CITY OF SANTA CLARITA
CITY COUNCIL LEGISLATIVE COMMITTEE
SPECIAL MEETING

Tuesday, April 11, 2017
4:00 pm

LOCATION: City Hall, Orchard Conference Room, 1st Floor
23920 Valencia Blvd.
Santa Clarita CA 91355

AGENDA

Committee Meetings are working meetings and are for the purpose of allowing up to two City Council members and staff to informally discuss and better understand major issues currently before the City. Pursuant to GC 54954.3 members of the public may directly address the legislative body concerning any item that has been described in the notice for the meeting. Following the presentation of the item the Committee Chair will inquire if any member of the public wishes to address the Committee on the item listed. Speakers will be given three (3) minutes to address the Committee on the item listed. The Committee will not be taking comment on any other matter at this time.

CALL TO ORDER

ROLL CALL

ITEM 1 **Senate Bill 34 – Residential Treatment Facilities**

Authored by Senator Pat Bates (R-36-Laguna Niguel), Senate Bill 34 proposes to authorize a city or county to request denial of an alcoholism or drug abuse recovery or treatment facility application to the Department of Health Care Services on the basis of overconcentration of residential facilities. This bill also adds new services that define a licensee facility; including physical and mental health therapy, nutrition planning, and therapeutic activities for residents.

RECOMMENDED ACTION:
Staff recommends that the Legislative Committee recommend that the City Council adopt a "support" position regarding Senate Bill 34.

ITEM 2 **Senate Bill 35 – Multifamily Residential Developments**

Authored by Senator Scott Wiener (D-11-San Francisco), Senate Bill 35 proposes to streamline the approval process for multifamily residential developments by eliminating the requirement of a conditional use permit by a city, if that city has not met its Regional Housing Needs Allocation (RHNA) levels.

RECOMMENDED ACTION:
Staff recommends that the Legislative Committee recommend that the City Council adopt an "oppose" position regarding Senate Bill 35.

ITEM 3 **Senate Bill 649 – Cell Infrastructure Siting**

Authored by Senator Ben Hueso (D-40-San Diego), Senate Bill 649 proposes to reduce local control and fees over small cell siting in the public right-of-way and in industrial and commercial zones. This bill grants cell providers access to locally owned infrastructure within the public right-of-way and in commercial and industrial zones and prohibits local discretionary zoning review.

RECOMMENDED ACTION:

Staff recommends that the Legislative Committee recommend that the City Council adopt an "oppose" position regarding Senate Bill 649.

ITEM 4 **Senate Bill 786 – Alcoholism and Drug Abuse Treatment Facilities**

Authored by Senator Tony Mendoza (D-32-Artesia), Senate Bill 786 proposes to authorize a city or county to request denial of an alcoholism or drug abuse recovery or treatment facility application to the Department of Health Care Services on the basis of overconcentration of residential facilities.

RECOMMENDED ACTION:

Staff recommends that the Legislative Committee recommend that the City Council adopt a "support" position regarding Senate Bill 786.

ADJOURN

NOTICE OF SPECIAL MEETING
CITY COUNCIL LEGISLATIVE COMMITTEE
CITY OF SANTA CLARITA

A SPECIAL MEETING OF THE CITY COUNCIL LEGISLATIVE COMMITTEE OF THE CITY OF SANTA CLARITA WILL BE HELD ON THE 11TH DAY OF APRIL, 2017 AT 4PM AT CITY HALL, ORCHARD CONFERENCE ROOM 1ST FLOOR, 23920 VALENCIA BLVD., SANTA CLARITA, CALIFORNIA, TO CONSIDER THOSE ITEMS LISTED ON THE ATTACHED AGENDA.

Michael P Murphy

Michael P. Murphy, Intergovernmental Relations Manager

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF SANTA CLARITA)

I, Sherrye Ketchepaw, Secretary, do hereby certify that a copy of the Notice of Meeting of a City Council Legislative Committee of the City of Santa Clarita, CA, to be held on the 11th day of April, 2017, at the hour of 4pm was delivered, and/or notice accepted by telephone or fax, not less than twenty four (24) hours prior to the start time of the meeting to:

Committee Members
City Manager
City Attorney
News Media

Sherrye Ketchepaw

Sherrye Ketchepaw, Secretary
City Manager's Office

Dated: April 7, 2017

AMENDED IN SENATE MARCH 16, 2017

SENATE BILL No. 34

Introduced by Senator Bates

December 5, 2016

An act *to amend Sections 1543, 11834.026, and 11834.26 of, and to add Sections 11834.028 and 11834.33 to, the Health and Safety Code,* relating to ~~substance abuse.~~ *residential facilities.*

LEGISLATIVE COUNSEL'S DIGEST

SB 34, as amended, Bates. ~~Substance abuse.~~ *Residential treatment facilities.*

Existing law, the California Community Care Facilities Act (the act), provides for the licensing and regulation of community care facilities, as defined, by the State Department of Social Services. A violation of the act is a misdemeanor.

Existing law requires the district attorney of every county, and city attorneys in those cities which have city attorneys who have jurisdiction to prosecute misdemeanors pursuant to a specified law, to, upon their own initiative or upon application by the state department or its authorized representative, institute and conduct the prosecution of any action for a violation that occurs within his or her county of the act.

This bill would make that requirement applicable to city attorneys in every city. By imposing additional duties on local employees, the bill would impose a state-mandated local program.

Existing law regulates alcoholism or drug abuse recovery or treatment facilities to provide recovery, treatment, or detoxification services within this state and makes the State Department of Health Care Services the sole authority in state government to license those facilities. Existing law authorizes these facilities to permit to be provided, under certain

conditions, to a resident at the facility, incidental medical services, as defined, and requires a licensee to provide at least one of specified nonmedical services, such as recovery services or treatment services.

This bill would make a person who violates the laws governing the licensing of these facilities guilty of a misdemeanor and subject to punishment by a fine not to exceed $1,000, or by imprisonment in the county jail for a period not to exceed 180 days, or by both that fine and imprisonment. The bill would also require the district attorney of every county and the city attorney of every city, upon their own initiative or upon application by the state department or its authorized representative, to institute and conduct the prosecution of an action for a violation that occurs within their county or city. By creating new crimes, and by imposing additional duties on local employees, the bill would impose a state-mandated local program.

