoods – in particular, existing single-family neighborhoods.

This bill includes provisions that would preclude development on environmentally unsafe or sensitive area, per previously established objective standards. It would also require development

¹⁶ HCD’s APR Dashboard: <https://www.hcd.ca.gov/apr-data-dashboard-and-downloads>

to occur within infill areas, which would help reduce commutes and, commensurately, greenhouse gas emissions.

To protect existing communities, projects would not be allowed to demolish existing housing, with the exception of housing that is owner-occupied by a higher income household that chooses to sell their property to enable a development of greater density. Additionally, the development could not lead to the demolition of a historic structure.

Objective Standards:

To utilize the by right provisions of this bill, housing projects would need to meet the objective standards specified in the bill. All projects would need to be multi-family projects where no more than one-third of the space can be for a non-residential use.

For 100-percent affordable projects, the residential density would need to meet or exceed the density considered geographically appropriate for affordable housing projects in Housing Element Law. Generally, that density is 30 units per acre in urban areas, 20 units per acre in suburban areas, and 10 units per acre in rural areas.¹⁷ The site must otherwise meet the local government’s height limits, objective zoning standards, and objective design review standards.

Mixed-income housing projects would need to meet or exceed the density and height standards in the table below. These standards are distinguished by the type of community, width of the commercial corridor, and proximity to transit.¹⁸ The local government may allow higher densities and height limits at their discretion.

Location	Metropolitan Jurisdiction		Non-Metropolitan Jurisdiction	
	Minimum Project Density	Minimum Project Height	Minimum Project Density	Minimum Project Height
Commercial corridor with a width of 70’ to 100’	40 units/acre	35 feet	30 units/acre	35 feet
Commercial corridor with a width of 100’ to 150’	60 units/acre	45 feet	50 units/acre	45 feet
Commercial corridor within ½ mile of a major transit stop	80 units/acre	65 feet	70 units/acre	65 feet

Mixed-income projects must meet specified setback standards regarding any frontages along the commercial corridor, any side street, and rear property lines. These setback standards are designed to focus the development along the commercial corridors, and away from the rear of the property.

¹⁷ To understand how these requirements apply by jurisdiction, see HCD’s *Analysis of Sites and Zoning* webpage, in the table entitled “Default Densities Appropriate to Accommodate Housing for Lower-Income Households by Region”: <https://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml>

¹⁸ Ibid

The bill does not allow a local government to require parking for mixed-income projects, except that projects must meet requirements around accessible parking for people with disabilities, electric vehicle parking spaces, and bicycle parking. Developers would be allowed to determine the amount of parking needed to meet the demands of the new residents.

California's Construction Workforce Deficit: While the construction of 300,000 units a year may be difficult to conceive, it was a reality not that long ago. During California's post-World War II boom, approximately 300,000 units were built per year.¹⁹ Between 1975 – 1990, nearly 200,000 units were built a year.²⁰ That number is now less than 100,000 units a year.

As discussed above, there are numerous reasons for the sharp decline in housing production. These reasons alone could have led to a reduction in the construction workforce. But, in addition, the 2008 Great Recession, led to a steep decline in the workforce as construction ceased and workers moved to other states to find jobs. There are now just over 100,000 residential construction workers in the state.²¹

The remaining workforce has also been deskilled, due to a sharp decline in the pay and benefits associated with homebuilding jobs. The construction workforce used to produce 1.4 units per worker per year but has been below 1.0 units per worker per year for the past 15 years.²²

Not only is the workforce smaller and less skilled than it needs to be, it is not necessarily well positioned for growth, as it is difficult to attract new workers. The work is physically demanding and can require odd and long hours, both at work and commuting to work. It can be economically challenging as well, as construction work is seasonal and vulnerable to economic downturns, with workers face twice the earnings volatility.²³ The pay and benefits are often not attractive enough to overcome those risks, as residential construction workers earn 24 percent less per year than other jobs, and less than half have health insurance coverage at work.²⁴ A significant number of workers are misclassified as independent contractors, which reduces their earnings by about a third.²⁵ Wage theft is an even more substantial issue, as paying workers off the books is a common practice in construction, resulting in those workers having their earnings reduced in half.²⁶ Finally, the traditional pathways to the construction workforce have been eroded – high schools have less vocational training courses, federal policy has restricted the influx of new immigrants, and high housing costs dissuade workers from moving to California from other states.

