
SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

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Bill No: AB 1751

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Fiscal: Yes

Consultant: Favorini-Csorba

MISSING MIDDLE TOWNHOME OWNERSHIP ACT

Enacts the Missing Middle Townhome Ownership Act, which requires a city or county to ministerially approve a townhome development project.

Background

Planning and approving new housing is mainly a local responsibility. The California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

Planning and Zoning Law. State law provides additional powers and duties for cities and counties regarding land use. The Planning and Zoning Law requires every county and city to adopt a general plan that sets out planned uses for all of the area covered by the plan. Every county and city must adopt a general plan with seven mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety. General plans must also either include an eighth element on environmental justice, or incorporate environmental justice concerns throughout the other elements. State laws specify in detail the requirements for several of these elements, most notably the housing element and the safety element.

The general plan must be “internally consistent,” which means the various elements cannot have conflicting information or assumptions. Additionally, cities’ and counties’ major land use decisions—including zoning ordinances and development permitting—must be consistent with their general plans.

Housing element. Cities and counties must develop a housing element as part of the general plan every eight years (every five years for some rural areas). Each city or county receives a total number of housing units to plan for in its housing element, broken down by income category, known as its regional housing needs allocation (RHNA). The housing element must include an inventory of land suitable and available for residential development to meet the locality’s RHNA by income level (very low, low, moderate, and above moderate). As part of the analysis of available sites, a city or county calculates the projected residential development capacity of the sites identified in the housing element that can realistically be achieved.

The housing element must contain additional specified information, programs, and objectives, including:

- A statement of the community’s goals, quantified objectives, and policies relative to affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing; and
- A program that sets forth a schedule of actions to implement the goals, objectives, and policies in the housing element during the planning period, and timelines for implementation.

Housing element compliance. Housing element law spells out in detail the process for cities and counties to adopt a housing element that complies with the law, including a schedule for adopting housing elements and deadlines for each step in the process.

First, a city or county must send a draft housing element to the Department of Housing and Community Development (HCD) for review and comment. HCD must make written findings as to whether the draft element substantially complies with housing element law. If HCD finds that the housing element does not substantially comply, a city or county must either:

- Change the draft element or draft amendment to substantially comply; or
- Adopt the draft element or draft amendment without changes, in which case the city or county must explain the reasons it believes that the draft element or draft amendment substantially complies with housing element law despite HCD’s findings.

Cities and counties must also submit a copy of an adopted housing element promptly to HCD following adoption, which then reviews it for compliance and reports back to the city or county within 60 days.

No Net Loss. A city or county with a compliant housing element has three years after adoption to rezone sufficient sites to accommodate their share of its RHNA, including to adopt minimum density and development standards. Cities and counties that still haven’t adopted a compliant housing element 120 days after the statutory deadline only have one year from that statutory deadline to complete the rezoning.

Local governments must maintain adequate residential development sites throughout the entire planning cycle and not take actions that reduce or permit the reduction of residential density for any parcel in its housing element that has been identified to meet its share of its regional housing needs allocation (RHNA). This “no net loss” requirement means that if a city or county permits a project below the density proposed for a site in its housing element, it must identify and make available additional sites to cover the lost portion of RHNA.

Zoning and approval processes. Local governments use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific considerations.

Local governments have broad authority to define the specific approval processes needed to satisfy these considerations. Some housing projects can be permitted by city or county planning staff “ministerially” or without further approval from elected officials, but most large housing projects require “discretionary” approvals from local governments, such as a conditional use

permit or a change in zoning laws. This process requires hearings by the local planning commission and public notice and may require additional approvals.

Subdivision Map Act. The Subdivision Map Act (Map Act) governs how local officials regulate the division of real property into smaller parcels for sale, lease, or financing. Cities and counties must adopt local subdivision ordinances to carry out the Map Act and add local requirements derived from their police power. City councils and county boards of supervisors use the Map Act to control a subdivision's design and improvements. Like other land use decisions, local subdivision approvals must be consistent with city and county general plans.