The bill would describe recovery and treatment services, for purposes of the requirement that a licensee provide at least one of specified nonmedical services, to include providing group or individual counseling to a resident or controlling or managing a resident's schedule, among other services. The bill would expand the definition of incidental medical services to include testing or collecting for testing a resident's blood, urine, or saliva and controlling, administering, or monitoring a resident's medications.

The bill would authorize a city or county to request denial of a license applied for on the basis of overconcentration of residential facilities. The bill would require the department to notify, in writing, at least 45 days prior to approving an application for a new facility, the planning agency of the city, if the facility is to be located in the city, or the planning agency of the county, if the facility is to be located in an unincorporated area, of the proposed location of the facility.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law provides for the licensure and regulation of alcoholism or drug abuse recovery or treatment facilities serving adults as prescribed.~~

~~This bill would state the intent of the Legislature to enact legislation that would address residential environments for persons in recovery from alcohol and drug addiction.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: ~~no~~ *yes*.

The people of the State of California do enact as follows:

SECTION 1. Section 1543 of the Health and Safety Code is amended to read:

1543. Notwithstanding any other provision of this chapter, the district attorney of every county, and *the* city ~~attorneys in those cities which have city attorneys who have jurisdiction to prosecute misdemeanors pursuant to Section 72193 of the Government Code~~, *attorney in every city*, shall, upon their own initiative or upon application by the state department or its authorized representative, institute and conduct the prosecution of ~~any action for violation within his or her county of any provisions of this chapter.~~ *an action for a violation of this chapter that occurs within their county or city.*

SEC. 2. Section 11834.026 of the Health and Safety Code is amended to read:

11834.026. (a) As used in this section, "incidental medical services" means services that are in compliance with the community standard of practice and are not required to be performed in a licensed clinic or licensed health facility, as defined by Section 1200 or 1250, respectively, to address medical issues associated with either detoxification from alcohol or drugs or the provision of alcoholism or drug abuse recovery or treatment services, including all of the following categories of services that the department shall further define by regulation:

(1) Obtaining medical histories.

(2) Monitoring health status to determine whether the health status warrants transfer of the patient in order to receive urgent or emergent care.

(3) Testing associated with detoxification from alcohol or drugs.

(4) Providing alcoholism or drug abuse recovery or treatment services.

(5) Overseeing patient self-administered ~~medications.~~ *medications or otherwise controlling, administering, or monitoring a resident's medications.*

(6) Treating substance abuse disorders, including detoxification.

(7) Testing a resident's blood, urine, or saliva.

(8) Collecting a resident's blood, urine, or saliva sample for testing.

(b) Incidental medical services do not include the provision of general primary medical care.

(c) Notwithstanding any other law, a licensed alcoholism or drug abuse recovery or treatment facility may permit incidental medical services to be provided to a resident at the facility premises by, or under the supervision of, one or more physicians and surgeons licensed by the Medical Board of California or the Osteopathic Medical Board who are knowledgeable about addiction medicine, or one or more other health care practitioners acting within the scope of practice of his or her license and under the direction of a physician and surgeon, and who are also knowledgeable about addiction medicine, if all of the following conditions are met:

(1) The facility, in the judgment of the department, has the ability to comply with the requirements of this chapter and all other applicable laws and regulations to meet the needs of a resident receiving incidental medical services pursuant to this chapter. The department shall specify in regulations the minimum requirements that a facility shall meet in order to be approved to permit the provision of incidental medical services on its premises. The license of a facility approved to permit the provision of incidental medical services shall reflect that those services are permitted at the facility premises.

(2) The physician and surgeon and any other health care practitioner has signed an acknowledgment on a form provided by the department that he or she has been advised of and understands the statutory and regulatory limitations on the services that may legally be provided at a licensed alcoholism or drug abuse recovery or treatment facility and the statutory and regulatory requirements and limitations for the physician and surgeon or other health care practitioner and for the facility, related to providing

incidental medical services. The licensee shall maintain a copy of the signed form at the facility for a physician and surgeon or other health care practitioner providing incidental medical services at the facility premises.

(3) A physician and surgeon or other health care practitioner shall assess a resident, prior to that resident receiving incidental medical services, to determine whether it is medically appropriate for that resident to receive these services at the premises of the licensed facility. A copy of the form provided by the department shall be signed by the physician and surgeon and maintained in the resident's file at the facility.

(4) The resident has signed an admission agreement. The admission agreement, at a minimum, shall describe the incidental medical services that the facility may permit to be provided and shall state that the permitted incidental medical services will be provided by, or under the supervision of, a physician and surgeon. The department shall specify in regulations, at a minimum, the content and manner of providing the admission agreement, and any other information that the department deems appropriate. The facility shall maintain a copy of the signed admission agreement in the resident's file.

(5) Once incidental medical services are initiated for a resident, the physician and surgeon and facility shall monitor the resident to ensure that the resident remains appropriate to receive those services. If the physician and surgeon determines that a change in the resident's medical condition requires other medical services or that a higher level of care is required, the facility shall immediately arrange for the other medical services or higher level of care, as appropriate.

(6) The facility maintains in its files a copy of the relevant professional license or other written evidence of licensure to practice medicine or perform medical services in the state for the physician and surgeon and any other health care practitioner providing incidental medical services at the facility.

(d) The department is not required to evaluate or have any responsibility or liability with respect to evaluating the incidental medical services provided by a physician and surgeon or other health care practitioner at a licensed facility. This section does not limit the department's ability to report suspected misconduct by

a physician and surgeon or other health care practitioner to the appropriate licensing entity or to law enforcement.

(e) A facility licensed and approved by the department to allow provision of incidental medical services shall not by offering approved incidental medical services be deemed a clinic or health facility within the meaning of Section 1200 or 1250, respectively.

(f) Other than incidental medical services permitted to be provided or any urgent or emergent care required in the case of a life threatening emergency, this section does not authorize the provision at the premises of the facility of any medical or health care services or any other services that require a higher level of care than the care that may be provided within a licensed alcoholism or drug abuse recovery or treatment facility.

(g) This section does not require a residential treatment facility licensed by the department to provide incidental medical services or any services not otherwise permitted by law.

(h) (1) On or before July 1, 2018, the department shall adopt regulations to implement this section in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(2) Notwithstanding the rulemaking provisions of the Administrative Procedure Act, the department may, if it deems appropriate, implement, interpret, or make specific this section by means of provider bulletins, written guidelines, or similar instructions from the department until regulations are adopted.

