

Date of Hearing: April 20, 2026

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2118 (Hoover) – As Introduced February 18, 2026

SUBJECT: Affordable Housing and High Road Jobs Act of 2022: use by right: objective standards

SUMMARY: Expands the scope of actions covered by the ministerial approval process for affordable housing projects in commercial zones established by AB 2011 (Wicks), Chapter 647, Statutes of 2022, to explicitly include a “state permit or approval.”

EXISTING LAW:

- 1) CEQA requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. CEQA statute and guidelines provide multiple exemptions for residential projects. (Public Resources Code 21000 *et seq.*)
- 2) AB 2011 establishes a ministerial approval process (i.e., not subject to CEQA or other discretionary review by the relevant city or county) for affordable housing projects in commercial zones. AB 2011:
 - a) Requires 28-100% of project units to be affordable, depending on project type.
 - b) Requires projects to be multi-family housing of at least five units.
 - c) Requires projects to be equal to or greater than the “Mullin” densities.
 - d) Permits residential projects in areas zoned for office, retail, or parking.
 - e) Requires projects to be adjacent to existing commercial corridors.
 - f) Prohibits projects on or adjacent to industrial uses.
 - g) Requires hazardous substances to be mitigated to a level of insignificance.
 - h) Prohibits projects that would demolish registered historic structures, as well as affordable, rent-controlled, or other existing rental housing.
 - i) Excludes vacant sites within very high fire hazard severity zones (VHFHSZs).
 - j) For projects within 500 feet of a freeway, imposes conditions to limit residents’ exposure to air pollution.
 - k) Prohibits projects within 3,200 feet of oil or natural gas extraction or refining.

- l) Requires developers to pay prevailing wages to construction workers, and for projects with 50 or more units, requires apprenticeship programs and healthcare contributions.
- m) Sunsets January 1, 2033.

(Government Code (GC) 65912.100 *et seq.*)

- 3) SB 423 (Wiener), Chapter 778, Statutes of 2023, requires ministerial approval of both affordable and market-rate multifamily housing projects until 2036, provided specified construction labor requirements are met, while excluding the following 11 categories of environmentally sensitive sites, which are incorporated into AB 2011 with some additional exceptions:
 - a) Coastal zone, with specified exceptions.
 - b) Prime farmland or farmland of statewide importance.
 - c) Wetlands.
 - d) Very high fire hazard severity zones, with specified exceptions.
 - e) Hazardous waste site.
 - f) Delineated earthquake fault zone.
 - g) Special flood hazard area.
 - h) Regulatory flood way.
 - i) Lands identified for conservation.
 - j) Habitat for protected species.
 - k) Lands under conservation easement.

(GC 65913.4)

THIS BILL:

- 1) Expands the scope of actions considered “use by right” and exempt from CEQA to include a “state permit or approval.”
- 2) Prohibits AB 2011’s objective standards from prohibiting or otherwise limiting mixed-use development in a housing development project.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Background.** CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines, for a wide range of residential projects. Since 1978, CEQA has included statutory exemptions for housing. There are now more than 15 distinct CEQA exemptions for housing projects. The majority of residential projects are approved via exemption or negative declaration under CEQA, or through ministerial permits where CEQA does not apply.

A few existing CEQA exemptions are specific to projects with an affordable housing fraction, the rest are available to affordable and market-rate projects alike. Each exemption includes a range of conditions, including requirements for prior planning-level review, as well as limitations on the location and characteristics of the site. These conditions are intended to guard against the approval of projects with significant environmental impacts that go undisclosed and unmitigated – endangering workers, residents and the greater environment.

More recently, bills such as SB 423 and AB 2011 have required ministerial approval for multifamily housing projects, where local discretionary review, including CEQA, is replaced with construction labor requirements, exclusion of specified sensitive sites, and a checklist of “objective standards.”

- 2) **Author’s statement:**

California continues to face a severe housing crisis with soaring home prices and rents making it increasingly difficult for residents to find affordable and safe housing. Despite ongoing efforts to develop affordable and mixed-income housing, developers still face regulatory hurdles that slow the construction of new units. Building on the pathway created by AB 2011, AB 2118 clarifies existing statute to allow for mixed-use projects and ensure both local and state permits are subject to streamlined approval. With added clarity we promote the development of new units and provide more opportunities for affordable housing.

- 3) **Is “use by right” intended to permit developers to avoid subjective requirements imposed by intransigent, anti-development cities, or is it intended to avoid state agency CEQA review of every potential discretionary action?** Ministerial review of housing projects that might otherwise be subject to CEQA was established by SB 35 (Wiener), Chapter 366, Statutes of 2017. A key element of SB 35 and subsequent ministerial approval bills, including AB 2011, is that a development qualifies as a “use by right” if it meets pre-determined “objective” development standards. These standards cover a range of conditions and requirements within the scope of local government land use review, including density, height, zoning, design review, and location relative to existing development. If a developer meets these “objective” local standards, along with other requirements particular to each of these bills, including construction labor requirements, environmental site exclusions, tribal consultation, and affordability standards, the local government must issue a ministerial permit, which is not subject to CEQA.

