



**CITY OF SANTA CLARITA
AGENDA REPORT**

CONSENT CALENDAR

CITY MANAGER APPROVAL:

Ken Strippler

DATE: May 28, 2024

SUBJECT: STATE LEGISLATION: AB 1886, AB 1990, AB 2243, SB 937, SB 1037, and SB 1416

DEPARTMENT: City Manager's Office

PRESENTER: Masis Hagobian

RECOMMENDED ACTION

City Council:

1. Support AB 1990 (Carrillo) and SB 1416 (Newman).
2. Oppose AB 1886 (Alvarez), AB 2243 (Wicks), SB 937 (Wiener), and SB 1037 (Wiener).
3. Transmit position statements to the authors of the bills, Santa Clarita's state legislative delegation, appropriate legislative committees, Governor Newsom, and other stakeholder organizations.

BACKGROUND

The following state legislative items were presented to the City Council Legislative Committee on May 15, 2024. Included as part of this report is a brief summary of each piece of legislation and its current status in the state legislative process. The state legislative items in this report are related to local land use authority or public safety.

Local Land Use Authority

The Housing Accountability Act (HAA) is a state law that requires local governments, under existing planning and zoning laws, to prepare and adopt a General Plan, including a Housing Element, to guide the future growth of a community. The Housing Element consists of an identification and analysis of existing and projected housing needs and a statement of goals, policies, objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing.

The City of Santa Clarita (City) currently has policies and standards in place regarding proposed residential developments related to parking, design standards, zoning, and overall application review. Typically, large housing development projects undergo an extensive public review process, including public hearings, administrative review, and an opportunity for appeal. This allows the City's Planning Division, Planning Commission, and the public the ability to review residential projects based on unique community circumstances and needs and ensures that a site has adequate access to services and resources to support residential use or sustain greater residential density.

The City's review is to ensure that the use of the project, when considered on the basis of the suitability of the site, is arranged to avoid traffic congestion and ensure the protection of public health, safety, and general welfare. The City's review is also intended to prevent adverse effects on neighboring property, facilitate the provision of utility services and other public facilities commensurate with anticipated population, promote the City's historical and natural resources such as oak trees, river areas, and ridgelines, and is in conformity with good zoning practice.

The following four bills propose to preempt local land use authority. The recommendation to oppose these state legislative items is consistent with the City's 2024 Executive and Legislative Platform. Specifically, Component 1 under "State" section advises that the City Council "Oppose legislation that would interfere with, limit, or eliminate the decision-making authority of municipalities in the area of local land use.

Assembly Bill 1886

Introduced by Assembly Member David Alvarez (D-80-San Diego), Assembly Bill 1886 establishes that a Housing Element or an amendment to a Housing Element is substantially compliant only after the State Housing and Community Development Department (HCD) or a court determines the adopted Housing Element or amendment to be in substantial compliance with state law.

Existing state law allows local governments to self-certify their Housing Element by having the local governing body adopt the Housing Element prior to review and ratification by HCD. Under existing state law, if a local government does not have a compliant Housing Element then it may not deny a housing project that is inconsistent with a local government's General Plan or zoning code, resulting in projects that can significantly exceed local density and conflict with local development standards. This is known as the Builder's Remedy.

During the 6th Regional Housing Needs Allocation Cycle, HCD provided revisions to the City's draft Housing Element on three separate occasions, spanning over a two-year period. Each of the phases included 15-20 pages of revisions and each subsequent phase included revisions inconsistent from the previous revisions. During this period of time, the City received nine inquiries related to projects under the Builder's Remedy. Housing and Community Development Department ultimately found the City in compliance, however occurring after over two years and significant staff and consultant resources were invested in this process. Other cities in Southern California experienced similar challenges in obtaining a certified Housing Element through HCD.

Housing and Community Development Department claimed staff turnover and a lack of staff resources for the prolonged review and inconsistency in their requested revisions. As of April 2024, 212 cities out of 598 statewide do not have a compliant Housing Element.

Assembly Bill 1886 passed the Assembly Committee on Appropriations (11-0-4) on May 8, 2024, and is pending an Assembly Floor vote.

Assembly Bill 2243

Introduced by Assembly Member Buffy Wicks (D-14-Oakland), Assembly Bill 2243 expands Assembly Bill 2011, the Affordable Housing and High Road Jobs Act of 2022 (Chapter 647, Statutes of 2022) and amends the site criteria for both affordable housing and mixed-income projects eligible for the streamlined and ministerial review process.

Assembly Bill 2243 expands the Affordable Housing and High Road Jobs Act of 2022 by requiring local governments to approve projects through a streamlined and ministerial process if the project meets the following criteria:

- Converts office buildings into housing units, even if the site is not located along a major commercial corridor;
- Occurs in “regional malls” that exceed 20 acres, but no more than 100 acres;
- Takes place in high-rise districts that are not located along a major commercial corridor; and
- Occurs within 500 feet of freeways and 3,200 feet of oil and gas extraction facilities, as long as those projects utilize specified air filtration.

Additionally, Assembly Bill 2243 makes clarifying changes to Affordable Housing and High Road Jobs Act of 2022, including:

- Clarifies the intersection of Density Bonus Law and Assembly Bill 2011 (Chapter 647, Statutes of 2022), specifically that the affordability requirements of AB 2011 apply to a project’s proposed base units, not any bonus or existing units;
- Clarifies that all aspects of Assembly Bill 2011 (Chapter 647, Statutes of 2022) projects are ministerial and not subject to CEQA; and
- Specifies that any site remediation needs to occur after project approval but before the site can be occupied.