SEC. 3. Section 11834.028 is added to the Health and Safety Code, to read:

11834.028. (a) The Legislature hereby declares it to be the policy of the state to prevent overconcentrations of facilities that impair the integrity of residential neighborhoods. Therefore, the department shall deny an application for a new facility license if the department determines that the location is in a proximity to an existing facility that would result in overconcentration.

(b) As used in this section, "overconcentration" means that if a new license is issued, there will be facilities that are separated by a distance of 300 feet or less, as measured from any point upon the outside walls of the structures housing those facilities. Based on special local needs and conditions, the department may approve

a separation distance of less than 300 feet with the approval of the city or county in which the proposed facility will be located.

(c) At least 45 days prior to approving an application for a new facility, the department shall notify, in writing, the planning agency of the city, if the facility is to be located in the city, or the planning agency of the county, if the facility is to be located in an unincorporated area, of the proposed location of the facility.

(d) Any city or county may request denial of the license applied for on the basis of overconcentration of residential facilities.

(e) This section does not authorize the department, on the basis of overconcentration, to refuse to grant a license upon a change of ownership of an existing facility when the location of the facility does not change.

SEC. 4. Section 11834.26 of the Health and Safety Code is amended to read:

11834.26. (a) The licensee shall provide at least one of the following nonmedical services:

(1) Recovery services.

(2) Treatment services.

(3) Detoxification services.

(b) The department shall adopt regulations requiring records and procedures that are appropriate for each of the services specified in subdivision (a). The records and procedures may include all of the following:

(1) Admission criteria.

(2) Intake process.

(3) Assessments.

(4) Recovery, treatment, or detoxification planning.

(5) Referral.

(6) Documentation of provision of recovery, treatment or detoxification services.

(7) Discharge and continuing care planning.

(8) Indicators of recovery, treatment, or detoxification outcomes.

(c) In the development of regulations implementing this section, the written record requirements shall be modified or adapted for social model programs.

(d) Examples of recovery and treatment services, for purposes of subdivision (a), include, but are not limited to, the following:

(1) Providing group or individual counseling or physical, psychological, psychiatric, occupational, recreational, or mental-health therapy or treatment of any kind to a resident.

(2) Organizing or otherwise providing therapeutic activities for residents.

(3) Providing recovery-education sessions to residents.

(4) Controlling a resident's physical access to food or drink.

(5) Providing meal or nutrition planning to a resident.

(6) Dictating or otherwise controlling a resident's dietary intake.

(7) Preparing or providing food to a resident as part of a nutrition plan.

(8) Controlling or managing a resident's schedule.

(9) Organizing and providing transportation for a resident.

(10) Arranging for a resident's medical, dental, counseling, or therapy appointment.

(11) Referring a resident to outside therapy or other recovery-service provider.

(12) Making recovery or treatment plans with or for a resident.

(13) Monitoring a resident's recovery or treatment.

(14) Establishing goals for a resident's recovery or treatment.

SEC. 5. Section 11834.33 is added to the Health and Safety Code, to read:

11834.33. (a) A person who violates this chapter, or who willfully or repeatedly violates any rule or regulation promulgated under this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail for a period not to exceed 180 days, or by both that fine and imprisonment.

(b) Notwithstanding any other provision of this chapter, the district attorney of every county and the city attorney of every city shall, upon their own initiative or upon application by the state department or its authorized representative, institute and conduct the prosecution of an action for a violation of this chapter that occurs within their county or city.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the

Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SECTION 1. It is the intent of the Legislature to enact legislation that would address residential environments for persons in recovery from alcohol and drug addiction.~~

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Senate Bill 34 – Residential Treatment Facilities

Recommendation

Staff recommends that the Legislative Committee recommend that the City Council adopt a "support" position regarding Senate Bill 34.

Summary

Authored by Senator Pat Bates (R-36-Laguna Niguel), Senate Bill 34 proposes to authorize a city or county to request denial of an alcoholism or drug abuse recovery or treatment facility application on the basis of over concentration of residential facilities. This bill also adds new services that define a licensee facility; including physical and mental health therapy, nutrition planning, and therapeutic activities.

Specifically, this bill:

1. Authorizes a city or county to request denial of an alcoholism or drug abuse recovery or treatment facility application to the Department of Health Care Services on the basis of over concentration of residential facilities. This bill defines "over concentration" as a new facility requesting to be located 300 feet or less from an existing drug abuse recovery or treatment facility in a residential zone.

2. Authorizes the Department of Health Care Services to deny an application for a new alcoholism or drug abuse recovery or treatment facility, if the proposed location is within 300 feet from an existing alcoholism or drug abuse recovery or treatment facility.

3. Defines recovery and treatment services to include but not limited to counseling, physical therapy, and nutritional planning.

4. Requires the Department of Health Care Services to notify, in writing, at least 45 days prior to approving an application for a new facility, the planning agency of the city if the facility is to be located in the city, or the planning agency of the county if the facility is to be located in an unincorporated area of the proposed location of the new facility.

Analysis

This bill would grant local agencies the authority to request denial of an alcoholism or drug abuse recovery or treatment facility application to the Department of Health Care Services on the basis of over concentration. The City of Santa Clarita 2017 Legislative Platform (Legislative Platform) includes components related to local authority on alcohol and drug abuse recovery or treatment facilities. Specifically, component 17 under the "State" section of the Legislative Platform advises that the City Council, "Support legislation that provides local governments with a role in regulating

the location of state licensed alcohol or drug recovery facilities." The League of California Cities has adopted a "watch" position on this bill.

Bill Status

Senate Bill 34 was double referred to the Senate Committee on Health and the Senate Committee on Public Safety on March 23, 2017. A hearing date in the Senate Committee on Health has been set for April 19, 2017.

AMENDED IN SENATE APRIL 4, 2017

AMENDED IN SENATE MARCH 21, 2017

AMENDED IN SENATE MARCH 9, 2017

AMENDED IN SENATE FEBRUARY 21, 2017

SENATE BILL No. 35

Introduced by Senator Wiener
(Principal coauthor: Senator Atkins)
(Coauthor: Senator Allen)

December 5, 2016

An act to amend Sections 65400 and 65582.1 of, and to add Section 65913.4 to, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 35, as amended, Wiener. Planning and zoning: affordable housing: streamlined approval process.

