

Summary of Significant Legislation from 2016

1

**Planning Directors Association of Orange
County / APA Orange County Section**

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David M. Snow, AICP
Richards | Watson | Gershon
dsnow@rwglaw.com
213-262-8484

Overview

2

- I. General Plan
- II. CEQA/ GHG
- III. Water Supply / Water Conservation
- IV. Permit Streamlining
- V. Housing (ADU / Density Bonus)
- VI. Marijuana
- VII. Wireless

- VII. Massage
- VIII. Community / Economic Development
- IX. Coastal Commission
- X. Outdoor Advertising
- XI. Code Enforcement
- XII. LAFCO
- XIII. Miscellaneous

I. GENERAL PLAN

(Environmental Justice)

SB 1000 (Leyva) Land Use. General Plans. Safety and Environmental Justice

4

- Requires an Environmental Justice Element **IF** jurisdiction has a “disadvantaged community.”
- Disadvantaged Community is:
 - an area identified by CalEPA per Health & Safety Code § 39711; OR
 - “low-income area” disproportionately affected by pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.

SB 1000 (Leyva) Land Use. General Plans. Safety and Environmental Justice

5

- “low-income area” is: any area with household incomes either :
 - ✦ at or below 80% of the statewide median income; **or**
 - ✦ below the threshold designated as low income by the HCD list of state income limits
- WHEN? The next time, **after January 1, 2018**, the jurisdiction **adopts or revises two or more other elements at the same time.**

SB 1000 (Leyva) Land Use. General Plans. Safety and Environmental Justice

6

EJ Element must:

- Identify the disadvantaged community(ies)
- Include objectives and policies:
 - to reduce the unique or compounded health risks by means that include, but not limited to:
 - ✦ Reducing pollution exposure, including improving of air quality; and
 - ✦ Promotion of public facilities, physical activities, food access, and safe and sanitary homes.
 - to promote civil engagement in public decision-making
 - that prioritize improvements/ programs to address the needs of disadvantaged communities.

AB 2685 (Lopez) Housing Elements. Adoption.

7

- AB 2685 adds a procedural step to the preparation of the housing element of a General Plan.
- Planning agency staff must:
 - 1) collect and compile public comments regarding a proposed housing element;
 - **AND**
 - 2) provide the comments to each member of the legislative body prior to adoption. (Govt. Code Sec. 65585(b)(2).)

AB 2651 (Gomez) Greenway Easements.

8

- Amends the Greenway Development and Sustainable Act
- 1) greenways are to provide access to nearby communities and amenities within an urbanized area
- 2) “greenway easement” means a limitation in a deed, will, or other instrument for the purpose of developing or preserving greenways adjacent to urban waterways;
- 3) greenway must reflect design standards consistent with plans and facilities for controlling the floodwater of rivers and their tributaries; and
- 4) requires that greenways be included in the **land use element** of a general plan

III. CEQA / GHG

SB 122 (Jackson) CEQA. Record of Proceedings.

10

- Requires a lead agency, at the request of a project applicant and consent of the lead agency, to prepare a record of proceedings concurrently with the preparation of a negative declaration, mitigated negative declaration, EIR, or other environmental document for projects.
- Requires the Governor's Office of Planning and Research to implement a public database of all environmental documents and notices required by CEQA.

SB 734 (Galgiani)

11

- Extends for two years the expedited CEQA judicial review procedures established by the Jobs and Economic Improvement through Environmental Leadership Act (Act) (2011).
- Governor must certify a project prior to January 1, 2018, the project must be approved prior to January 1, 2019, and the Act sunsets on January 1, 2019.
- Requires contractors and subcontractors to pay to all construction workers employed in the execution of the project at least the general prevailing wage.

SB 32 (Pavley) California Global Warming Solutions Act

12

- Codifies CHC emission reductions target from Governor's April 2015 Executive order B-30-15
- Health & Safety Code Section 38566 – ARB, in adopting rules and regulations, shall ensure that statewide GHGs are reduced to at least 40% below the 1990 levels by 2030
- Builds from AB 32 requirement to reduce GHGs to 1990 levels by 2020

Other GHG Related Legislation

13

- AB 197 – increases legislative oversight of ARB
- SB1383
 - Requires further regulation for reductions of methane, hydrofluorocarbon, anthropogenic black carbon
 - Requires adoption of further regulations applicable to dairy and livestock industry methane reductions
 - Requires adoption of further regulations applicable to land fills and reductions of organic wastes

III. WATER SUPPLY / WATER CONSERVATION

SB 1262 (Pavley). Water Supply Planning

15

- Relying on Groundwater?? Must consider:
 - Adjudicated Basins: the adjudication order or decree
 - Unadjudicated **High- or Medium-priority** Basins:
 - ✦ most recent groundwater sustainability plan or approved alternative.
 - ✦ If no adopted plan or approved alternative, information as to whether the DWR has 1) identified the basin or basins as overdrafted or 2) has projected that the basin will become overdrafted if present management conditions continue.
 - Unadjudicated **Low- or Very low-priority** Basins:
Same as above for high- or medium priority basins without approved sustainability plans.

