REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: July 20, 2016

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Sharon M. Tso
Chief Legislative Analyst

Council File No. 15-0002-S189
Assignment No. 16-06-0551

SUBJECT: Resolution (Martinez-Buscaino) to OPPOSE SB 1069 (Wieckowski),which would replace the term 'Second Unit' with 'Accessory Dwelling Units,(ADU)' and prescribes the maximum standards of an ADU.

CLA RECOMMENDATION: Adopt Resolution (Martinez-Buscaino) to include in the City's 2015-16 State Legislative Program OPPOSITION to SB 1069 (Wieckowski), which replace the term 'Second Unit' with 'Accessory Dwelling Units,(ADU),' and prescribes that no parking standards shall be required for second dwelling units located half a mile of public transit, or located within architecturally and historically significant historic districts, thereby undermining local land use control and the concept of 'Home Rule' by the imposition of State legislation on local government agencies, including charter cities.

SUMMARY

On June 7, 2016 a Resolution (Martinez-Buscaino) was introduced in opposition to SB 1069 (Wieckowski), which replace the term 'Second Unit' with 'Accessory Dwelling Units,(ADU)' and prescribes the maximum standards of an ADU. While this change may seem of no consequence, it could create confusion with existing second dwelling unit ordinances already enacted Statewide.

Similar to AB 2299 (Bloom) pending in the State Assembly, SB 1069 would prohibit the imposition of parking requirements if the ADU is located half a mile of public transit, or located within architecturally and historically significant historic districts, potentially detrimentally impacting parking in the City's Historic Preservation Overlay Zones (HPOZs), and causing spillover in many neighborhoods, inasmuch as there are 30 existing HPOZs in the City, and 6 new proposed HPOZs.

League of California Cities letter:

In two letters dated May 10, 2016 and April 15 2016, the League of California Cities recommends opposition to SB 1069 (Wieckowski) ,because it will undermine local land use control, and for the following reasons:

1. The legislation goes beyond the AB 1866 which prescribes the minimum standards of a local ADU ordinance and instead prescribes the maximum standards of an ADU, inasmuch as it proposes to relax parking standards.

2. Enactment into law of SB 1069 could result in rate hikes to existing private and public utility customers, inasmuch as under SB 1069, an ADU cannot be considered a new residential unit for the purposes of calculating utility connecting fees, thereby potentially increasing rate hikes on existing utility customers, and increasing demand for these services.

3. Removes language from existing law that disallows local agencies to adopt an ordinance that prohibits second units, unless the ordinance contains specified Findings.

4. Prohibits cities from requiring parking for a second unit in a historic district or within ½ mile of shopping.

Planning Department comments:

In a July 11, 2016 communication the Planning Department notes that the SB 1069 would not amend the maximum standards that local agencies shall use to evaluate proposed second units on lots zoned for residential use which contain single family dwellings. The Planning Department indicates that additional clarity is needed, and we have followed up on this issue with the California League of Cities, and they have interpreted this provision to mean that the proposed relaxation of parking standards constitutes a change in the existing evaluation standards for a second dwelling unit.

The Planning Department indicates that the Resolution (Martinez-Buscaino) raises the same parking issues identified in AB 2299 (Bloom), and contains provisions that overlap. The Planning Department indicates in its response to AB 2299 that the City already has policies in place that encourage parking reduction near public transit and in proximity to historic districts via the Conditional Use Process.

BACKGROUND

On June 28, 2016, the Planning & Land Use Management Committee approved a draft City Attorney prepared a draft ordinance for the purpose of complying with State law AB 1866 on Second Dwelling Units (Council File No. 14-0057-S8) as follows:

1) Repeals the existing sections of the Municipal Code that allow second dwelling unit by Conditional Use, and therefore the result will be that the State's ministerial development standards as contained in Government Code Section 65852.2(b)(1) would apply to approve second dwelling units.

2) Grandfathers second dwelling units approved or applied for in the City since June 23, 2003, which were approved in reliance of Zoning Administrator Memo 120, or upon the June 23, 2003 Inter-Departmental correspondence issued by the Planning Department and the Department of Building and Safety.

3) Includes an Urgency Clause, so that if adopted by the Council becomes effective upon publication. Ordinances containing an Urgency Clause require a 3/4 vote (12 members) of the Council in order to pass.

The City Attorney report noted that the proposed ordinance would repeal the City's existing second unit ordinance which approved second dwelling units via a Conditional Use Permit (Municipal Code Section 12.24 W 43 and 44). The result of the repeal would be that the State's default ministerial development standards would apply to the approval of second dwelling units.

The proposed ordinance would also 'grandfather' the Second Dwelling Unit (SDU) projects that have been permitted since 2003 by declaring them to be legal non-conforming uses if the permit otherwise complies with all State and local laws. These SDUwere approved in reliance of a Zoning Administrator Memo, Memo #120, or the June 23, 2003 Interdepartmental Correspondence issued by the Planning Department and the Department of Building and Safety which delineated the City's policy and practice regarding SDU's prior to the ZA Memo #120.

DEPARTMENTS NOTIFIED:

City Planning
City Attorney

BILL STATUS:

2/18/16	Introduced
2/25/16	Referred to Committees on Rules.
5/16/16	Read third time. Passed. Ordered to Assembly.
6/30/16	Re-referred to Committee on Appropriations.