Under the Map Act, cities and counties can attach scores of conditions. The Map Act allows local officials to require, as a condition of approving a proposed subdivision, the dedication of property within a subdivision for streets, alleys, drainage, utility easements, and other public easements and improvements. Once subdividers comply with those conditions, local officials must issue final maps. For smaller subdivisions that create four or fewer parcels, local officials usually use parcel maps, but they can require tentative parcel maps followed by final parcel maps. The Map Act also constrains the dedications and improvements that local cities and counties can require as a condition of a subdivision of four or fewer lots to only the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created.

The Map Act prohibits a city or county from approving a subdivision map unless the city council or board of supervisors finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan. The subdivision can only be consistent if it is compatible with the objectives, policies, general land uses, and programs in the general plan. Cities and counties may also deny a map if it makes any of the following findings:

- The proposed map, or its design or improvement, is not consistent with applicable general and specific plans;
- The site is not physically suitable for the type of development;
- The site is not physically suitable for the proposed density of development;
- The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
- The design of the subdivision or type of improvements is likely to cause serious public health problems;
- The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision (with specified exceptions).

California's housing crisis. California has the largest concentration of severely unaffordable housing markets in the nation, with the average home value in California at \$773,363. To keep up with demand, the Department of Housing and Community Development (HCD) estimates that California must plan for the development of more than 2.5 million homes over the next eight years. Many economists point to zoning constraints as a cost driver.

In recent years, the Legislature has taken numerous steps to reduce barriers to housing development. These include, among many others, the Housing Accountability Act, the Permit

Streamlining Act, SB 35 (Wiener, 2017), SB 9 (Atkins, 2021), and the Starter Home Revitalization Act.

The Housing Accountability Act (HAA). The HAA limits the ability of local governments to disapprove or condition housing projects in a manner that renders them economically infeasible. Specifically, the HAA provides that when a proposed housing development complies with objective general plan and zoning standards, a local agency cannot disapprove the project, or approve it on the condition that it be developed at a lower density. However, the city or county may condition or disapprove the project if it makes written findings based on a preponderance of the evidence that the project would have a specific, adverse impact on the public health or safety and that there are no feasible methods to mitigate or avoid those impacts other than disapproval or conditioning of the project.

The HAA deems a project consistent, compliant, and in conformity with applicable standards if there is substantial evidence that would allow a reasonable person to conclude that the project is consistent, compliant, or in conformity, rather than deferring to the city or county's interpretation. This is known as the "reasonable person" standard. The HAA also generally puts the burden of proof on the city or county to demonstrate that its decisions meet the HAA's requirements.

Permit Streamlining Act (PSA). The PSA requires public agencies (state and local) to act fairly and promptly on applications for development permits, including housing. Public agencies must compile detailed lists of information that applicants for development projects must provide and explain the criteria they will use to review permit applications. Public agencies have 30 days to determine whether applications for development projects are complete; failure to act results in an application being "deemed complete."

Once a complete application for a development has been submitted, the PSA requires public officials to act within a specific time period after completing any environmental review documents required under the California Environmental Quality Act (CEQA), ranging from 30 to 180 days depending on the project and the environmental review required. If the agency fails to act, the application is deemed approved.

SB 35 (Wiener, 2017). SB 35 created a ministerial approval process for infill multifamily housing projects that are not on specified environmental sites, include specified percentages of affordable housing and meet certain labor standards, including the payment of prevailing wage. SB 35 applies its ministerial permitting only to the zoning approvals for a project. The law does not make Map Act approvals ministerial, but it did exempt them from CEQA if they comply with all objective Map Act and local subdivision ordinance requirements.