SB 1262 (Pavley). Water Supply Planning

16

- New Factors in Determining Adequacy of Water Supply:
 - A description of any groundwater basin or basins supplying water.
 - For Adjudicated Basins –
 - ✦ The adjudication order or decree; and,
 - ✦ A description of the **amount of groundwater the public water system**, (or city or county if either is required to comply) **has the legal right to pump under the order or decree.**

SB 1262 (Pavley). Water Supply Planning

17

- **Unadjudicated High- or Medium-priority Basins:** information regarding the following:
 - Whether the department has identified the basin as being subject to critical conditions of overdraft pursuant to Section 12924.
 - If a groundwater sustainability agency has adopted a groundwater sustainability plan or has an approved alternative, a copy of that alternative or plan.” (Water Code Sec. 10910(f).)
- SB 1262 also clarifies that **hailed water is not considered a source of water for the water supply analysis.**
 - (Water Code Sec. 10910(i).)

AB2515 (Weber) Water Conservation in Landscaping Act. Model Water-Efficient Landscaping

18

- By January 1, 2020 , and every 3 years thereafter DWR Must:
 - to update the model water-efficient landscape ordinance, **or**
 - make a finding that an updated of the model ordinance is not a useful or effective means to improve either the efficiency of landscape water use or the administration of the ordinance.
 - submit the updated ordinance to the Building Standards Commission during the triennial update of the California Green Building Standards Code.

AB2515 (Weber) Water Conservation in Landscaping Act. Model Water-Efficient Landscaping

19

- **Goals:**
 - make landscape water use far more sustainable than it is today.
 - Synchronize the update with the Green Building Standards Code triennial update to advance efficient use of water.

IV. PERMIT STREAMLINING ACT

AB 2180 (Ting). Land Use. Development Project Review

21

- Shortens action deadlines on projects that are either:
 - residential units only or,
 - mixed-use developments in which the non-residential uses are less than 50% of the total square footage (limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories)
- If an EIR is prepared, the **lead agency** must act on the development **within 120 days of the EIR certification** (prior law was 180 days).
- The review timeline for projects where at least 49% of the residential units are affordable to very low or low-income households, remains unchanged at 90 days.

AB 2180 (Ting). Land Use. Development Project Review

22

- **Responsible agency** must act within 90 days of the lead agency's approval (prior law was 180 days) or within 90 days (prior law was 180 days) of the date an application has been received and accepted as complete by the responsible agency, whichever time is longer.
- AB 2180 does not amend the review process timeline for projects that are exempt from CEQA or for which a negative declaration / mitigated negative declaration is prepared. (Still 60 days)
- **How many lead agencies regularly separate CEQA from decisions on the Project?**

SB 269 (Roth) Disability Access.

23

- SB 269 amends the PSA to require expediting of certain projects seeking to remedy accessibility violations. Local agencies must:
 - Develop and provide applicants with materials relating to the requirements for the federal ADA Act of 1990,
 - Can use materials developed by the California Commission on Disability Access.
 - Notify an applicant that approval of a permit does not signify that the applicant has complied with the ADA. (Govt. Code Sec. 65941.6)
- **Take away:** Update Completeness Lists and Applications to include the information and disclosure!

SB 269 (Roth) Disability Access.

24

- Expedite Processing of applications if:
 - Applicant provides a disability access inspection certificate from a CASp pertaining to the project.
 - Applicant demonstrates the project is necessary to address **either** an alleged violation of a construction-related accessibility standard **or** a violation noted in a written inspection report.
 - If project plans are necessary for the approval, the applicant - a CASp has reviewed the plans for compliance with all applicable construction-related accessibility standards. (Govt. Code Sec. 65946.)
- SB 269 - effective May 10, 2016 - applies to charter cities and counties.

**V. HOUSING – ACCESSORY
DWELLING UNITS / DENSITY BONUS**

AB 2299 (Bloom) / SB 1096 (Wieckowski) Accessory Dwelling Units

26

- The big takeaway points include:
 - Local ordinances that do not comply with the new standards and are void as of January 1, 2017, and the state law would apply until a conforming ordinance is adopted.
 - ALL applications for ADU's complying with the standards must be approved ministerially and within 120 days of receipt of a complete application.
 - Local ADU ordinance must be provided to HCD within 60 days of adoption

AB 2299 (Bloom) / SB 1096 (Wieckowski) Accessory Dwelling Units

27

- An ADU Ordinance Must Establish the Following Regulations on ADUs:
 - Location.
 - Development Standards.
 - ✦ (parking, height, setback, lot coverage, landscape, architectural review, and maximum size, historic properties)
 - Zoning.
 - Definition of ADU.
 - ✦ (kitchen and bathroom facilities; attached to the existing residence, located within the living area of the existing residence, or detached from the existing residence but located on the same lot.)

