DATA COLLECTION BILL: BACKGROUND

This bill adds a number of requirements to the annual progress report that local governments are required to submit to the state Department of Housing and Community Development (HCD) each year, in order to provide more robust data with which to evaluate streamlining measures and the progress of jurisdictions in meeting their share of regional housing need.

Current APR requirements for each city and county:

a) Progress in meeting its share of regional housing needs.
b) Local efforts to remove governmental constraints to the maintenance, improvement, and development of housing.
c) Actions taken by the city or county towards completing programs contained within the housing element and the status of compliance with deadlines in the housing element.
d) Number of housing development applications received in the prior year.
e) Number of units included in all housing development applications in the prior year.
f) Number of units approved and disapproved in the prior year.
g) A list of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the housing element's site inventory, and any additional sites that may be necessary to accommodate the city's or county's share of regional housing need.
h) The number of net new units of housing, with a unique site identifier including but not limited to the parcel number, including both rental housing and for-sale housing, that have been issued a completed entitlement, building permit, or a certificate of occupancy in the housing element cycle, and the income category that each unit of housing satisfies.
i) The number of SB 35 (Wiener, Chapter 366, Statutes of 2017) applications submitted and the location and the total number of developments approved, the number of building permits issued, and the total number of units including both rental and for-sale housing by area median income, through the SB 35 process.

Background: housing elements and APRs. Existing law requires every city and county to prepare a housing element as part of its general plan. This is done every eight years by local governments located within the territory of an MPO and every five years by local governments in rural non-MPO regions. Each community's fair share of housing is determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (1) the Department of Finance and HCD develop regional housing needs estimates; (b) councils of government (COGs) allocate housing within each region based on the estimates; and (c) cities and counties incorporate their allocations into their housing elements. The housing element must contain an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period and are sufficient to provide for the locality's share of the regional housing need for all income levels. Each jurisdiction must submit an APR to HCD documenting its progress toward meeting its RHNA allocation and the plans outlined in its housing element.

Existing law requires cities and counties to report in the APR:

- The location and total number of developments approved pursuant to SB 35.
- The total number of building permits issued pursuant to SB 35.

- The total number of units, including both rental housing and for-sale housing, by AMI, constructed pursuant to SB 35.

This bill would add to the APR the above requirements pursuant to streamlining for permanent supportive housing, streamlining for low-barrier navigation centers, and streamlining for Project Room Key, to the APR.
Existing law (AB 1483 of 2019) requires local governments to post certain information on their websites relating to mitigation fees, zoning ordinances, and development standards. **This bill would add this information to the APR requirement.**
This bill would also require local governments to report in the APR whether an application for a housing development project was submitted under any of the following: ADU or JADU statute, or both; density bonus law and if so, what bonus, concession, or waiver was requested and approved; SB 35; RoomKey; a list of specified CEQA exemptions; and CEQA.

<u>References</u>:

GOV 65913.4 – SB 35 streamlined ministerial approval for certain housing
SB 35 (Wiener, Chapter 366, Statutes of 2017) established a ministerial approval process, not subject to CEQA, for certain multifamily affordable housing projects proposed in local jurisdictions that have not met their RHNA allocation.

GOV 65651 – Streamlining for permanent supportive housing
AB 2162 (Chiu, Chapter 753, Statutes of 2018) provides that supportive housing shall be a use by right in all zones where multifamily and mixed uses are allowed. streamlines affordable housing projects that include supportive housing units and onsite supportive services.

GOV 65662: Streamlining for homeless shelters
AB 101 (Committee on Budget, Chapter 159, Statutes of 2019), among other provisions, defines low-barrier navigation centers as high-quality, low-barrier, service-enriched shelters focused on moving people into permanent housing while connecting them with services. This bill, until January 1, 2027, requires low barrier navigation center developments to be a use by-right, as defined, in areas zoned for mixed uses and nonresidential zones permitting multifamily uses if the development meets certain requirements.

HSC 50675.1.2: CEQA exemption for Project Room Key projects
AB 83 (Committee on Budget, Chapter 15, Statutes of 2020) includes, among other provisions, an exemption from CEQA requirements for Project Room Key projects if certain requirements are met. This exemption applies to initial applications submitted to a city or county on or before April 30, 2021; the exemption sunsets on July 1, 2021.