SB 9 (Atkins, 2021). SB 9 requires cities and counties to permit ministerially either or both of the following, as long as they meet specified conditions: (1) a housing development of no more than two units (a duplex); and the subdivision of a parcel into two approximately equal parcels (urban lot split). SB 9 included similar, although not identical, site limitations as SB 35.

Starter Home Revitalization Act (SHRA). To further facilitate missing middle housing, SB 684 (Caballero, 2023) enacted the SHRA, which established ministerial approval processes for small lot subdivisions on lots zoned for multi-family use. SB 684 requires cities and counties to ministerially approve the subdivision of a lot into up to 10 parcels—and to ministerially approve housing projects with 10 or fewer total units across those parcels. SB 1123 (Caballero, 2024)

expanded the SHRA to single-family lots, provided that the lot proposed to be subdivided is no larger than 1.5 acres and does not contain any structures, unless those structures are vacant and abandoned. The SHRA also includes similar site limitations.

Some developers want to further streamline opportunities for housing development.

Proposed Law

Assembly Bill 1751 requires a city or county to ministerially consider, without discretionary review or a hearing, an application for a townhome housing development project.

Land use and zoning standards. AB 1751 provides that the application for a townhome development project covers all land use and zoning approvals required to authorize construction and occupation of the townhome housing development project, including, but not limited to, subdivision, building, grading, and other permits.

The bill defines a townhome development project to mean a development that:

- Entirely comprises single-family dwellings that are no more than three stories tall and either shares a common wall or are only separated by an air gap with other units;
- Contains no more than 150 total units;
- Has an average total floorspace of 1,750 square feet per unit, as specified; and
- Is built to a density of at least 75% of the densities specified in existing law that are deemed to make housing affordable to lower-income families.

AB 1751 allows a city or county to impose objective zoning standards, objective subdivision standards, or objective design standards that are applicable to the townhome housing development project, so long as they do not conflict with the above requirements and do not do any of the following:

- Physically preclude the development of a proposed townhome housing development project at the density required by the bill;
- Impose any requirement that applies to a townhome housing development project solely or partially on the basis that the project receives approval under the bill; or
- Require that parking be enclosed or covered or requires parking capacity or parking designs that are prohibited or restricted by other law.

Subdivision approval procedures. AB 1751 requires a city or county ministerially consider, without discretionary review or a hearing, a parcel map or a tentative and final map for a townhome development project that meets specified requirements, as follows.

Housing and demolition protections. AB 1751 includes various requirements related to protecting existing housing units. Specifically, the development of a townhome development project on the lot proposed to be subdivided cannot require the demolition of:

- Housing that is enforceably restricted to lower-income households;
- Housing that is subject to any form of rent or price control through a local public entity's valid exercise of its police power through an adopted ordinance;

- Housing occupied by tenants and subject to rent or price control within the five years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the submission of the application for a development permit; or
- A parcel where the owner withdrew units from rent or lease pursuant to existing law within 15 years before the date that the development proponent submits an application.
- A historic structure that was placed on a national, state, or local historic register before the date a preliminary application was submitted for the project.

The proposed subdivision must not result in any existing dwelling unit being sold separately from any other existing dwelling unit on the lot, and for projects of 11 or more units, the project must meet any applicable local inclusionary housing requirements.

Site limitations. AB 1751 limits the sites that are eligible for a townhome development project. The proposed subdivision must be located on a site that is either zoned for multifamily residential use or an “underutilized” site zoned for single-family use. Under the bill, “underutilized” means having no permanent residential structure, unless the permanent residential structure is abandoned and uninhabitable, and cannot include:

- Housing that is subject to a recorded covenant, ordinance, or law that restricts rent or sales price to levels affordable to persons and families of low, very low, or extremely low income; or
- Housing that is subject to any form of rent or sales price control through a city or county’s valid exercise of its police power by adopted ordinance.