Separate and apart from this local process to confirm objective standards, state laws and regulations may, in some cases, require discretionary action by a state agency. While the “SB

423” site exclusions in GC 65913.4(a)(6) disqualify categories of sites that may pose a risk to the environment, they do not cover every conceivable state agency determination. Indeed, some of the conditions in the SB 423 list may require a state agency determination that includes CEQA review. Once any necessary state agency review is complete, a project would be eligible for ministerial approval by the local government.

The most common anecdotal example on this point is when a development is proposed on a site identified as contaminated with hazardous waste by a former use, such as a leaking underground storage tank or above-ground storage or disposal of toxic materials. These sites may require a determination from the State Water Resources Control Board, Department of Toxic Substances Control (DTSC), or Department of Public Health that contamination of the site has been remediated and the site is suitable for residential use. These agency actions may be subject to CEQA, even if only a brief review and negative declaration.

Neither the section added by SB 35, as amended by SB 423, nor AB 2011, as amended by AB 2243 (Wicks), Chapter 272, Statutes of 2024, exempts these state agency actions from CEQA. This fact is evident by a plain reading of the bills, which do not include the range of potential state agency actions in the list of “objective standards,” as well as the fact that GC 65913.4 includes a much narrower CEQA exemption for state agency actions, applying only actions to lease, convey, or encumber public land.

State agency actions that otherwise may be subject to CEQA are not wrapped into the local “use by right” permit.

- 4) **In the 90210.** To demonstrate the need for this bill, the author’s office offered one project example – in Beverly Hills.

The City of Beverly Hills is currently processing two AB 2011 projects. The project referenced by the author’s office is a mixed-income housing development located on a former railroad right-of-way at 9220 North Santa Monica Boulevard. The other project is a 34-story high-rise replacing a one-story shopping center at 8300 Wilshire Boulevard. The Wilshire project would include 179 for-sale condominiums and 32 deed-restricted affordable rental units.

According to the City’s project description, the 9220 North Santa Monica Boulevard project consists of four residential buildings arranged in a linear configuration across the site. Collectively, the project would provide a total of 217 dwelling units, consisting of 191 for-sale condominiums and 26 deed-restricted affordable rental units. Building 2 would also include approximately 2,585 square feet of ground-floor restaurant space. The proposed buildings range in height from 112 to 191 feet. The project includes two levels of subterranean parking extending beneath all four buildings, providing up to 378 parking spaces.

According to Maher Commercial Realty:

The site at 9220 Santa Monica Boulevard, controlled by BH Gateway, LLC, had previously been envisioned for office development. That plan has now given way to a residential proposal leveraging AB 2011... This is not incremental density. It is skyline-altering scale in a city historically defined by strict height controls and a guarded

approach to vertical growth. AB 2011 changes the risk calculus...In a market such as Beverly Hills, where political friction has traditionally constrained supply, that certainty carries material value...For capital, the signal is clear. When state law supersedes local hesitation, underutilized commercial land along primary corridors becomes a residential land bank...The project's scale also reflects confidence in top-of-market renter demand. Plans call for more than 370 parking spaces, multiple courtyards, an indoor pool, fitness facilities, and spa amenities. This is positioned as a resort-caliber rental environment rather than workforce housing in a traditional sense. Even with an affordability component, the economic engine of the project will be luxury and upper-tier market-rate units.

According to the project developer's attorney:

Our client's site has areas of arsenic impacted soils from prior railroad operations that will be removed as part of the excavation of the subterranean garage. This will require approval from DTSC to confirm that the site is safe for residential use. Our client originally proposed a commercial project for the site. DTSC adopted a short mitigated negative declaration (MND) and approved a remedial action workplan (RAW) for commercial use. The City opposed DTSC's approval of the RAW, but did not file a CEQA lawsuit. We believe that the City will once again oppose DTSC's approval of the clean up plan for the residential project, but will file a CEQA lawsuit with the intent of derailing the project. This could tie up the AB 2011 project for years. As written, AB 2118 will prevent the City from misusing CEQA to stop the project, without constraining DTSC's discretion over the residential cleanup plan.

- 5) **Double referral.** This bill was approved by the Housing and Community Development Committee by a vote of 12-0 on April 8.
- 6) **Suggested amendments.** "State permit or approval" includes a wide range of potential state agency actions that aren't appropriate to delegate to a city or county and shouldn't be wrapped into a CEQA-exempt local ministerial permit.

The author and the committee may wish to consider amending the bill to strike the sweeping inclusion of any state permit or approval.

If the committee is compelled to address the Beverly Hills example offered by the author, *the author and the committee may wish to consider adding the following provision to the "use by right" definition:*

(3) The local government determines that the project has obtained all state agency permits or approvals, if any, that are required for the development project. In making this determination, the local government shall defer to the state agency regarding the necessity and validity of the state agency permit or approval.

REGISTERED SUPPORT / OPPOSITION:

Support

Student Homes Coalition (sponsor)
Abundant Housing Los Angeles
California YIMBY
Circulate Planning & Policy
Housing Action Coalition
Inner City Law Center
Monterey Bay Economic Partnership
San Diego Housing Federation
Spur
The Two Hundred for Homeownership

Opposition

Equitable Land Use Alliance
Families and Homes San Jose (unless amended)

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