AB 2299 (Bloom) / SB 1096 (Wieckowski) Accessory Dwelling Units

28

- An ADU Ordinance Must Establish the Following Regulations on ADUs:
 - Accessory Use.
 - ✦ (ADU may be rented but not sold separately from the primary residence; ADUs are considered accessory uses or structures)
 - *Square Footage.*
 - ✦ ADU does not exceed 50 percent of the existing living area and that any ADU, whether attached or detached, not exceed 1,200 square feet.
 - ✦ The law is unclear as to whether lower square footage or percentage maximums may be imposed by ordinance, although HCD suggested this is permissible.

AB 2299 (Bloom) / SB 1096 (Wieckowski) Accessory Dwelling Units

29

- An ADU Ordinance Must Establish the Following Regulations on ADUs:
 - *Owner-Occupant and Rental Term.*
 - ✦ Although it is not required, the ordinance may require the applicant to be an owner-occupant.
 - ✦ It may also require the property to be used only for rentals of terms longer than 30 days.

AB 2299 (Bloom) / SB 1096 (Wieckowski) Accessory Dwelling Units

30

- Agencies Must Comply with the Following Standards and Requirements.
 - Lot Density.
 - Use Classification.
 - Minimal Setbacks for Certain ADUs.
 - ✦ ADU converted from an existing garage
 - ✦ ADU above a garage, no setback greater than five feet from the side and rear lot lines may be required.

AB 2299 (Bloom) / SB 1096 (Wieckowski) Accessory Dwelling Units

31

- *Fire Sprinklers.* ADUs are not required to provide fire sprinklers if they are not required for the primary residence.
 - ✦ Note: Tension between ADU requirements and Fire Code requirements

AB 2299 (Bloom) / SB 1096 (Wieckowski) Accessory Dwelling Units

32

- *No Parking Requirement for Certain ADUs.* Agency may not require parking for an ADU that is:
 - located within one-half mile of public transit;
 - located within an architecturally and historically significant district;
 - part of the existing primary residence or an existing accessory structure (e.g., basement or garage conversions);
 - located within one block of a car share vehicle; or
 - located in an area where the city requires on-street parking permits but does not offer the permits to the ADU occupant.

AB 2299 (Bloom) / SB 1096 (Wieckowski) Accessory Dwelling Units

33

- *Replacement Parking.* If a city requires off-street parking spaces to be replaced after a garage, carport, or covered parking structure is demolished for an ADU, the replacement spaces may be located in any configuration. This includes covered spaces, uncovered spaces, tandem spaces, or even vertical spaces with a mechanical parking lift.
- Note that this requirement does not appear to apply where a garage is being converted into an ADU, rather than demolished.

AB 2299 (Bloom) / SB 1096 (Wieckowski) Accessory Dwelling Units

34

- *Basement/Garage (or other Accessory Structure) Conversions.* Agencies **must** approve an ADU that satisfies all of the following requirements:
 - the ADU is on a lot zoned single-family residential
 - it is the only ADU on the lot,
 - the ADU is contained within an existing residence or accessory structure (e.g., a basement or garage conversion),
 - the ADU has independent exterior access, and
 - the ADU has side and rear setbacks sufficient for fire safety.

AB 2406(Thurmond) Housing. Junior. Accessory Dwelling Units

35

- Authorizes agencies to permit and regulate Junior ADUs
 - **Not required!!**
- Junior ADU defined as
 - a unit that is no more than 500 square feet
 - contained entirely within an existing single-family structure
 - need not have sanitation facilities separate from the primary residence
 - must have at least an “efficiency kitchen”

AB 2406(Thurmond) Housing. Junior. Accessory Dwelling Units

36

- Efficiency Kitchen must have (at a minimum):
 - A) A sink with a maximum waste line diameter of 1.5 inches.
 - B) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.
 - C) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

AB 2556 (Nazarian) Density Bonus

37

- AB 2556 makes a number of changes to the State’s Density Bonus Law. As amended, Government Code Section 65915 now:
 - Encourages “expeditious processing” of applications by mandating certain procedural requirements;
 - Distinguishes between “incentives or concessions” and other benefits granted under the State Density Bonus Law, and removes a local government’s discretion to deny a request for an “incentive or concession” that results in “identifiable and actual cost reductions”;
 - Mandates a density bonus be granted for developments housing transitional foster youth, disabled veterans, and the homeless;

AB 2556 (Nazarian) Density Bonus

38

- AB 2556 makes a number of changes to the State's Density Bonus Law. As amended, Government Code Section 65915 now:
 - Clarifies the requirements for replacement units when a density bonus project replaces existing affordable housing;
 - Clarifies that a density bonus is available for mixed-use developments;
 - Requires that all density calculations be rounded up to the next whole number; and
 - Calls for a liberal interpretation of the law in favor of maximizing the production of housing units.