The lot proposed to be subdivided cannot be located on a site that is any of the following:

- Prime farmland or farmland of statewide importance;
- Wetlands;
- Within a very high fire hazard severity zone;
- A hazardous waste site;
- Within a delineated earthquake fault zone;
- Within specified flood zones;
- Habitat for protected species or identified for conservation, as specified.

A townhome development project also cannot be located on:

- A site upzoned pursuant to SB 79 (Wiener, 2025);
- A mobilehome park; or
- A site that is identified to accommodate any portion of the city or county’s share of the regional housing need for low-income or very low income households.

A townhome development project must be located on an infill site, meaning a site that is surrounded on three sides by developed uses, if the lot is located in a nonmetropolitan county or suburban jurisdiction, as defined.

Any parcels proposed to be created pursuant to the bill must also be served by a public water system and a municipal sewer system.

Subdivision requirements. AB 1751 requires any housing units on the lot proposed to be subdivided to be developed as ownership units, as specified. The proposed subdivision must also conform to:

- All applicable objective requirements of the Map Act;
- All local applicable objective zoning standards, objective subdivision standards, and objective design standards, except as otherwise specified in the bill;
- The requirements applicable to a townhome development project specified in the bill.

A townhome development project does not have to comply with minimum requirement on the size, width, depth, frontage, or dimensions of an individual parcel created by the project so long as each parcel is 600 square feet or greater. A townhome development project also cannot be required to form a homeowners' association, except as required by the Davis-Stirling Common Interest Development Act. But a city or county can require a mechanism for the maintenance of common space within the subdivision, including, but not limited to, a road maintenance agreement.

The bill prohibits the sale, lease, or financing of any parcel unless the parcel:

- Contains at least one new or existing housing unit;
- Is reserved for internal circulation, open space, or common area; or
- The parcel is the only remaining parcel within the subdivision that is not developed with a residential structure.

If a person violates this requirement, it is subject to existing penalties in the Map Act. However, a city or county may by ordinance or map condition, waive the above requirements.

The bill also provides that a city or county does not have to permit an urban lot split under existing law on a parcel created through the exercise of the authority contained within this section.

Other provisions. The bill states that all applicable housing statutes apply to townhome development projects, including the HAA, the PSA, and other existing procedures. An approval of a townhome development project is not a project under CEQA.

AB 1751 allows a city or county to disapprove a townhome housing development project, including a subdivision map, if it makes a written finding, based upon a preponderance of the evidence, that the proposed townhome housing development project would have a specific, adverse impact, as defined under the HAA, upon public health and safety and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

The bill allows a city or county to adopt an ordinance to implement the provisions of the bill and exempts that ordinance from CEQA. It also excludes the City and County of San Francisco and includes findings and declarations to support its purposes.

Finally, AB 1751 provides that SB 9 does not apply to a site that is located within a single-family residential horsekeeping zone designated in a master plan, if the applicable local government has adopted a compliant housing element.

Comments

1. Purpose of the bill. According to the author, “California is facing a homeownership crisis that reflects the disappearance of the middle-class. With only 18% of households able to afford a median-priced single-family home, the dream of owning a piece of our state and building generational wealth is fading away for millions of hardworking families and the next generation of Californians. I have four young adults who are trying to embark on this journey of home ownership themselves. Yet, the market is almost making it impossible to find a viable path towards this pillar of ownership every adult should have. The evidence is clear, while detached single family units become more expensive, townhomes offer a feasible path forward. AB 1751, the Missing Middle Townhome Ownership Act removes red tape that has made developing these projects so difficult. By establishing a ministerial approval process for townhomes that meet certain standards that protect housing equity, AB 1751 chooses people over politics protecting existing affordable housing strategies while unlocking the potential for new ownership opportunities.”