Rebuilding the Residential Workforce through the Affordable Housing and High Road Jobs Act of 2022: This bill would make it easier to build housing, ensures that the workers who build

¹⁹ State Building and Construction Trades Council, *Housing on the High Road*, 2019, as summarized here: <https://norcalapa.org/2019/03/taking-the-high-road-to-fix-californias-broken-housing-production-system/>

²⁰ Ibid

²¹ Ibid

²² Ibid

²³ Smart Cities Prevail, *Rebuilding California: The Golden State's Housing Workforce Reckoning*, 2019: https://www.smartcitiesprevail.org/wp-content/uploads/2019/01/SCP_HousingReport.0118_2.pdf

²⁴ Ibid

²⁵ UC Berkeley Labor Center, *The Public Cost of Low-Wage Jobs in the US Construction Industry*, 2022: <https://laborcenter.berkeley.edu/the-public-cost-of-low-wage-jobs-in-californias-construction-industry/>

²⁶ Ibid.

that housing are well compensated, and provides opportunity for job training to grow the skilled construction workforce.

This bill would require compensation consistent with standards in place for public works projects by requiring projects to pay prevailing wages. The prevailing wages are the most common wage found in a region for a construction craft, and are usually based on rates specified in collective bargaining agreements between employers and unions. Prevailing wages are established by the Director of the Department of Industrial Relations (DIR), according to the type of work and location of the project, and published on DIR's website.²⁷ The prevailing wage encompasses an hourly pay, as well as compensation for other benefits should the employer not provide them, including health care, vacation, and pension.

This bill includes an enforcement component by the Labor Commissioner, an underpaid workers, or a joint labor-management cooperation committee established under federal law. These provisions would help bolster enforcement capacity of the labor standards and help ameliorate concerns about wage theft.

This bill requires that all contractors on projects of 50 or more units participate in a state-approved apprenticeship program or request the dispatch of apprentices from a program. Construction trades apprenticeships result in the elevation of most participating construction workers' wages to living wage levels.²⁸ As such, this provision would help ensure that these projects train the next generation of skilled craftspeople, so that over time the residential construction workforce is large enough to build the housing we need to end the housing crisis.

This bill allows for a locally negotiated Collective Bargaining Agreement to supersede the labor provisions in the bill. Collective Bargaining Agreements are agreements reached between the employer and the labor union that will govern the employment for the employee-members of that labor union.

Arguments in Support: Supporters of the bill include groups that represent construction workers, groups that support the development of affordable housing, and groups that support an overall increase in the housing supply.

Groups that represent construction workers, including the Northern California Regional Conference of Carpenters, the Southwest Regional Conference of Carpenters, and affiliated groups, argue that the prevailing wage requirements and enforcement provisions in the bill would benefit workers while the housing provisions in the bill would help put those workers to work. According to the California Conference of Carpenters (a co-sponsor of the bill), the bill "will open the door to middle-class, blue-collar careers for young workers who will actually be able to live in, and eventually even own, the affordable housing they build."

Groups that support the development of affordable housing, including the California Housing Consortium (a co-sponsor of the bill) argue that the bill would rapidly accelerate the production of affordable housing. They write that the bill "will expand climate-friendly infill affordable

²⁷ <https://www.dir.ca.gov/public-works/prevailing-wage.html>

²⁸ California Community Colleges, Strong Workforce Program. Data accessed via <https://www.calpassplus.org/launchboard/swp>

housing opportunities for struggling families, seniors, workers, and veterans – while also growing a thriving, well-paid, middle-class construction workforce.”

Groups that support an overall increase in the housing supply argue that the bill is necessary to help overcome the state’s deficit of 2.5 million housing units. According to the California Apartment Association, “By opening new sites to housing, AB 2011 would rapidly accelerate housing production at all income levels – particularly for lower income Californians.”

Arguments in Opposition: Opponents of the bill include groups that represent construction workers and three cities.

The State Building and Construction Trades Council (SBCTC) and affiliated groups, argue that the bill should require the utilization of a skilled and trained workforce, as defined in labor law, that would in effect require a certain percentage of each construction craft and trade to be unionized unless the project is subject to a Project Labor Agreement.²⁹ They argue that, absent these provisions, the bill provides a path to developer profits with little protections for workers and meaningful input from community members. According to the SBCTC, “We remain opposed to any effort that would create a statewide right to develop mostly market-rate and luxury housing without, at a very minimum, basic community protections, including the requirement to use a skilled and trained workforce and pay area prevailing wages.”