AB 2556 (Nazarian) Density Bonus

39

- Local governments must now “adopt procedures and timelines for processing density bonus applications” and “provide a list of all documents and information required” for submission of a complete application.
- May *not* require applicants to submit additional reports or studies that are not otherwise required by state law.
- May require, “reasonable documentation” to establish eligibility for density bonus
- Local government must “notify applicants of whether or not their submitted applications are complete” consistent with the Permit Streamlining Act.

AB 2556 (Nazarian) Density Bonus

40

- Clarifies “waivers or reductions of development standards” and the reductions in “parking ratios” are separate from, and additional to, the “incentives or concessions” allotted by Section 65915(d)(2).

AB 2556 (Nazarian) Density Bonus

41

- Existing law requires that incentives or concessions result in “identifiable, **financially sufficient** and actual cost reductions” to provide for affordable housing.
- AB 2556 removes the “financially sufficient” requirement, **leaving only** the requirement that an incentive or concession result in “**identifiable and actual cost reductions.**”

AB 2556 (Nazarian) Density Bonus

42

- Developer may now qualify for a density bonus by reserving **10 percent** of the total units in a housing development for:
 - transitional foster youth,
 - disabled veterans, or
 - homeless persons.
- Reserved units must be at the same affordability level as very low income units.
- Units must be subject to a recorded affordability restriction for 55 years.
- The density bonus = **20 percent** of the number of units in the housing development reserved for target populations .

AB 2556 (Nazarian) Density Bonus

43

- Requirements for Determining Replacement Units
 - Unknown Incomes of Current or Recent Occupants:
 - ✦ Agency must adopt a *rebuttable presumption* that the proportion of lower income to regular income units at the site **is the same as the proportion stated for the entire jurisdiction in which the site is located**, according to the most recent census data.
 - ✦ To be eligible for a density bonus, development must provide a percentage of affordability **equal to or greater than** the proportion of lower income renter households as compared to all renter households within the jurisdiction.

AB 2556 (Nazarian) Density Bonus

44

- Requirements for Replacement Units - Unknown Incomes (cont'd):
 - Two different scenarios.
 - ✦ 1: Presumption must be applied where development is on a **site that includes occupied housing** at the time of the application, and occupant incomes are unknown.
 - ✦ 2: Presumption must be applied where a proposed development is on a currently **vacant site** where previously existing affordable units have been **vacated or demolished** within the past **five years**, and the former occupants' incomes are unknown.

AB 2556 (Nazarian) Density Bonus

45

- Requirements for Replacement Units - Unknown Incomes (cont'd):
 - A developer seeking a density bonus must:
 - ✦ **commit** to providing affordable housing at the presumed rates, **or**
 - ✦ **rebut** the presumed rates with evidence that actual rates of affordability at the site in question are, or were, lower than those listed in the census.
 - If a proposed development replacing affordable units is being offered for sale, it must comply with the existing sale provisions of the Density Bonus Law.

AB 2556 (Nazarian) Density Bonus

46

- Replacing Rent Controlled Units
 - Existing law requires replacement of rent-controlled units in order to qualify for a density bonus.
 - If a proposed development replacing rent-controlled units is being offered for sale, it must comply with the existing sale provisions of the Density Bonus Law.

AB 2556 (Nazarian) Density Bonus

47

- The amended law specifies two ways in which local governments may require replacement:
 - ✦ 1: agency may require that any replacement for a rent-controlled unit be subject to a recorded affordability restriction requiring that the units be occupied by low income persons for at least 55 years; OR,
 - ✦ 2: agency may require that the replacement units themselves be subject to the jurisdiction's rent control ordinance. Such units will remain **subject to the local ordinance for as long as it applies**, but the units will **not be subject to any recorded affordability restriction**.

AB 2556 (Nazarian) Density Bonus

48

- *Density Bonus for Mixed-Use Developments*
 - Definition of “housing development” now includes “mixed-use developments.”
- *Rounding Up*
 - Law now provides that *each* component of a density calculation that results in a fractional unit must be rounded up to the next whole number.
- *Liberal Interpretation*
 - adds a provision to the Density Bonus Law mandating that it be “interpreted liberally” to produce the maximum number of total housing units.

AB 1934 (Santiago) Planning and Zoning. Development Bonuses. Mixed Use Projects

49

- New Section 65915.7 requires local governments to grant a “development bonus” to commercial developers that partner with housing developers to produce affordable housing.
- Section 65915.7 will remain in effect until January 1, 2022, at which point it will be repealed.