2. Designing communities. “The Subdivision Map Act and the ordinances passed in conformity with it have several salutary purposes, such as: to regulate and control the design and improvement of subdivisions, with proper consideration for their relation to adjoining areas; to require subdivider to install streets [and]... drains; to prevent fraud and exploitation; and to protect both public and purchaser.”¹ The California Supreme Court further notes, “the Act seeks ‘to encourage and facilitate orderly community development, coordinate planning with the community pattern established by local authorities, and assure proper improvements are made, so that the area does not become an undue burden on the taxpayer.’”² The Map Act may be burdensome for developers, but for good reason. It protects homebuyers and taxpayers by ensuring that there is infrastructure to support a new development and that the development does not conflict with state and local goals.

AB 1751 makes subdivision approvals ministerial for townhome developments that meet the requirements of the bill. Converting the Map Act process from discretionary to ministerial will likely be challenging. Approving subdivisions extends beyond considering the structure or structures that hold the housing units. It involves designing the layout of an entire community—the location of roads, parks, schools, and other infrastructure, and how the new housing projects and associated infrastructure relate to the broader community. Identifying solely objective standards to ensure a functional and desirable community risks both under- and over-specifying the requirements for any given development. Cities or counties with extensive planning staff may be able to develop objective subdivision criteria that fully encompass all the scenarios for development within their jurisdiction. But in doing so, those uniform standards might not make sense as applied to each individual project. This may end up requiring developers to meet unnecessary—but still objective—standards, potentially frustrating development. Smaller jurisdictions may have less ability to develop comprehensive objective standards and therefore may be more likely to miss important infrastructure or community considerations. Requiring compliance with only objective standards for subdivisions may undermine the purpose of the Map Act.

3. Whither the general plan? The general plan is often called the “constitution for future development.” It serves an important role in shaping the location and type of development that

¹ *Pratt v. Adams*, 229 Cal. App. 2d 602.

² *Gardner v. County of Sonoma*, 29 Cal. 4th 990

will occur and ensuring that there is adequate infrastructure to support that development. The Legislature has spelled out many requirements for general plans to ensure that local planning efforts align with state goals, including to provide adequate open space, mitigate future risks from fire, floods, and climate change, and ensure consideration of environmental justice. To approve subdivision maps, city councils and boards of supervisors must find that the subdivision, along with its design and improvements, are consistent with the general plan. This is one of the chief mechanisms to ensure that development is rational and doesn't harm the public. AB 1751 only allows cities and counties to apply objective standards. Many standards contained in general plans are not objective—they are designed flexibly by nature so that elected officials can exercise judgment to apply them in cases where they are applicable. As a result, local agencies may not be able to apply standards in their general plans, including standards that the Legislature has directed them to adopt or are consistent with legislative priorities. This may frustrating state goals such as hazard mitigation and climate action planning. The Committee may wish to consider amending AB 1751 to require the applicant to demonstrate that a townhome development project is consistent with the applicable standards, whether objective or not, in the general plan.

4. Public benefits. AB 1751 requires ministerial approval of townhome development projects. Ministerial approval allows developers to avoid the negotiations with a local government over the community benefits that a project must provide in order to secure approval. This can reduce developers' costs. However, because developers sell their units at the price the market will bear, rather than the cost it takes them to build, there is no guarantee that developers using AB 1751 will pass any savings on to future homeowners. To ensure that the public shares in the benefits of streamlining measures passed by the Legislature, those measures that grant ministerial approval for projects over 10 units have uniformly included requirements for both affordable housing components and requirements that the project pay good wages. AB 1751 does not include either of those requirements (the prior version of the bill included labor provisions that generated disagreement over the level of benefits that it would provide). The Committee may wish to consider amending AB 1751 to include provisions to ensure equitable distribution of public and private benefits, such as an inclusionary requirement.

5. Taking the long view. For the past decade, legislative efforts have focused on directing local governments to increase the number of units that their zoning allows to be built, including through: (1) the housing element process, which requires cities and counties to rezone to accommodate their RHNA on sites that can realistically support the density; (2) the No Net Loss requirement, which requires cities and counties to upzone elsewhere if they approve housing at a lower density on a housing element site; and (3) bills that require approval of denser development than local zoning otherwise allows, such as SB 9 and the SHRA. These requirements are based on economic theory that land use controls limit the number of units that can be built in a jurisdiction, which leads to an imbalance between housing supply and the demand for it. When demand outpaces supply, prices rise.