(1) The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. The Planning and Zoning Law requires a planning agency, after a legislative body has adopted all or part of a general plan, to provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the general plan and progress in meeting the community's share of regional housing needs.

This bill would require the planning agency to include in its annual report specified information regarding units of housing, including rental housing and housing designated for homeownership, that have ~~completed construction.~~ *secured all approvals from the local government*

and special districts needed to qualify for a building permit. The bill would also require the Department of Housing and Community Development to post an annual report submitted pursuant to the requirement described above on its Internet Web site, as provided.

(2) Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

This bill would require ~~an accessory dwelling unit development or~~ a multifamily housing development that satisfies specified planning objective standards to be subject to a streamlined, ministerial approval process, as provided, and to not be subject to a conditional use permit. The bill would limit the authority of a local government to impose parking standards or requirements on a streamlined development approved pursuant to these provisions, as provided. The bill would provide that if a local government approves a project pursuant to that process, that approval will not expire if that project includes investment in housing affordability, and would otherwise provide that the approval of a project expire automatically after 3 years, unless that project qualifies for a one-time, one-year extension of that approval.

(3) The bill would make findings that ensuring access to affordable housing is a matter of statewide concern and declare that its provisions would apply to all cities and counties, including a charter city, a charter county, or a charter city and county.

(4) By imposing new duties upon local agencies with respect to the streamlined approval process and reporting requirement described above, this bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

The report may include the number of units that have been substantially rehabilitated, converted from nonaffordable to

affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(D) The number of units of housing, including both rental housing and housing designated for homeownership, that have ~~completed construction~~ *secured all approvals from the local government and special districts needed to qualify for a building permit* thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing, including both rental housing and housing designated for homeownership, satisfies. That report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units that satisfy each income category and the number of units that are housing designated for homeownership that satisfy each income category.

(E) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its Internet Web site within a reasonable time of receiving the report.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant

to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 2. Section 65582.1 of the Government Code is amended to read:

65582.1. The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the *approval and* construction of affordable housing. Those reforms and incentives can be found in the following provisions:

(a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).

(b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).

(c) Restrictions on disapproval of housing developments (Section 65589.5).

(d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).

(e) Least cost zoning law (Section 65913.1).

(f) Density bonus law (Section 65915).

(g) Accessory dwelling units (Sections 65852.150 and 65852.2).

(h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).

(i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).

(j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).

(k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).

(*l*) Limiting moratoriums on multifamily housing (Section 65858).

(m) Prohibiting discrimination against affordable housing (Section 65008).

(n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).

(o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).

(p) Streamlining housing approvals during a housing shortage (Section 65913.4).

SEC. 3. Section 65913.4 is added to the Government Code, to read:

65913.4. (a) A development shall be subject to the streamlined, ministerial approval process provided by subdivision (b) and shall not be subject to a conditional use permit if it satisfies all of the following objective planning standards:

(1) The development is ~~an accessory dwelling unit development or~~ a multifamily housing development that contains two or more residential units.

(2) The development is located on a site that satisfies both of the following:

(A) Is an urban infill site as defined by Section 21061.3 of the Public Resources Code.

(B) Is a site zoned for residential use or residential mixed use development with at least two-thirds of the square footage designated for residential use.

(3) If the development contains units that are subsidized, the development applicant or development proponent already has recorded, or is required by law to record, a land use restriction that is:

(A) Fifty-five years for subsidized units that are rented.

(B) Forty-five years for subsidized units that are owned.

(4) The development satisfies both of the following:

(A) Is located in a locality that, according to its last production report to the Department of Housing and Community Development, ~~completed construction of~~ *approved* fewer units of housing by income category than was required for the regional housing needs assessment cycle for that reporting period, or has not submitted an annual housing element report to the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a) of Section 65400 for at least two consecutive years before the development submitted an application for approval under this section.

(B) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on either of the following:

(i) The locality did not submit its latest production report to the Department of Housing and Community Development by the time

period required by Section 65400, or that report reflects that there were fewer units of above moderate-income housing ~~constructed~~ *approved* than was required for the regional housing needs assessment cycle for that year, and the project seeking approval dedicates a minimum of 10 percent of the total number of units to housing affordable to households making below 80 percent of the area median income, unless the locality has adopted a local ordinance that requires that greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the area median income, in which case that zoning ordinance applies.

(ii) The locality did not submit its latest production report to the Department of Housing and Community Development by the time period required by Section 65400, or that report reflects that there were fewer units of housing affordable to households making below 80 percent of the area median income ~~constructed~~ *approved* than was required for the regional housing needs assessment cycle for that year, and the project seeking approval dedicates the majority of the total number of units to housing affordable to households making below 80 percent of the area median income, unless the locality has adopted a local ordinance that requires that greater than the majority of the units be dedicated to housing affordable to households making below 80 percent of the area median income, in which case that ordinance applies.

(5) The development is consistent with objective zoning standards, including the Density Bonus Law in Section 65915, and objective design review standards in effect at the time that the development is submitted to the local government pursuant to this section. For purposes of this paragraph, "objective zoning standards" and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official.

(6) The development is not located on a site that is any of the following:

(A) A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or

land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands, as defined in ~~Section 328.3 of Title 33 of the Code of Federal Regulations.~~ *the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).*

(D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted sufficient fire hazard mitigation measures as may be determined by their local agency with land use authority.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist.

(G) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(H) Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has received a no rise certification in accordance with paragraph (3) of subdivision (d) of Section 60.3 of Title 44 of the Code of Federal Regulations.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat

conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(7) The development does not require the demolition of either of the following:

(A) Housing that is subject to rent control, housing that is subject to deed restrictions, or any housing that has been occupied by residents within the past 10 years by tenants.

(B) A historic structure that was placed on a national, state, or local historic register.

(8) The development proponent has certified that either of the following is true:

(A) The project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(B) If the project is not a public work, that all construction workers employed in the execution of the project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code. If the development is subject to this subparagraph, then all of the following shall apply:

(i) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.

(ii) Contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages.

(iii) Except as provided in clause (iv), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a

civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, or by an underpaid worker through an administrative complaint or civil action. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(iv) Clause (iii) shall not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(v) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirements of paragraph (2) of subdivision (c) of Section 1773.1 of the Labor Code do not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(9) The development shall not be upon an existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

(b) (1) If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards specified in subdivision (a), it shall provide the development proponent written documentation of

which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

(A) Within 60 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the objective planning standards specified in subdivision (a).