Assembly Bill 2243 passed the Assembly Committee on Appropriations (15-0) on May 8, 2024, and is pending an Assembly Floor vote.

Senate Bill 937

Introduced by Senator Scott Wiener (D-11-San Francisco), Senate Bill 937 restricts local governments from collecting development fees until the certificate of occupancy is issued and requires local governments to approve an extension of development entitlements up to 24 months on affordable housing projects.

The City collects development fees either at the approval of the builder's permit or subdivision map, depending on the project. This is done to allow adequate time in making the infrastructure capacity improvements needed to support the growth in population that comes with the new residential development. Deferring this to the issuance of the certificate of occupancy would delay the needed infrastructure improvements, which could compromise the health and safety of the new community and surrounding areas and detrimentally impact the quality of life for those in and around the new development. Additionally, the delay in collecting development fees could increase the risk that a developer may not have the ability to pay the fees, which would leave cities with a new population without any funds to make the necessary service and capacity improvements.

Senate Bill 937 passed the Senate Housing Committee (9-0-1) on April 16, 2024, and is pending a Senate Floor vote.

Senate Bill 1037

Introduced by Senator Scott Wiener (D-11-San Francisco), Senate Bill 1037 would authorize the Attorney General to seek civil penalties in court against local governments for failure to adopt a compliant Housing Element or if the local government does not follow state laws that require ministerial approval of certain housing projects.

This legislation would seek the following penalties if a local government fails to adopt a compliant Housing Element:

- At a minimum, \$10,000 per month, not exceeding \$50,000 per month, for each violation, accrued from the date of the violation until the violation is cured;
- All costs of investigating and prosecuting this action, including expert fees, reasonable attorney's fees, and costs, whenever the Attorney General prevails; and
- Other relief as the court deems appropriate, including equitable and injunctive relief, provisional or otherwise.

Senate Bill 1037 passed the Senate Judiciary Committee (9-2) on April 23, 2024, and is pending a Senate Floor vote.

Public Safety

Proposition 47 (2014) titled, "The Safe Neighborhoods and Schools Act," reduced penalties for certain property and drug offenses from felonies or wobblers, which could be charged as either a felony or misdemeanor. Under previous state law, shoplifting property worth \$950 or less, a type of petty theft, was a misdemeanor. However, such crimes could also be charged as burglary instead, if the shoplifter intended to shoplift upon entering the store, which could be prosecuted as a felony and sentenced up to three years in prison.

Proposition 47 (2014) was approved by voters (59.6 percent - 40.4 percent) on November 4, 2014, and went into effect on November 5, 2014. However, at the City level, the measure failed with 47.19 percent in favor and 52.81 percent against.

With the approval of Proposition 47 (2014), shoplifting property worth \$950 or less is a misdemeanor, regardless of intent, and holds a sentence of up to one year in county jail and/or a fine up to \$1,000.

According to the Public Policy Institute of California which had researchers testify to the State Assembly Select Committee on Retail Theft, overall felony retail theft increased by 16 percent in 2022 compared to 2019. Commercial robbery, which includes thefts in which force is used or threatened, like some smash-and-grab thefts, increased by 13 percent over the same time period.

The recommendation to support these state legislative items is consistent with the City's 2024 Executive and Legislative Platform. Specifically, Component 2 under the "State" section advises that the City Council, "Support legislative efforts to address the negative impacts of AB 109, Proposition 47, and Proposition 57 on local governments and provide local law enforcement with the appropriate tools to reduce criminal activity."

Assembly Bill 1990

Introduced by Assembly Member Wendy Carrillo (D-39-East Los Angeles), Assembly Bill 1990 authorizes a sworn law enforcement officer to make a warrantless arrest for shoplifting, even if the crime is not committed in their presence, as long as the officer has reasonable cause.

Existing state law allows for a sworn law enforcement officer to arrest a person for committing specified crimes not committed in the officer's presence, including domestic violence, violations of a domestic violence protective or restraining order, or for carrying a concealed firearm within an airport. This legislation adds shoplifting to the list of arrestable crimes without requiring the presence of an officer.

Assembly Bill 1990 passed the Assembly Committee on Public Safety (7-0-1) on April 9, 2024, and is pending an Assembly Floor vote.

Senate Bill 1416

Introduced by Senator Josh Newman (D-29-Fullerton), Senate Bill 1416 creates a sentence enhancement for selling, exchanging, or returning any property acquired through one or more acts of shoplifting, theft, or burglary from a retail business, if the property value exceeds \$50,000.

Commercial burglary has become increasingly dependent on resale operations of stolen goods, most commonly online third-party marketplaces. According to a 2023 report by the National Retail Federation, the median organized retail crime operation handled approximately \$250,000 in stolen merchandise prior to being apprehended by law enforcement.

This legislation seeks to establish sentence enhancements that target large-scale organized retail theft networks.

Senate Bill 1416 passed the Senate Public Safety Committee (5-0) on April 9, 2024, and is pending a hearing in the Senate Appropriations Committee.

ALTERNATIVE ACTION

Other action, as provided by the City Council.

FISCAL IMPACT

The resources required to implement the recommended action are contained within the City of Santa Clarita's adopted FY 2023-24 budget.

ATTACHMENTS

Assembly Bill 1886 - Bill Text

Assembly Bill 1990 - Bill Text

Assembly Bill 2243 - Bill Text

Senate Bill 937 - Bill Text

Senate Bill 1037 - Bill Text

Senate Bill 1416 - Bill Text