AB 1751 requires townhome development projects to meet specified density standards, regardless of what the local zoning requires. This means developers can use AB 1751 to develop projects at *lower* density than local minimums may dictate, including on housing element sites for moderate and above-moderate income households. If AB 1751 is used in this way, at least two concerns arise. First, because housing is a long-term asset, sites developed at lower density lock in that lower density for decades. As a result, those sites will be off limits for development at higher density until far into the future, reducing the ability of those sites to contribute to housing supply. Several cities and counties have estimated large potential reductions in housing

production from AB 1751. For example, the County of Los Angeles notes that AB 1751 has the potential to result in the loss of up to approximately 60,000 units relative to what could be built under their current zoning. This could frustrate the Legislature's efforts to increase housing supply. However, supporters of the measure argue that these zoned capacities are not realistic. Second, cities and counties will be forced to make up for the lost density by upzoning elsewhere in their jurisdictions because of the No Net Loss requirement, despite not taking voluntary action. The Committee may wish to consider amending AB 1751 to address these concerns around downzoning.

6. Tenant protections. Previous streamlining measures have included a variety of protections to ensure that the laws don't lead to displacement of individuals that are currently in stable housing. These protections prohibit the use of the project on certain sites so that landlords do not have an incentive to evict tenants to allow for the construction of more profitable new housing. AB 1751 imports some, but not all, of these protections. Notably, AB 1751 does not protect housing that was occupied by tenants in the past five years, unless they are also subject to rent control. For those types of units it does protect, it also only prohibits *demolition* of protected units, not alteration. Finally, it only protects units subject to local rent or price control if the local agency has adopted an ordinance. Some cities, however, enact rent control through their charters, rather than by ordinance. Taken together, these changes from other streamlining laws increase the risk that tenants will be displaced to make room for units that they are unlikely to be able to afford. The Committee may wish to consider amending AB 1751 to strengthen the bill's anti-displacement protections.

7. Environmental criteria. Enacted in 1970, CEQA requires California's state and local agencies to evaluate, disclose, and, where feasible, mitigate the potential environmental effects of their actions before they approve projects. If a project is likely to have a significant impact on the environment, the agency tasked with approving it must prepare an environmental impact report (EIR). An EIR provides thorough environmental review of a proposed project, analyzing the significant direct and indirect impacts of a proposed project on a long list of environmental factors, including water quality, transportation, air quality and greenhouse gas emissions, land use, wildfire risk, and many others. The EIR also includes proposed mitigation measures for any significant effects that it identifies. It also requires a consideration of alternatives to the proposed project, and a consideration of cumulative and growth-inducing impacts.

However, CEQA does not apply to projects approved ministerially. To limit the environment damage from previous streamlining measures, legislators have consistently included safeguards. These safeguards either exclude sensitive sites or require additional procedures for development that may impact them. One key limitation has been a requirement that streamlining only apply on infill sites within urban areas, so that new development doesn't significantly increase the greenhouse gas emissions from vehicles traveling long distances from their residence to work or other locations. Other protections have included a process to consult with Native American Tribes to ensure that development doesn't destroy tribal cultural resources, and a provision that ensures that the state's landmark law to regulate development along the coast, the Coastal Act, still applies.

AB 1751 does not include an explicit requirement that projects comply with the Coastal Act or a process for identifying tribal cultural resources, so it may have negative impacts on these resources. The bill requires projects in non-metropolitan and suburban jurisdictions to be infill, but allows projects on undeveloped land within metropolitan jurisdictions. Since metropolitan jurisdictions includes large counties, such as San Bernardino County, with many remote areas,

AB 1751 may contribute to greenhouse gas emissions. The Committee may wish to consider amending AB 1751 to:

- Include a Coastal Act savings clause;
- Require tribal consultation; and
- Add more specificity to the areas of the state where greenfield development under the bill may occur.