(c) Any design review of the development may be conducted by the local government's supervising body for design review, including a planning department or city ~~council, and~~ *council. That design review shall be objective and reflect reasonable objective design standards published and adopted by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. That design review* shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(1) Within 90 days of submittal of the development to the local government pursuant to this section if the development contains 150 or fewer housing units.

(2) Within 180 days of submittal of the development to the local government pursuant to this section if the development contains more than 150 housing units.

(d) (1) Notwithstanding any other law, a local government, whether or not it has adopted an ordinance governing parking requirements in multifamily developments, shall not impose parking standards for a streamlined development in any of the following instances:

(A) The development is located within one-half mile of public transit.

(B) The development is located within an architecturally and historically significant historic district.

(C) When on-street parking permits are required but not offered to the occupants of the development.

(D) When there is a car share vehicle located within one block of the development.

(2) Parking requirements for streamlined developments shall not exceed one parking space per unit. ~~This paragraph shall not apply to accessory dwelling units or developments described in paragraph (1).~~

~~(3) A local government shall comply with the requirements of Section 65852.2 when establishing parking requirements for a streamlined development that is an accessory dwelling unit.~~

(e) (1) If a local government approves a development pursuant to this section, that approval shall not expire if the project includes public investment in housing affordability, beyond tax credits, where the majority of the units are affordable to households making below 80 percent of the area median income.

(2) If a local government approves a development pursuant to this section and the project does not include a majority of the units affordable to households making below 80 percent of the area median income, that approval shall automatically expire after three years except that a project may receive a one-time, one-year extension if the project proponent can provide documentation that there has been significant progress toward getting the development construction ready.

(f) For purposes of this section, "locality" or "local government" means a city, including a charter city, a county, or a city and county, including a charter city and county.

(g) For purposes of this section, "production report" means the information reported pursuant to subparagraph (D) of paragraph (2) of subdivision (a) of Section 65400.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern, and not a municipal affair. Therefore, the changes made by this act are applicable to a charter city, a charter county, and a charter city and county.

SEC. 5. Each provision of this measure is a material and integral part of this measure, and the provisions of this measure are not severable. If any provision of this measure or its application is held invalid, this entire measure shall be null and void.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service

charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

O

Senate Bill 35 – Multifamily Residential Developments

Recommendation

Staff recommends that the Legislative Committee recommend that the City Council adopt an "oppose" position regarding Senate Bill 35.

Summary

Authored by Senator Scott Wiener (D-11-San Francisco), Senate Bill 35 proposes to require a city or county to submit to the State Legislature, the Department of Housing and Community Development, and the Office of Planning and Research an annual report regarding a local agency's general plan related to housing. This bill also proposes to streamline the approval process for specific multifamily residential developments by eliminating the requirement of a conditional use permit by a local agency.

Specifically, this bill:

1. Requires a city or county, on or before April 1, 2018, and on or before April 1 each year thereafter, to submit a report to the State Legislature, the Department of Housing and Community Development, and the Office of Planning and Research that includes the following:
    a. The units of housing that have secured all approvals needed to qualify for a building permit from a local government and the income category each unit of housing satisfies.
    b. The status of the general plan and progress in meeting the local share of regional housing needs determined by the general plan.
2. Prohibits a city or county from issuing a conditional use permit on a multifamily housing development, if the development meets the following criteria:
    a. The development contains two or more residential units.
    b. The development is located on a site that satisfies both of the following: is an urban infill site and is zoned for residential use or residential mixed use development.
    c. If the development contains units that are subsidized, rental units shall remain subsidized for 55 years if rented and 45 years if owned.
    d. The development is consistent with objective zoning standards and objective design review standards in effect at the time that the development is submitted to the local government.

e. The development is subject to a requirement mandating a minimum percentage of below market rate housing based on the following:

   (a) The city or county constructed fewer units of above moderate income housing than was required for that year and dedicates an unspecified percentage of the total number of units to below market rate housing.

   (b) The city or county constructed fewer units of very low, low or moderate income housing than was required for that year, and dedicates an unspecified percentage of the total number of units to below market rate housing.

f. The development is not located on a site that is any of the following: a coastal zone, prime farmland or farmland of statewide importance, wetlands, or a hazardous waste site. The development shall also not be within: a very high fire hazard severity zone, delineated earthquake fault zone, flood plain, or floodway.

g. The development does not require the demolition of the following: housing that is subject to rent control, housing that is subject to deed restrictions, housing that has been occupied by residents within the past 10 years, or a historic structure that was placed on a national, state, or local historic register prior to December 31, 2016.

3. Restricts a city or county from requiring more than one parking space per unit for any multifamily residential development that meets the criteria listed in Section (2) of this summary. A city or county cannot impose any parking standards if the multifamily residential development meets the listed criteria in Section (2) of this summary and is pursuant to any of the following instances:

   a. The development is located within one-half mile of public transit.

   b. The development is located within an architecturally and historically significant historic district.

   c. When on-street parking permits are required but not offered to the occupants of the development.

   d. When there is a car share vehicle located within one block of the development.

Analysis

This bill proposes a streamlined process for multifamily residential developments and as a result, pre-empts local discretionary land use authority. The current version of this bill jeopardizes the public hearing component used when reviewing proposed new developments. Concerns regarding traffic, parking and other development impacts could also potentially not have an opportunity to be

reviewed if this bill is to pass. The City of Santa Clarita 2017 Legislative Platform (Legislative Platform) includes components related to preserving local authority regarding local land use. Specifically, component 15 under the "State" section of the Legislative Platform advises that the City Council, "Oppose legislation that would interfere with, limit or eliminate the decision-making authority of local governments in the area of local land use."

Bill Status

Senate Bill 35 passed the Senate Committee on Transportation and Housing (7-3-3) and was referred to the Senate Committee on Governance and Finance on April 4, 2017. The committee hearing date in the Senate Committee on Governance and Finance has not been scheduled as of the completion of this report.

Notable Supporters

San Francisco Chamber of Commerce, San Francisco Housing Action Coalition, and California Renters Legal Advocacy and Education Fund

Notable Opponents

League of California Cities, City of Santa Rosa, and Marin County Council of Mayors and Council Members

AMENDED IN SENATE MARCH 28, 2017

SENATE BILL No. 649

Introduced by Senator Hueso
(Principal coauthor: Assembly Member Quirk)
(Coauthor: Senator Dodd)

February 17, 2017

An act to amend ~~Sections 65850.6 and~~ *Section* 65964 ~~of~~ *of, and to add Section 65964.2 to,* the Government Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 649, as amended, Hueso. Wireless telecommunications facilities.