(AB 83 analysis): California Environmental Quality Act (CEQA) Requirements. Provides an exemption from CEQA requirements for Project Room Key projects if certain requirements are satisfied. Specifies that the exemption applies only to a project for which the initial application to the city, county, or city and county where the project is located was submitted on or before April 30, 2021, and specifies the exemption sunsets on July 1, 2021. The requirements for a project to receive and exemption include:

a) No units were acquired by eminent domain.
b) The units will be in decent, safe, and sanitary condition at the time of their occupancy.

c) *The project proponent shall requires all contractors and subcontractors performing work on the project to pay prevailing wages for any rehabilitation, construction, or alternations.*
d) *The project proponent obtains an enforceable commitment that all contractors and subcontractor performing work on the project will use a skilled and trained workforce for any rehabilitation, construction, or alterations.*
e) *The project proponent submits to the lead agency a letter of support from a county, city, or other local public entity for any rehabilitation, construction, or alteration work.*
f) *Any acquisition is paid for exclusively by public funds.*
g) *The project provides housing units for individuals and families who are experiencing homelessness or who are at risk of homelessness.*
h) *Long-term covenants and restriction require the units to be restricted to persons experiencing homelessness or who are at risk of homelessness, which may include lower income, and very low-income households, for no fewer than 55 years.*
i) *The project does not increase the original footprint of the project structure or structures by more than 10 percent. Any increase to the footprint of the original project structure or structures shall be exclusively to support the conversion to housing for the designated population.*

Note: There does not appear to be a statutory CEQA exemption for HomeKey, though that language is included in the new housing TBL.

GOV 65940.1(a)(1) – reporting of mitigation fee and zoning information
AB 1483 (Grayson, Chapter 662, Statutes of 2019) requires a city, county, or special district that has an Internet Web site to post on their Web sites specified information related to mitigation fees and zoning ordinances and development standards.

(AB 1483 analysis): Requires a city, county, or special district that has an Internet Web site to post on their Web sites the following information, as applicable:

a) *A current schedule of mitigation fees, exactions, and affordability requirements, as defined, imposed by the city, county, or special district, including any dependent special districts of the city or county, applicable to a housing development project, in a manner that clearly identifies the fees that apply to each parcel.*

b) *All zoning ordinances and development standards, including which standards apply to each parcel.*

c) *A list that cities and counties must develop under existing law of projects located within military use airspace or low-level flight path.*

d) *The current and five previous annual fee reports or the current and five previous annual financial reports that local agencies must compile under to existing law.*

e) *An archive of impact fee nexus studies, cost of service studies, or equivalent, conducted by the city, county, or special district on or after January 1, 2018.*

GOV 65852.2 and GOV 65852.22 – Streamlining for ADUs and JADUs

The Legislature has passed a number of bills in recent years to streamline approval of ADUs and JADUs, such as requiring locals to ministerially approve, within 60 days, a building permit to build an ADU or JADU in an area zoned for residential or mixed use. AB 68 (Ting, Chapter 655, Statutes of 2019) explicitly requires a local agency to ministerially approve an ADU or JADU within a proposed or existing structure, or within the same footprint of the existing structure, provided the space has exterior access from the proposed or existing structure and other requirements (such as setbacks) are met. AB 68 also requires ministerial approval of one detached ADU that is within the proposed or existing structure or the same footprint as the existing structure, along with one JADU, that may be subject to specified square footage, height, and setback requirements.

GOV 65915: Density Bonus Law

The Legislature has also passed a number of bills in recent years relating to density bonus law (DBL). Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. DBL allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions (hereafter referred to as incentives); waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards.