8. Let's be clear. Several provisions of AB 1751 generate uncertainty or are redundant. The Committee may wish to consider the following clarifying amendments:

- *Parcel maps*. For subdivisions creating five or more parcels, the Map Act generally requires a tentative map and a final map. This ensures that the improvements on large developments are constructed before the parcels are legally created. AB 1751 requires ministerial approval of parcel maps as well as tentative maps. This creates ambiguity regarding whether a large development could be permitted with only a parcel map. The Committee may wish to consider amending AB 1751 to strike the references to parcel maps.
- *Water systems*. AB 1751 requires connection to a public water system, as defined. This is intended to ensure that these developments are not permitted on wells or on smaller systems that don't have the capacity to support the new development. However, the definition of public water system includes some systems that do not support full time residents, such as a school. The Committee may wish to consider amending AB 1751 to use another definition in existing law for community water system, which is a system that supports full-time residents.
- *Serial lot splits*. AB 1751 says that cities and counties do not have to permit additional subdivisions pursuant to SB 9 (Atkins, 2021), which allows for ministerial creation of two parcels from one single-family parcel. This ensures that the bill can't be used in conjunction with other laws to override the unit caps. However, the SHRA also overrides local subdivision requirements and could similarly allow a developer to exceed the caps. The Committee may wish to consider amending AB 1751 to similarly prohibit the use of the SHRA on these parcels.
- *Air gap*. AB 1751 intends to support the development of attached, or nearly so, single-family homes. To do so, it requires the units to be attached or separated by an air gap, but does not define the term air gap. This leads to ambiguity regarding whether detached homes, which are technically separated by an air gap, would qualify. The Committee may wish to consider amending AB 1751 to specify that an air gap means no more space between structures than required by the building code.
- *Other housing laws*. The bill states that applicable housing laws apply to a townhome development project, including the HAA and the Permit Streamlining Act. These laws apply regardless of whether the bill specifically states so, and this provision raises questions regarding what an applicable statute is. The Committee may wish to consider amending AB 1751 to strike this provision;
- *Internal consistency*. As drafted, AB 1751 includes two separate sections of law that address all land use approvals and those that are specific to subdivision approvals, which contains most of the specificity regarding the projects (such as site prohibitions, zoning designations, and others). The subdivision section references the requirements of the land use section, but the land use section does not reference the subdivision section. To ensure that the standards in the bill apply uniformly across all land use approvals, the

Committee may wish to consider amending AB 1751 to insert a cross-reference to the subdivision section in the land use section of the bill;

- *Historic districts.* AB 1751 prohibits demolition of historic structures on national, state, or local historic registers, but doesn't protect contributing structures that may not be individually listed. To ensure that the bill comprehensively protects historic structures, the Committee may wish to consider amending AB 1751 to also exclude demolition or alteration of contributing structures within a historic district.
- *Horsekeeping zones.* When enacted, the SHRA included a provision that amends an unrelated section of law regarding horsekeeping districts. AB 1751 copies over that provision. Since the provision already exists in other laws, it is unnecessary to include this provision in AB 1751. The Committee may wish to consider amending AB 1751 to delete this provision.

9. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because AB 1751 imposes new duties on local agencies, Legislative Counsel says it imposes a new state mandate. AB 1751 disclaims the state's responsibility for providing reimbursement by citing local governments' authority to charge for the costs of implementing the bill's provisions.

10. Special legislation. Section 16 of Article IV of the California Constitution prohibits special legislation when a general law can apply. AB 1751 contains findings and declarations explaining the bill's exclusion for the City and County of San Francisco.