Under existing law, a wireless telecommunications collocation facility, as specified, is subject to a city or county discretionary permit and is required to comply with specified criteria, but a collocation facility, which is the placement or installation of wireless facilities, including antennas and related equipment, on or immediately adjacent to that wireless telecommunications collocation facility, is a permitted use not subject to a city or county discretionary permit. ~~Existing law defines various terms for these purposes.~~

This bill would *provide that a small cell is a permitted use, not subject to a city or county discretionary permit, if the small cell meets specified requirements. By imposing new duties on local agencies, this bill would impose a state-mandated local program. The bill would authorize a city or county to require an administrative permit for small cell, as specified. The bill would* define the term "small cell" ~~as a particular type of telecommunications facility~~ for these purposes.

Under existing law, a city or county, as a condition of approval of an application for a permit for construction or reconstruction of a

development project for a wireless telecommunications facility, may not require an escrow deposit for removal of a wireless telecommunications facility or any component thereof, unreasonably limit the duration of any permit for a wireless telecommunications facility, or require that all wireless telecommunications facilities be limited to sites owned by particular parties within the jurisdiction of the city or county, as specified.

This bill would ~~apply these prohibitions to the approval of small cell facilities as defined by this bill.~~ *require permits for these facilities to be renewed for equivalent durations, as specified.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: ~~no~~ *yes*.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that, to ensure that communities across the state have access to the most advanced wireless communications technologies and the transformative solutions that robust wireless connectivity enables, such as Smart Communities and the Internet of Things, California should work in coordination with federal, state, and local officials to create a statewide framework for the deployment of advanced wireless communications infrastructure in California that does all of the following:

(a) Reaffirms local governments' historic role and authority with respect to wireless communications infrastructure siting and construction generally.

(b) Reaffirms that deployment of telecommunications facilities in the rights-of-way is a matter of statewide concern, subject to a statewide franchise, and that expeditious deployment of telecommunications networks generally is a matter of both statewide and national concern.

(c) Recognizes that the impact on local interests from individual small wireless facilities will be sufficiently minor and that such

deployments should be a permitted use statewide and should not be subject to discretionary zoning review.

(d) Requires expiring permits for these facilities to be renewed so long as the site maintains compliance with use conditions adopted at the time the site was originally approved.

(e) Requires providers to obtain all applicable building or encroachment permits and comply with all related health, safety, and objective aesthetic requirements for small wireless facility deployments on a ministerial basis.

(f) Grants providers fair, reasonable, nondiscriminatory, and nonexclusive access to locally owned utility poles, street lights, and other suitable host infrastructure located within the public right-of-way and in other local public places such as stadiums, parks, campuses, hospitals, transit stations, and public buildings consistent with all applicable health and safety requirements, including Public Utilities Commission General Order 95.

(g) Provides for full recovery by local governments of the costs of attaching small wireless facilities to utility poles, street lights, and other suitable host infrastructure in a manner that is consistent with existing federal and state laws governing utility pole attachments generally.

(h) Permits local governments to charge wireless permit fees that are fair, reasonable, nondiscriminatory, and cost based.

(i) Advances technological and competitive neutrality while not adding new requirements on competing providers that do not exist today.

~~SEC. 2. Section 65850.6 of the Government Code is amended to read:~~

~~65850.6. (a) A collocation facility shall be a permitted use not subject to a city or county discretionary permit if it satisfies the following requirements:~~

~~(1) The collocation facility is consistent with requirements for the wireless telecommunications collocation facility pursuant to subdivision (b) on which the collocation facility is proposed.~~

~~(2) The wireless telecommunications collocation facility on which the collocation facility is proposed was subject to a discretionary permit by the city or county and an environmental impact report was certified, or a negative declaration or mitigated negative declaration was adopted for the wireless telecommunications collocation facility in compliance with the~~

~~California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the requirements of Section 21166 do not apply, and the collocation facility incorporates required mitigation measures specified in that environmental impact report, negative declaration, or mitigated negative declaration.~~

~~(b) A wireless telecommunications collocation facility, where a subsequent collocation facility is a permitted use not subject to a city or county discretionary permit pursuant to subdivision (a), shall be subject to a city or county discretionary permit issued on or after January 1, 2007, and shall comply with all of the following:~~

~~(1) City or county requirements for a wireless telecommunications collocation facility that specifies types of wireless telecommunications facilities that are allowed to include a collocation facility, or types of wireless telecommunications facilities that are allowed to include certain types of collocation facilities; height, location, bulk, and size of the wireless telecommunications collocation facility; percentage of the wireless telecommunications collocation facility that may be occupied by collocation facilities; and aesthetic or design requirements for the wireless telecommunications collocation facility.~~

~~(2) City or county requirements for a proposed collocation facility, including any types of collocation facilities that may be allowed on a wireless telecommunications collocation facility; height, location, bulk, and size of allowed collocation facilities; and aesthetic or design requirements for a collocation facility.~~

~~(3) State and local requirements, including the general plan, any applicable community plan or specific plan, and zoning ordinance.~~

~~(4) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) through certification of an environmental impact report, or adoption of a negative declaration or mitigated negative declaration.~~

~~(c) The city or county shall hold at least one public hearing on the discretionary permit required pursuant to subdivision (b) and notice shall be given pursuant to Section 65091, unless otherwise required by this division.~~

~~(d) For purposes of this section, the following definitions apply:~~

~~(1) "Collocation facility" means the placement or installation of wireless facilities, including antennas, and related equipment,~~

~~on, or immediately adjacent to, a wireless telecommunications collocation facility.~~

~~(2) "Small cell" means a wireless telecommunications facility within the volume limits established by the Federal Communications Commission for small wireless antennas and associated equipment in the First Amendment to Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (47 C.F.R. Part 1 Appendix B).~~

~~(3) "Wireless telecommunications facility" means equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems that are integral to providing wireless telecommunications services.~~

~~(4) "Wireless telecommunications collocation facility" means a wireless telecommunications facility that includes collocation facilities.~~

~~(e) The Legislature finds and declares that both small cell and collocation facilities, as defined in this section, have a significant economic impact in California and are not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution, but are a matter of statewide concern.~~

~~(f) With respect to the consideration of the environmental effects of radio frequency emissions, the review by the city or county shall be limited to that authorized by Section 332(c)(7) of Title 47 of the United States Code, or as that section may be hereafter amended.~~

~~SEC. 3.~~

SEC. 2. Section 65964 of the Government Code is amended to read:

65964. As a condition of approval of an application for a permit for construction or reconstruction for a development project for a wireless telecommunications ~~facility or small cell,~~ *facility*, as defined in Section 65850.6, a city or county shall not do any of the following:

(a) Require an escrow deposit for removal of a wireless telecommunications facility or any component thereof. However, a performance bond or other surety or another form of security may be required, so long as the amount of the bond security is rationally related to the cost of removal. In establishing the amount of the security, the city or county shall take into consideration

information provided by the permit applicant regarding the cost of removal.