AB 1934 (Santiago) Planning and Zoning. Development Bonuses. Mixed Use Projects

50

- A “development bonus” is *not* the same as a “density bonus”.
- A “development bonus” includes “incentives” that are mutually agreed upon by the developer and the local government, such as:
 - (1) an increase in maximum allowable intensity;
 - (2) an increase in maximum floor area ratio;
 - (3) an increase in maximum height requirements;
 - (4) a reduction in parking requirements;
 - (5) use of a limited-use/limited-application elevator for upper floor accessibility; and
 - (6) exceptions to zoning and land use regulations.

AB 1934 (Santiago) Planning and Zoning. Development Bonuses. Mixed Use Projects

51

- Local Agencies appear to retain some discretion to determine which *type* of incentive may be granted, but must grant the commercial development some incentive in order to comply with the statute.
- Incentives **cannot** include waivers of any locally mandated fees to be paid for the promotion of affordable housing.
- Receipt of a development bonus does not preclude developer from receiving any additional allowances or incentives offered by a local government.
- A commercial developer's receipt of a development bonus **does not preclude** the affordable housing developer from seeking a **density bonus** or any other benefit per 65915.

AB 1934 (Santiago) Planning and Zoning. Development Bonuses. Mixed Use Projects

52

- *Qualification for a Development Bonus*
 - **Commercial developer** must enter into an “agreement for partnered housing” with a **housing developer**.
 - The agreement :
 - ✦ must identify how the commercial developer will contribute affordable housing
 - ✦ must be approved by the local government.
 - ✦ may call for the developer to provide affordable housing through either a joint project or two separate projects.

AB 1934 (Santiago) Planning and Zoning. Development Bonuses. Mixed Use Projects

53

- Commercial developer's contribution of affordable housing may take one of three forms:
 - directly **building** the units;
 - **donating** a portion of the project site or property elsewhere to the affordable housing developer to be used for affordable housing; or
 - making a **cash payment** to the affordable housing developer to be used to fund the affordable housing project.

AB 1934 (Santiago) Planning and Zoning. Development Bonuses. Mixed Use Projects

54

- The affordable housing must be located ***either*** on the site of the commercial development ***or*** on a different site that is ***all*** of the following:
 - Located within the boundaries of the local government;
 - Located near public amenities (including schools and employment centers); and
 - Located within a half mile of a major transit stop (as defined in Public Resources Code Section 21155(b)).

AB 1934 (Santiago) Planning and Zoning. Development Bonuses. Mixed Use Projects

55

- Project must reserve at least **30 percent** of its total units for **low-income** households, **or** at least **15 percent** of its total units for **very low-income** households.
- Any projects planned for sites that have recently included, or currently include existing affordable units must comply with the replacement requirements in Section 65915.
- Construction must commence in accordance with timelines set out in the agreement for partnered housing.
- A local government may withhold certificates of occupancy for the commercial development until construction of the associated affordable units has been completed.

AB 1934 (Santiago) Planning and Zoning. Development Bonuses. Mixed Use Projects

56

- *Reporting Requirement for Cities*
 - Existing law requires each city to submit an annual report to HCD discussing, among other things, progress in addressing regional housing needs.
 - Report now must include information re: development bonuses:
 - ✦ the terms of agreements reached between commercial and affordable housing developers
 - ✦ terms of agreements reached between developers and the local government
 - ✦ the number of affordable units constructed pursuant to these agreements.

AB 2208 (Santiago) Housing on Local Govt. Property / Adequate Sites

57

- Expand the definition of “land use suitable for residential development,” as it relates to the housing element.
- Term now includes the airspace above sites owned or leased by a city, county, or city and county.
- The revised definition should allow cities to identify a greater number of sites where housing can be built.

SB7 – Water Meters – Multi Unit Structures.

58

- Requires water purveyors providing service to a **newly constructed multiunit residential structure** or **newly constructed mixed-use residential and commercial structure** to measure the quantity of water supplied to **each individual dwelling unit** as a condition of new water service, either by individual water meters or submeters.
- Applies applications for service connections filed on or after January 1, 2018,
- Authorizes HCD to develop and propose building standards that require the installation of water meters or submeters in multiunit residential buildings

VI. MARIJUANA

SB 839 (Comm. On Budget and Fiscal Review). Public Resources

60

- California Seed Law regulates seed sold in California.
- Law previously provided that “[n]otwithstanding any other law, on or after January 1, 2015, a city, county, or district, including a charter city or county, shall not adopt or enforce an ordinance that regulates plants, crops or seeds without the consent of the secretary.”
- Medical marijuana advocates argued that this precluded local agencies regulation of medical marijuana cultivation

SB 839 (Comm. On Budget and Fiscal Review). Public Resources

61

- Medical Marijuana Regulation and Safety Act, however, expressly authorized the adoption of local ordinances regulating or prohibiting cultivation.
- SB 839 deleted the provisions prohibiting local regulation of plants, crops, or seeds without the Secretary of Food and Agriculture's consent, while reserving to the Secretary the authority to declare plants, seeds, nursery stock, or crops as invasive.