CEQA

The California Environmental Quality Act (CEQA) generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible. CEQA applies when a development project requires discretionary approval from a local government agency. If a project is "as of right" (also known as "by right") because it complies with local zoning and planning regulations, CEQA compliance is generally not required. When a local agency has the discretion to approve a project, the agency's CEQA evaluation begins with deciding whether an activity qualifies as a project subject to CEQA review. A "project" is "an activity that may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment undertaken, supported, or approved by a public agency. If a proposed activity is deemed a "project" for the purpose of CEQA review, the agency first decides whether it is exempt from compliance with CEQA under either a statutory exemption or a categorical exemption.

Statutory exemptions are activities the Legislature has excluded from CEQA despite potential environmental impacts. If a project is statutorily exempt, it can be implemented without a CEQA evaluation. In addition to statutory exemption, the Legislature specifically directed the Secretary of the California Natural Resources Agency to designate categorical exemptions from CEQA. Categorical exemptions include projects that do not have a significant impact on the environment, as deemed by the Secretary. The CEQA Guidelines, found in Title 14 of the California Code of Regulations, set forth 33 categorical exemptions covering a wide range of projects, from minor alterations of existing facilities to the construction of certain types of buildings. As with statutory exemptions, if a project is categorically exempt, no formal evaluation is required, and the project can be implemented without a CEQA

evaluation. Despite the creation of new by-right and development streamlining measures that bypass the CEQA process, if a city chooses not to grant the permits – in violation of state law – a developer's only recourse is to sue.

CEQA exemptions

This bill would require local governments to report in the APR whether any housing development projects were submitted pursuant to the following CEQA exemptions:

PRC 21080.50 – CEQA exemption for interim motel conversions
SB 450 (Umberg, Chapter 344, Statutes of 2020) exempts interim motel housing projects from CEQA if the project does not result in the expansion of more than 10% of the floor area of any individual living unit in the structure or does not result in any significant effects relating to traffic, noise, air quality, or water quality. (Sunset January 1, 2025.) This bill would require local governments to report in the APR whether any housing development projects were submitted pursuant to this exemption.

PRC 21081.3 – CEQA exemption for aesthetic impacts of certain infill housing
AB 2341 (Mathis, Chapter 298, Statutes of 2018) eliminates consideration of aesthetic effects under CEQA for specified projects involving the refurbishment, conversion, repurposing, or replacement of existing abandoned, dilapidated, or vacant buildings, provided the new structure does not substantially exceed the height of the existing structure or create a new source of substantial light or glare. (Sunsets January 1, 2024.)

PRC 21094.5 – CEQA streamlining for urban infill housing
SB 226 (Simitian, Chapter 469, Statutes of 2011) provides streamlined CEQA review procedures for a broader set of urban infill projects, including retail, commercial, and public buildings.

PRC 21099 – CEQA exemption for aesthetic and parking impacts of infill projects
SB 743 (Steinberg, Chapter 386, Statutes of 2013) required OPR to propose revisions to the CEQA Guidelines for transportation impacts to better support infill development. This requirement included a provision that aesthetic and parking impacts of residential, mixed-use, and employment center projects on infill sites shall not be considered significant impacts on the environment for purposes of CEQA.

PRC 21155.4 – CEQA exemption for transit oriented housing projects
SB 743 also established a CEQA exemption for residential, mixed-use, and employment center projects located within a half mile of a major transit stop, if the project is consistent with an adopted specified plan.

PRC 21155.1 and 21155.2 – CEQA exemption for transit priority projects
SB 375 (Steinberg, Chapter 728, Statutes of 2008) provides a CEQA exemption for a narrow set of eligible residential projects in infill areas adjacent to transit.

PRC 21159.28 – Streamlining for EIRs for infill housing
SB 375 also provides relief for environmental impact reports required for qualifying infill housing.

PRC 21159.22, 21159.23, and 21159.24 – Affordable Housing Exemption
SB 1925 (Sher, Chapter 1039, Statutes of 2002) established CEQA exemptions for: certain residential projects providing affordable urban or agricultural employee housing; low-income housing projects; and

certain infill housing in urbanized areas, not more than five acres in area and fewer than 100 units. AB 1804 (Berman, Chapter 670, Statutes of 2018) added a limited CEQA exemption for multifamily residential and mixed-use housing projects in unincorporated areas of counties that meet specified conditions, expanding on the existing categorical exemption for infill projects with cities.