(b) Unreasonably limit the duration of any permit for a wireless telecommunications facility. Limits of less than 10 years are presumed to be unreasonable absent public safety reasons or substantial land use reasons. However, cities and counties may establish a build-out period for a site. *A permit shall be renewed for an equivalent duration unless the city or county makes a finding that the wireless telecommunications facility does not comply with the codes and permit conditions applicable at the time the permit was initially approved.*

(c) Require that all wireless telecommunications facilities be limited to sites owned by particular parties within the jurisdiction of the city or county.

SEC. 3. Section 65964.2 is added to the Government Code, to read:

65964.2. (a) A small cell shall be a permitted use not subject to a city or county discretionary permit if it satisfies the following requirements:

(1) The small cell is located in the public right-of-way in any zone or in any zone that includes a commercial or industrial use.

(2) The small cell complies with all applicable state and local health and safety regulations.

(3) The small cell is not located on a fire department facility.

(b) (1) A city or county may require that the small cell be approved pursuant to a single administrative permit provided that the permit is issued within the time frames required by state and federal law.

(2) An administrative permit may be subject to the following:

(A) The same administrative permit requirements as similar construction projects applied in a nondiscriminatory manner.

(B) The submission of additional information showing that the small cell complies the Federal Communications Commission's regulations concerning radio frequency emissions referenced in Section 332(c)(7)(B)(iv) of Title 47 of the United States Code.

(3) The administrative permit shall not be subject to:

(A) Requirements to provide additional services, directly or indirectly, including, but not limited to, in-kind contributions such as reserving fiber, conduit, or pole space.

(B) The submission of any additional information other than that required of similar construction projects, except as specifically provided in this section.

(C) Limitations on routine maintenance or the replacement of small cells with small cells that are substantially similar, the same size or smaller.

(D) The regulation of any antennas mounted on cable strands.

(c) A city or county shall not preclude the leasing or licensing of its vertical infrastructure located in public right-of-way or public utility easements under the terms set forth in this paragraph. Vertical infrastructure shall be made available under fair and reasonable fees, terms, and conditions and offered on a nondiscriminatory basis for small cells. Fees shall be cost-based, and shall not exceed the lesser of either of the following:

(1) The costs of ownership of the percentage of the volume of the capacity of the vertical infrastructure rendered unusable by a small cell.

(2) The rate produced by applying the formula adopted by the Federal Communications Commission for telecommunications pole attachments in Section 1.1409(e)(2) of Part 47 of the Code of Federal Regulations.

(d) A city or county shall not unreasonably discriminate in the leasing or licensing of property not located in the public right-of-way owned or operated by the city or county for installation of a small cell. A city or county shall authorize the installation of a small cell on property owned or controlled by the city or county not located within the public right-of-way to the same extent the city or county permits access to that property for commercial projects or uses. These installations shall be subject to reasonable and nondiscriminatory rates, terms, and conditions.

(e) For purposes of this section, the following terms have the following meanings:

(1) (A) "Small cell" means a wireless telecommunications facility, as defined in Section 65850.6, using licensed or unlicensed spectrum that meets the following qualifications:

(i) Any individual antenna, excluding the associated equipment, is individually no more than three cubic feet in volume, and all antennas on the structure total no more than six cubic feet in volume, whether in a single array or separate.

(ii) (I) The associated equipment on pole structures does not exceed 21 cubic feet for poles that can support fewer than three providers or 28 cubic feet for pole collocations that can support at least three providers, or the associated equipment on nonpole structures does not exceed 28 cubic feet for collocations that can support fewer than three providers or 35 cubic feet for collocations that can support at least three providers.

(II) The following types of associated ancillary equipment are not included in the calculation of equipment volume:

(ia) Electric meters and any required pedestal.

(ib) Concealment elements.

(ic) Any telecommunications demarcation box.

(id) Grounding equipment.

(ie) Power transfer switch.

(if) Cut-off switch.

(ig) Vertical cable runs for the connection of power and other services.

(B) "Small cell" does not include communications infrastructure extending beyond the telecommunications demarcation box.

(2) "Vertical infrastructure" means all poles or similar facilities owned or controlled by a city or county that are in the public right-of-way or public utility easements and meant for, or used in whole or in part for, communications service, electric service, lighting, traffic control, signage, or similar functions.

(f) The Legislature finds and declares that small cells, as defined in this section, have a significant economic impact in California and are not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution, but are a matter of statewide concern.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

O

Senate Bill 649 – Small Cell Infrastructure Siting

Recommendation

Staff recommends that the Legislative Committee recommend that the City Council adopt an "oppose" position regarding Senate Bill 649.

Summary

Authored by Senator Ben Hueso (D-40-San Diego), Senate Bill 649 proposes to reduce local control and fees over small cell siting in the public right-of-way. This bill grants cell providers access to locally owned infrastructure within the public right-of-way and in commercial and industrial zones and prohibits local discretionary zoning review. For purposes of this summary, "small cell" is defined as wireless telecommunications equipment used by cell providers to provide cell service.