Prop 64

62

- **The Control, Regulate and Tax Adult Use of Marijuana Act (“the Act”) was adopted by the voters in November 2016 (effective Nov. 9, 2016).**
 - Allows cities to regulate marijuana-related activities and subject marijuana businesses to zoning and permitting requirements
 - Allows cities to adopt local ordinances banning marijuana businesses.
 - Establishes laws regulating marijuana distribution, sale, use, and cultivation.

Prop 64

63

- Establishes the Bureau of Marijuana Control to regulate and license the marijuana industry, and charges other State agencies with licensing certain sectors of the marijuana industry.
- Establishes an excise tax on the sale of marijuana and a cultivation tax.
- Authorizes counties to tax marijuana and marijuana products.
- Requires that persons under the age of 21 obtain a new physician's recommendation to use marijuana for medical purposes.
- Allows industrial hemp to be grown as an agricultural product.

Prop 64

64

- Local Control
 - Cities can:
 - (1) regulate recreational marijuana businesses, including,, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke,
 - (2) completely prohibit the establishment or operation of marijuana businesses within its jurisdiction.
 - The Act also allows cities to enforce State laws and regulations for recreational marijuana businesses. State standards will serve as the minimum standards a city may establish additional standards, requirements, and regulations in these areas.

Prop 64

65

- Local Control
 - A business will not be required to obtain a local permit or authorization before being issued a State license BUT no State license will be approved for a business that violates local ordinances.

Prop 64 –

66

- Cultivation
 - A city can regulate cultivation activities;
 - A city **cannot** completely prohibit persons from cultivating inside a private residence, or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secure. Up to 6 plants allowed by Proposition.
 - A city **can** prohibit cultivation activities outdoors upon the grounds of a private residence **unless** the California Attorney General determines that recreational use of marijuana is lawful in the State under federal law.

Prop 64

67

- Marijuana Tax
 - Effective January 1, 2018, (1) a marijuana excise tax of 15 percent of the gross receipts of any retail sale, and (2) a cultivation tax on all harvested marijuana, are imposed.
 - The cultivation tax is initially set at \$9.25 per ounce for marijuana flowers, and \$2.75 per ounce for marijuana leaves, and may be adjusted annually by the State Board of Equalization (“BOE”).
 - Revenue to administer the new laws and provide funds for repairing the environment, youth treatment and prevention, community investment, and law enforcement.
 - State taxes **are in addition to any other tax imposed by a city or county.** (Voter approval may be required)

Prop 64

68

- Use of Marijuana for Medical Purposes
 - Persons under the age of 21 may continue to lawfully use marijuana for medical purposes only.
 - Beginning on January 1, 2018, a qualified patient must possess a new physician's recommendation that complies with the standards set forth in the MMRSA.
 - Failure to comply with this requirement would not, affect any of the protections provided to patients or their primary caregivers by Section 11362.5.

VII. WIRELESS COMMUNICATIONS

Wireless Communications Legislation

70

- AB 2788, a last minute gut and amend, contemplated requiring ministerial approval of certain “small cell” wireless infrastructure.
- Ultimately the Bill did not move forward, but **could be brought back in 2017**. So, stay tuned!

VIII. MASSAGE THERAPY COUNCIL

AB 2194 (Salas) California Massage Therapy Council. Business of Massage.

72

- Extends the Massage Therapy Act to January 1, 2021, - would have expired on January 1, 2017.
- Limits fees and regulations imposed by local governments to only those that are “reasonable and necessary” “being mindful of the need to protect legitimate business owners and massage professionals, particularly sole providers.”

AB 2194 (Salas) California Massage Therapy Council. Business of Massage.

73

- Further limits local regulatory authority :
 - Prohibits a local agency from requiring a massage establishment to have a shower or bath
 - Clarifies that background checks, “including a criminal background check or requiring submission of fingerprints for a federal or state criminal background check” cannot be required for state **certified** practitioners or therapists

**IX. COMMUNITY / ECONOMIC
DEVELOPMENT (POST
REDEVELOPMENT)/FINANCING**

AB 2492 (Alejo) Community Revitalization – CRIA Improvements

75

- Existing law authorized Community Revitalization and Investment Authorities (CRIAs) to carry out the purposes of Community Redevelopment Law
 - Infrastructure
 - Affordable housing
 - Economic revitalization.

AB 2492 (Alejo) Community Revitalization – CRIA Improvements

76

CRIA Must meet certain criteria:

Not less than 80 percent of the land calculated by census tracts, census block groups, as defined by the United States Census Bureau, **or any combination of both** within the area shall be characterized by both of the following conditions:

- 1) An annual median household income that is less than, at the option of the authority, 80 percent of the statewide, countywide, or citywide annual median income.

