

within the same zone except that a local government may apply written, objective standards that include all of the following:

- a) The maximum number of beds or persons permitted to be served nightly by the facility.
- b) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
- c) The size and location of exterior and interior onsite waiting and client intake areas.
- d) The provision of onsite management.
- e) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.
- f) The length of stay.
- g) Lighting.
- h) Security during hours that the emergency shelter is in operation.

This bill:

- 1) Changes the requirements regarding identification of zones and sites for emergency shelters in housing elements, as follows:
 - a) Expands the definition of "emergency shelters" to include other interim interventions, including but not limited to, navigation centers, bridge housing, and respite or recuperative care;
 - b) Requires that zoning designations identified to allow emergency shelters ministerially must allow residential uses;
 - c) Requires the zoning designations that allow emergency shelters to have sufficient sites to accommodate the need for shelters;
 - d) Specifies that the zoning designations where emergency shelters are allowed must include sites that meet at least one of the following standards:
 - i) Vacant sites zoned for residential use;
 - ii) Vacant sites zoned for nonresidential use that allow residential development, if the local government can demonstrate how the sites are connected to amenities and services that serve people experiencing homelessness. Defines "connected to amenities and services" to include, but not be limited to, offering free transportation to services or offering services onsite; and
 - iii) Nonvacant sites zoned for residential use or for nonresidential use that allow residential development that are suitable for redevelopment, provided the sites are adequate and available for use as a shelter in the

current planning period. A nonvacant site with an existing use is presumed to impede emergency shelter development unless the local agency finds that the use is likely to be discontinued during the planning period, as specified.

- e) Narrows the potential development and management standards that a local government can apply to emergency shelters to those written, objective standards already contained in existing law.
- 2) Amends the "no net loss" policy in housing element law to factor in sites that the local government rezoned in the current planning period because they failed to rezone them in the prior planning period.

COMMENTS:

- 1) *Author's statement.* "AB 2339 strengthens the requirements for the identification of sites for homeless shelters and ensures cities are properly rezoning for their fair share of housing. Every day, more people are falling into homelessness than we are able to house. Tackling this humanitarian crisis will take all cities doing their part in helping build emergency shelters and removing the barriers that have delayed the production of much needed housing."
- 2) *Inadequate housing and shelter for California's homeless.* Homelessness in California is no longer confined to urban corridors; it pervades both urban and rural communities across the state and puts stress on local resources, from emergency rooms to mental health and social services programs to jails. The homelessness crisis is driven in part by the lack of affordable rental housing for lower income people. In the current market, 2.2 million extremely low-income and very low-income renter households are competing for 664,000 affordable rental units. Of the 6 million renter households in the state, 1.7 million are paying more than 50% of their income towards rent. The National Low Income Housing Coalition estimates that the state needs an additional 1.5 million housing units affordable to very-low income Californians.
- 3) *Housing elements and approvals generally.* Every city and county in California is required to develop a general plan that outlines the community's vision of future development through a series of policy statements and goals. General plans are comprised of several elements that address various land use topics. Each community's general plan must include a housing element, which outlines a long-term plan for meeting the community's existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its "fair share" of its region's housing needs. To do so, each

community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. State law requires cities and counties to update their housing elements every five or eight years.

Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially, or by-right, require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

- 4) *By-right for shelters in the housing element.* SB 2 (Cedillo, Chapter 633, Statutes of 2007) requires a local government, in its housing element, to accommodate its need for emergency shelters on sites by right, or ministerially and without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. Local governments must treat supportive housing the same as other multifamily residential housing for zoning purposes, and may only apply the same restrictions as multifamily housing in the same zone to supportive housing. Current law is silent as to where these shelters may be located, and as a result, local governments often identify shelters in industrial areas far from services designed to move people experiencing homelessness from the streets and into permanent housing. Additionally, current law does not require a local government to identify zones with sufficient capacity to accommodate emergency shelters. As a result, some emergency shelter zones are not actually capable of accommodating a shelter on any of the identified sites.

This bill clarifies housing element law with regards to where by-right zones for emergency shelters may be identified. Current law is not clear as to the types of standards that a jurisdiction may apply to a shelter project in an identified by right zone. This bill makes it clear that a local government shall only be subject to those development and management standards that apply to residential or commercial development within the same zone, except that a local government

may apply the specified objective standards. Additionally, this bill requires local governments to identify by-right shelters in zones that allow residential uses, including mixed-use. Lastly, this bill requires that an emergency shelter zone must include vacant sites or sites that are adequate for a shelter.

- 5) *No Net Loss*. As discussed above, housing element law requires local governments to plan to accommodate their share of the regional housing need. Throughout the housing element planning period, as housing gets developed, local governments must ensure that there is still capacity to accommodate their share of the regional housing need on sites that have not yet been developed. This requirement is referred to as "Not Net Loss" law. In housing element law, if the city or county failed to zone for its full share of regional housing in the prior planning period, then within the first year of the planning period of the new housing element, the local government must rezone adequate sites to accommodate the amount it failed to zone for in the prior planning period. In housing element law, it is clear that this "carryover portion" that makes up for failure to rezone in the prior housing element is part of what HCD considers the city or county's share of the regional housing. No Net Loss law is ambiguous as to whether local governments need to account for the carryover portion when determining remaining capacity to accommodate growth. This bill rectifies this ambiguity by clearly aligning No Net Loss law with housing element law. Specifically, it requires that local governments must account for the carryover portion when calculating both the amount of housing they must plan for and the amount of capacity that must be available at any given time.
- 6) *Author's amendments*. **Due to timing, the committee may wish to amend the bill with the following author's amendments:**
 - a) **Provide that vacant, non-residential sites may be identified for shelters provided the sites are located near amenities and services that serve people experiencing homelessness**
 - b) **Provide that sites owned by the local government may be identified for shelters provided the local government demonstrates with substantial evidence that the sites will be made available for emergency shelters during the planning period.**
 - c) **Other clarifying changes**
- 7) *Third times the charm*. This bill is substantially similar to two prior bills. The most recent attempt – SB 1138 (Wiener, 2020) – made it back to the house of origin on concurrence, but was not taken up in time before the midnight deadline at the end of the legislative session.

RELATED LEGISLATION:

SB 1138 (Wiener, 2020) — would have made changes to housing element law with regards to where shelters may be zoned, as specified. *This bill failed on the inactive file in the Senate on Concurrence.*

SB 48 (Wiener, 2019) — would have made changes to housing element law with regards to where shelters may be zoned, as specified. *This bill was held in Senate Appropriations.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 8, 2022.)

SUPPORT:

California Rural Legal Assistance Foundation (Co-Sponsor)
Public Interest Law Project (Co-Sponsor)
Western Center on Law & Poverty (Co-Sponsor)
National Association of Social Workers, California Chapter

OPPOSITION:

None received.

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