The cities of Laguna Beach, Mission Viejo, and Rancho Santa Margarita argue that the bill would remove local control and the ability of cities to determine the adequacy of sites for housing and the ability to provide affiliated infrastructure. They also express concern over a potential reduction in tax revenue from the loss of commercial properties.

Related Legislation:

SB 6 (Caballero, 2021): This bill would establish the Neighborhood Homes Act and would deem a housing development project as an allowable use on a lot located in an office or retail commercial zone provided that the property is not adjacent to an industrial use and meets specified affordability and labor provisions, meets specified environment criteria, and does not require the demolition of rental or deed restricted housing. This bill is pending hearing in our committee.

AB 115 (Bloom, 2021): This bill would deem a housing development project as an allowable use on a lot located in an office or retail commercial zone provided that the property is not adjacent to an industrial use and meets specified affordability provisions, meets specified environment criteria, and does not require the demolition of rental or deed restricted housing. This bill died in the Assembly Committee on Local Government.

SB 35 (Wiener), Chapter 366, Statutes of 2017: This bill requires in jurisdictions that have not met their Regional Housing Needs Assessment to allow for a ministerial, streamlined process for housing approvals as long as the project meets specified affordability and labor provisions, meets

²⁹ Skilled and trained workforce standards are defined in Public Contract Code section 2601. The standards require contractors to employ either state-registered apprentices or journey-level trades workers who have thousands of hours of experience. The standards also require specified percentages of journey-level trades workers to have graduated from state-approved apprenticeship programs

specified environment criteria, and does not require the demolition of rental or deed restricted housing.

AB 2162 (Chiu), Chapter 753, Statutes of 2018: This bill streamlines 100% affordable housing developments that include a percentage of supportive housing units and onsite services.

REGISTERED SUPPORT / OPPOSITION:

Support

CA Conference of Carpenters (Co-Sponsor)
California Housing Consortium (Co-Sponsor)
AARP
Abundant Housing LA
Affirmed Housing
All Home
Bay Area Council
Burbank Housing Development Corporation
California Apartment Association
California Association of Local Housing Finance Agencies
California Coalition for Rural Housing
California Community Builders
California Housing Partnership
California YIMBY
Carpenter Local Union 1599
Carpenters Local 152
Carpenters Local 22
Carpenters Local 562
Carpenters Local 619
Carpenters Local 661
Carpenters Local 701
Carpenters Local 714
Carpenters Local 721
Carpenters Local 909
Carpenters Local 951
Carpenters Local Union #1109
Carpenters Local Union 1789
Carpenters Local Union 2236
Carpenters Union Local 180
Carpenters Union Local 405
Carpenters Union Local 46
Carpenters Union Local 505
Carpenters Union Local 605
Carpenters Union Local 713
Carpenters Union Local 805
Carpenters Women's Auxiliary 001
Carpenters Women's Auxiliary 007
Carpenters Women's Auxiliary 101
Carpenters Women's Auxiliary 1904

Carpenters Women's Auxiliary 417
Carpenters Women's Auxiliary 66
Carpenters Women's Auxiliary 710
Carpenters Women's Auxiliary 91
City of San Mateo
CivicWell
Construction Employers' Association
Council of Infill Builders
Destination: Home
Drywall Lathers Local 9109
Drywall Local Union 9144
East Bay Asian Local Development Corporation
Fieldstead and Company
Generation Housing
Greenbelt Alliance
Housing Action Coalition
Housing California
Lathers Local 681
Making Housing and Community Happen
Mercy Housing California
MidPen Housing Corporation
Millwrights Local 102
Modular Installers Association
Non Profit Housing Association of Northern California
Northern California Carpenters Regional Council
Pile Drivers Local 34
Richmond Community Foundation
San Diego Housing Federation
San Francisco Bay Area Planning and Urban Research Association
San Francisco Housing Development Corporation
Satellite Affordable Housing Associates
Silicon Valley Community Foundation
Southern California Association of Nonprofit Housing
Southwest Regional Council of Carpenters
SV@Home Action Fund
The Kennedy Commission
The Pacific Companies
The Two Hundred
United Lutheran Church of Oakland
United Ways of California
USA Properties Fund
Ventura County Clergy and Laity United for Economic Justice

Opposition

California State Association of Electrical Workers
California State Pipe Trades Council
City of Laguna Beach
City of Mission Viejo

City of Rancho Santa Margarita
District Council 16, International Union of Painters and Allied Trades
State Building & Construction Trades Council of California
Western States Council Sheet Metal, Air, Rail and Transportation

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