AB 2492 (Alejo) Community Revitalization – CRIA Improvements

77

2) Three of the following four conditions:

- A) An unemployment rate that is at least 3 percentage points higher than the statewide average annual unemployment rate
- B) Crime rates for violent or property crime offenses, that are at least 5 percent higher than the statewide average crime rate for violent or property crime offenses
- C) Deteriorated or inadequate infrastructure, including streets, sidewalks, water supply, sewer treatment or processing, and parks.
- D) Deteriorated commercial or residential structures.

AB 806 (Dodd and Frazier) Community Development. Economic Opportunity

78

- Expands the definition of “economic opportunity”
 - Create, Retain or Expand Jobs:
 - 1 Job / \$35,000 of investment
 - Increase of at least 15% of property tax
 - Creation of affordable housing
 - Furthering sustainable community goals
 - Transit priority projects

AB 806 (Dodd and Frazier) Community Development. Economic Opportunity

79

- Options for advancing economic development include:
 - loans
 - leases
 - sale agreements
- Authority extends to any property, and not just property that the city or county acquired from successor agencies to redevelopment agencies under a long range property management plan.

AB 806 (Dodd and Frazier) Community Development. Economic Opportunity

80

- Permits the legislative body approving a property sale or lease to find that the consideration reflects at least the “fair reuse value”.
- Provides additional flexibility over the previous requirement that the consideration reflect the “fair market value” of the property at its highest and best use.
- In cases where the property was originally acquired by eminent domain, however, the fair market value requirement remains in place.

AB 806 (Dodd and Frazier) Community Development. Economic Opportunity

81

- Cities and counties may make loans to rehabilitate commercial buildings and structures when financial assistance is necessary for the economic feasibility of a project.
- Requires:
 - Public hearing, and
 - Finding that the loan is necessary for the economic feasibility of the development and that the assistance may not be obtained on economically feasible terms in the private market.

AB 1348 (Irwin) State Clearinghouse – Federal Grant Administrator

82

- Establishes a federal grant administrator in the State Clearinghouse “to serve as the primary point of contact for information on federal grants related to community, economic, and local development”
- The bill authorizes the federal grant administrator to do various things including:
 - Work state **and local government**, nonprofit organizations, foundations, institutions of higher learning, and other interested parties on applying for and managing federal grants.
 - Support the establishment of a statewide network of individuals who serve as point of contact for federal grant opportunities, including, but not limited to, **individuals in local governments, special districts, institutions of higher education**, nonprofit organizations, and foundations

AB 1348 (Irwin) State Clearinghouse – Federal Grant Administrator

83

- **Develop and maintain information on the Office of Planning and Research’s Internet Web Site** related to new federal grant opportunities, grant management best practices, and other resources **to support the ability of** state and **local governments** and nonprofit organizations to apply and manage federal grants. Govt. Code Sec. 65040.11.5(b)(5) (emphasis added).)
- Requires, starting on January 1, 2018, an annual summary of federal grant funding to the state. **Information may be useful to local agencies!**

AB1666 –(Brough) CFD Reports on Websites

84

- AB 1666 requires posting annual reports for Community Facilities Districts (CFDs) on the legislative body's website if:
 - prepared in response to a request by a person residing or owning property in the district,
- Posting must be within seven months after the end of the CFD's fiscal year
- Still must provide reports to the California Debt and Investment Advisory Commission and the State Controller.

AB 2450 (Achadjian) Property Taxation – Recordation of contracts re: owner occupied housing

85

- AB 2450 requires recordation of contracts with government agencies restricting the use of property for owner-occupied housing available at affordable cost.
- Expands the notice requirement to include the county assessor in addition to the previously identified recipients
 - county tax collector
 - other public entities that whose taxes are **not** collected by the county but who exercise the right of assessment and taxation.

AB2618 (Nazarian)

86

- AB 2618 allows property owners to finance seismic safety improvements needed to comply with safety standards or regulations similarly to prior authorization to finance energy improvements.

X. COASTAL COMMISSION

AB2616 (Burke) California Coastal Commission. Environmental Justice

88

- AB 2616 revises criteria for Coastal Commission appointees
- Governor must appoint one representative who “shall reside in, and work directly with, communities in the state that are disproportionately burdened by, and vulnerable to, high levels of pollution and issues of environmental justice, including, but not limited to, communities with diverse racial and ethnic populations and communities with low-income populations.”
- This representative is one of the Governor’s 2 appointees from the state at large, the Governor’s appointee from north coast region, or the Governor’s appointee from the south central coast region.