11. Charter city. The California Constitution allows cities that adopt charters to control their own "municipal affairs." In all other matters, charter cities must follow the general, statewide laws. Because the Constitution doesn't define "municipal affairs," the courts determine whether a topic is a municipal affair or whether it's an issue of statewide concern. AB 1751 says that it applies to all cities, including charter cities. To support this assertion, the bill includes a legislative finding and declaration that it addresses a matter of statewide concern.

12. Incoming! The Senate Rules Committee has ordered a double referral of AB 1751: first to the Committee on Housing, which approved AB 1751 at its June 24th meeting on a vote of 10-0, and second to the Committee on Local Government.

Assembly Actions

Assembly Housing and Community Development Committee:	12-0
Assembly Local Government Committee:	7-0
Assembly Appropriations Committee:	11-0
Assembly Floor:	47-0

Support and Opposition (6/29/26)

Support: *[prior version of the bill]*
 New California Coalition (Sponsor)
 AIA California
 Bay Area Council
 Bizfed LA
 Calasian Chamber of Commerce

California Business Roundtable
California Conference of Carpenters
California Hispanic Chamber of Commerce
California Multicultural Business Alliance
California State University, Sacramento
Circulate San Diego
Civic Steward
East Bay Leadership Council
Fieldstead and Company, INC.
Fresno Business Council
Fresno County Economic Development Corporation
Fresno Stewardship Foundation
Greater Ontario Business Council
Greater Sacramento Economic Council
Habitat for Humanity California
Hispanic Chambers of Commerce of San Francisco & Latin American & Caribbean Business Chamber of Commerce
Hope the Mission
Latin American and Caribbean Business Chamber of Commerce
Napa Chamber of Commerce
North Bay Leadership Council
R Street Institute
Sacramento Metropolitan Chamber of Commerce
San Diego Regional Chamber of Commerce
San Francisco Filipino American Chamber of Commerce
San Joaquin Valley Manufacturing Alliance
Santa Barbara South Coast Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Sierra Business Council
Signature Development Group
Signature Homes
Summerhill Homes LLC
The Grupe Company
The Two Hundred for Homeownership
United Airlines
Veterans in Business Network
West Ventura County Business Alliance
Zillow Group

Opposition: *[prior version of the bill]*

CA-NV Conference of Operating Engineers
California Cities for Local Control
California Contract Cities Association
California Labor Federation, Afl-cio
California Rural Legal Assistance Foundation, INC.
California State Association of Electrical Workers
California State Pipe Trades Council

City of Artesia
City of Chino Hills

City of Citrus Heights
City of Cupertino

City of Fairfield
City of Hemet
City of Hesperia
City of Lakewood
City of Mission Viejo
City of Morgan Hill
City of Murrieta
City of Newport Beach
City of Norco

City of Norwalk
City of Oceanside
City of Orange
City of Palm Desert
City of Paramount
City of Pico Rivera
City of Simi Valley
City of Vacaville

Communities for a Better Environment
District Council 16 International Union of Painters and Allied
District Council 16 Painters and Allied Trades
District Council of Iron Workers of the State of California and Vicinity
Equitable Land Use Alliance (ELUA)
Families and Homes San Jose
Housing California
International Brotherhood of Boilermakers
International Brotherhood of Electrical Workers
Kennedy Commission
Leadership Counsel for Justice and Accountability
League of California Cities
Neighbors for a Better San Diego
Operative Plasterers & Cement Masons
Public Advocates
Public Interest Law Project
Real Democrats For Democracy
Rural County Representatives of California (RCRC)
Save Lafayette
Sheet Metal Workers' International Association
State Building & Construction Trades Council of California
Teamsters California
Ua Local 250 Steamfitters & Refrigeration
Ua Local 447
Ua Local Union 393
United Association
United Neighbors
Wake Up California
Western Center on Law & Poverty
Western States Council Sheet Metal, Air, Rail and Transportation
Two Individuals

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