Specifically, this bill:

1. Establishes that a small cell is a permitted use not subject to a city or county discretionary zoning review or discretionary permit if it satisfies the following requirements:
    a. Complies with all applicable state and local health and safety regulations.
    b. Is not located on a fire department facility.
    c. Is located in the public right-of-way in any zone or in any zone that includes a commercial or industrial use.
2. Grants cell providers nondiscriminatory and nonexclusive access to locally owned utility poles, street lights, and other suitable host infrastructure located within the public right-of-way and in other local public places such as stadiums, parks, campuses, hospitals, transit stations, and public buildings consistent with all applicable state and local health and safety requirements.
3. Requires local governments to renew expiring permits for cell facilities that have maintained compliance with use conditions adopted at the time the cell site was originally approved.
4. Permits local governments to charge wireless permit fees that are nondiscriminatory and cost based.
5. Permits local governments to require an administrative permit process for small cell submissions. The administrative permit may only be subject to the following:
    a. The same administrative permit requirements as similar construction projects applied in a nondiscriminatory manner.
    b. The submission of additional information showing that the small cell complies with Federal Communications Commission's regulations concerning radio frequency emissions.

Senate Bill 649 – Small Cell Infrastructure Siting

Analysis

In establishing a statewide framework for small cell deployment, this bill establishes limitations on the process, procedures and abilities of local governments to site small cell facilities. The City of Santa Clarita (City) currently regulates the installation and operation of wireless telecommunications facilities, including small cells, within the public right-of-way and in commercial and industrial zones. The City's Unified Development Code regulates the cell proximity to residential uses and zones, underground of appurtenant equipment, and specified design criteria. Ultimately, the City's regulations intend to preserve the health, safety and overall quality of life of the community. If this bill passes, the City will lose its current ability to regulate the siting and design of small cells.

The City of Santa Clarita 2017 Legislative Platform (Legislative Platform) includes components related to local authority regarding the siting of cellular communication infrastructure. Specifically, component 30 under the "State" section of the Legislative Platform advises that the City Council, "Oppose state regulatory efforts to override or eliminate local authority regarding the siting of cellular communications towers, wireless transmission sites or other infrastructure."

Notable Supporters

AT&T, Berkeley Chamber of Commerce, Long Beach Area Chamber of Commerce, Orange County Business Council, Sprint, Verizon

Notable Opponents

League of California Cities, American Planning Association, California State Association of Counties, City of Thousand Oaks, Marin County Council of Mayors and Council Members, Protect our Local Streets Coalition

Bill Status

Senate Bill 649 passed the Senate Committee on Energy, Utilities, and Communications unanimously (11-0, Senator Stern voted in support of this bill) and was referred to the Senate Committee on Governance and Finance on April 5, 2017. The committee hearing date in the Senate Committee on Governance and Finance has not been scheduled as of the completion of this report.

SENATE BILL No. 786

Introduced by Senator Mendoza
(Coauthor: Senator Allen)

February 17, 2017

An act to add Section 11834.11 to the Health and Safety Code, relating to alcoholism or drug abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 786, as introduced, Mendoza. Alcoholism or drug abuse recovery or treatment facilities: overconcentration.

(1) Existing law provides for the licensure and regulation of alcoholism or drug abuse recovery or treatment facilities serving adults by the State Department of Health Care Services, as prescribed.

This bill would require, for any licensing application submitted on or after January 1, 2018, the department to deny an application for a new facility license, if the proposed location is in proximity to an existing facility in an area zoned residential that would result in overconcentration, as defined. The bill would require the department or a county licensing agency, at least 45 days prior to approving any application for any new facility, to notify in writing the planning agency of the city, if the facility is to be located in the city, or the planning agency of the county, if the facility is to be located in an unincorporated area, of the proposed location of the facility. By requiring a county licencing agency to notify in this manner, this bill would impose a state-mandated local program. The bill would authorize a city or county to request denial of the license applied for on the basis of an overconcentration of facilities.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 11834.11 is added to the Health and Safety Code, to read:

11834.11. (a) For any licensing application submitted on or after January 1, 2018, the department shall deny an application for a new facility license, if the proposed location is in proximity to an existing facility in an area zoned residential that would result in overconcentration.

(b) As used in this section, "overconcentration" means that if a new license is issued, two or more alcoholism or drug abuse recovery or treatment facilities will be separated by a distance of 300 feet or less, as measured from the nearest property line on which an existing facility is located to the nearest property line of the proposed facility in an area zoned residential.

(c) At least 45 days prior to approving any application for a new facility, the department or county licensing agency shall notify in writing the planning agency of the city, if the facility is to be located in the city, or the planning agency of the county, if the facility is to be located in an unincorporated area, of the proposed location of the facility.

(d) Any city or county may request denial of the license applied for on the basis of an overconcentration of facilities.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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Senate Bill 786 – Alcoholism or Drug Abuse Treatment Facilities

Recommendation

Staff recommends that the Legislative Committee recommend that the City Council adopt a "support" position regarding Senate Bill 786.

Summary

Authored by Senator Tony Mendoza (D-32-Artesia), Senate Bill 786 proposes to authorize a city or county to request denial of an alcoholism or drug abuse recovery or treatment facility application to the Department of Health Care Services on the basis of overconcentration of residential facilities.

Specifically, this bill:

1. Authorizes a city or county to request denial of an alcoholism or drug abuse recovery or treatment facility application submitted on or after January 1, 2018, to the Department of Health Care Services on the basis of overconcentration of residential facilities. This bill defines "overconcentration" as a new facility requesting to be located 300 feet or less from an existing drug abuse recovery or treatment facility.

2. Authorizes the Department of Health Care Services to deny an application for a new alcoholism or drug abuse recovery or treatment facility, if the proposed location is within 300 feet from an existing alcoholism or drug abuse recovery or treatment facility.

3. Requires the Department of Health Care Services to notify, in writing, at least 45 days prior to approving an application for a new facility, the planning agency of the city if the facility is to be located in the city, or the planning agency of the county if the facility is to be located in an unincorporated area of the proposed location of the new facility.

Analysis

This bill would grant local agencies the ability to request denial of an alcoholism or drug abuse recovery or treatment facility application to the Department of Health Care Services on the basis of overconcentration. The City of Santa Clarita 2017 Legislative Platform (Legislative Platform) includes components related to local authority on alcohol and drug abuse recovery or treatment facilities. Specifically, component 17 under the "State" section of the Legislative Platform advises that the City Council, "Support legislation that provides local governments with a role in regulating the location of state licensed alcohol or drug recovery facilities." The League of California Cities has adopted a "watch" position on this bill.

Bill Status

Senate Bill 786 was referred to the Senate Committee on Health on March 9, 2017. A hearing date in the Senate Committee on Health has been set for April 19, 2017.