AB2616 (Burke) California Coastal Commission. Environmental Justice

89

- AB 2616 establishes that “[w]hen acting on a coastal development permit, the issuing agency, or the commission on appeal, **may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.**”
- “Environmental Justice” is defined to mean “the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.”

XI. OUTDOOR ADVERTISING

XII. CODE ENFORCEMENT

AB 2228 (Cooley) Code Enforcement. Training Standard

92

- Creates a framework through which code enforcement officers may obtain state-recognized certification.
- *Voluntary* program to help local agencies identify, select, and train competent officers to enforce laws and help preserve safe, well-ordered communities.
- may help qualify code enforcement officers as expert witnesses in legal proceedings.
- Certification, however, does *not* grant any special privileges, such as the power to arrest or access to summary criminal history information.

AB 2228 (Cooley) Code Enforcement. Training Standard

93

- Certification programs must provide training and education in at least the following areas:
 - Land use and zoning laws
 - Health and safety codes
 - Substandard housing abatement
 - Environmental regulations
 - Sign standards
 - Public nuisance laws
 - Constitutional law
 - Investigation and enforcement techniques
 - Remedies
 - Officer safety
 - Community engagement

AB 1732 (Ting) Single-User Restrooms

94

- On March 1, 2017, all single-user toilet facilities in a state or local govt. agency, business or place of public accommodation **must be identified as “all-gender.”**
- A single-user toilet facility is: **“a toilet facility with not more than one water closet and one urinal with a locking mechanism controlled by the user.”**
- All bathroom **signs** for single-user toilet facilities must comply the California Building Standards Code
- Inspectors, building officials, or other local code enforcement officials may inspect for compliance during any inspection of a business, or place of public accommodation.

XIII. LAFCO / DISINCORPORATION

SB1266 (McQuire) JPA. Agreements. Filings

96

- Joint Powers Authorities that provide municipal services, a term that is not defined, must file agreements or amendments with Local Agency Formation Commissions, in addition to the Secretary of State and Controller.
- Existing JPA's that provide municipal services must provide agreements and amendments to Agreement and new Agreements no later than July 1, 2017.
- Any amendment must be submitted within 30 days of the effective date.
- Failure to comply precludes the JPA from issuing bonds of incurring debt of any kind.

XIV. MISCELLANEOUS

AB 1787 (Gomez) Open Meetings. Public Comments. Translation.

98

- AB 1787 addresses the amount of time allotted for public testimony during open meetings of legislative bodies under the Ralph M. Brown Act (“Brown Act”).
- Includes:
 - Planning Commissions
 - Historic / Cultural Heritage Commissions,
 - Design/Architectural Review Commissions,
 - similar decision making bodies.

AB 1787 (Gomez) Open Meetings. Public Comments. Translation.

99

- Brown Act allows reasonable regulations to limit the total amount of time for public testimony.
- Legislative bodies regularly establish 3 or 5 minute periods for each speaker; other regulations are also permitted.
- AB 1787 provides that **if a legislative body limits the time** for public testimony, it must provide at least **twice the allotted time to a member of the public who utilizes a translator.**
- The new requirement does not apply simultaneous translation equipment is used instead of translators

AB 2853 (Gatto). Public Records

100

- Public agencies can satisfy a CPRA request by:
 - posting public records on its website; and
 - directing an individual who has filed a CPRA request to that website.
- AB 2853 essentially allows a public agency to respond to multiple CPRA requests more efficiently.
- If any person who has submitted a CPRA request is unable to access or reproduce public records that are available on a public agency's website, the agency must promptly provide a copy of such records.
- **Tip:** May be useful for large documents like EIR's

SB 974 Omnibus Bill – Noticing Cleanup

101

- Amends Govt. Code Sec. 65091 (a)(5) to cross reference subsection (a)(3) to (a)(4) for situations when additional noticing methods must be used
- Bottom line:
 - Make sure local noticing requirements include requirement to provide additional 10-day notice (publication or posting in 3 public places) be provided whenever notice is mailed to surrounding property owners per 65091
 - Prior law required the additional notice in conjunction with notices to local agencies that provide public services (which made little sense!)

SB 1012 (Nguyen). Flags: Purchase

102



SB 1012 (Nguyen). Flags: Purchase

103

- Any Flag of the United States or Flag of the State of California purchased by the state or any local government agency must be made in the United States.
- “Local government agency” is defined as “a county, city, city and county, town, municipal corporation, school district or other district, political subdivision, or any board, commission, or agency thereof, or other local agency.”

Other Resources

104

- Senate Committee on Government and Finance Summary of Significant Legislation Hearing 2016
- Assembly Local Government Committee 2015-2016 Legislative Summary
- California Department of Housing and Community Development Accessory Dwelling Unit Memorandum (Dec. 2016)

Questions?

105

David M. Snow, AICP
Richards | Watson | Gershon
dsnow@rwglaw.com
213-262-8484