Roberto R. Mejia
Analyst

Attachments:

1. Resolution (Martinez-Buscaino)
2. SB 1069 (Wieckowski)
3. League of California Cities May 10, 2016 and April 15, 2016 letters.
4. Communication from the Planning Department dated July 11, 2016.

SMT:rrm

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RULES, ELECTIONS & INTERGOVERNMENTAL RELATI...

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, effective January 1, 2003 AB 1866 amended Government Code §65852.2 *et seq*), mandating ministerial consideration of the creation of second dwelling units by local governments with an Accessory Dwelling Unit ordinance; and

WHEREAS, the intent of AB 1866 is to encourage the creation of accessory dwelling units (ADUs), also known as 'granny flats,' in single family and multi-family residential zones, there are also detrimental land use and public utility impacts associated with their construction; and

WHEREAS, pending consideration in the Legislature is SB 1069 (Wieckowski), which would replace the term 'second unit' with 'accessory dwelling units' and differs from existing law (AB 1866) which prescribes the minimum standards of an ADU, and instead it prescribes the maximum standards of an ADU thereby undermining local land use control; and

WHEREAS, SB 1069 would prohibit the imposition of parking standards if an ADU is located half a mile of public transit, or located within an architecturally and historically significant historic district, potentially impacting parking in the City's Historic Preservation Overlay Zones (HPOZs); and

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program OPPOSITION to SB 1069 (Wieckowski), which would replace the term 'Second Unit' with 'Accessory Dwelling Units' (ADUs), and differs from the State's existing Second Dwelling Unit law (AB 1866, Government Code §65852.2 *et seq*) which prescribes the minimum standards of an ADU, and instead it prescribes the maximum standards of an ADU, thereby undermining local land use control.

PRESENTED BY: _____
NURY MARTINEZ
Councilwoman, 6st District

SECONDED BY: _____

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Office of the City Clerk, City of Los Angeles

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Council File Number
15-0002-S189

Title
SB 1069 (Wieckowski) / Second Unit / Accessory Dwelling Units

Last Change Date
06/07/2016

Expiration Date
06/07/2018

Pending in committee
Rules, Elections, Intergovernmental Relations and Neighborhoods Committee

Mover
NURY MARTINEZ

Second
JOE BUSCAINO

Action History for Council File 15-0002-S189

Date	Activity
06/07/2016	Resolution referred to Rules, Elections, Intergovernmental Relations and Neighborhoods Committee.

AMENDED IN ASSEMBLY JUNE 16, 2016

AMENDED IN SENATE APRIL 26, 2016

AMENDED IN SENATE APRIL 13, 2016

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL No. 1069

Introduced by Senator Wieckowski
(Coauthor: Assembly Member Atkins)

February 16, 2016

An act to amend Sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1069, as amended, Wieckowski. Land use: zoning.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified. That law makes findings and declarations with respect to the value of 2nd units to California's housing supply.

This bill would replace the term "second unit" with "accessory dwelling unit" throughout the law. The bill would ~~add to those findings and declarations~~ *additionally find and declare* that, among other things, allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock and these units are an essential component of housing supply in California.

The Planning and Zoning Law authorizes the ordinance for the creation of 2nd units in single-family and multifamily residential zones to include specified provisions regarding areas where accessory dwelling

units may be located, standards, including the imposition of parking standards, and lot density. Existing law, when a local agency has not adopted an ordinance governing 2nd units as so described, requires the local agency to approve or disapprove the application ministerially, as provided.

This bill would instead require the ordinance for the creation of accessory dwelling units to include the provisions described above. The bill would prohibit the imposition of parking standards under specified circumstances. The bill would revise requirements for the approval or disapproval of an accessory dwelling unit application when a local agency has not adopted an ordinance. The bill would also require the ministerial approval of an application for a building permit to create an accessory dwelling unit within the existing space of a single family residence or accessory structure, as specified.

By increasing the duties of local officials, this bill would impose a state-mandated local program.

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 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 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).

SEC. 2. Section 65583.1 of the Government Code is amended to read:

65583.1. (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow a city or county to identify sites for accessory dwelling units based on the number of accessory dwelling units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility

of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the

amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, or the relocation is otherwise provided prior to displacement either as a condition of receivership, or provided by the property owner or the local government pursuant to Article 2.5 (commencing with Section 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, or as otherwise provided by local ordinance; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been found by the local government or a court to be unfit for human habitation due to the existence of at least four violations of the conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located either on foreclosed property or in a multifamily rental or ownership housing complex of three or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

(i) The unit is made available for rent at a cost affordable to low- or very low income households.

(ii) At the time the unit is identified for acquisition, the unit is not available at an affordable housing cost to either of the following:

(I) Low-income households, if the unit will be made affordable to low-income households.

(II) Very low income households, if the unit will be made affordable to very low income households.

(iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households or if the acquired unit is occupied, the local government has committed to provide relocation assistance prior to displacement, if any, pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants displaced by the conversion, or the relocation is otherwise provided prior to displacement; provided the assistance includes not less than the equivalent of four months' rent and moving expenses and comparable replacement housing consistent with the moving expenses and comparable replacement housing required pursuant to Section 7260.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low- or very low income for not less than 55 years.

(vi) For units located in multifamily ownership housing complexes with three or more units, or on or after January 1, 2015, on foreclosed properties, at least an equal number of new-construction multifamily rental units affordable to lower income households have been constructed in the city or county within the same planning period as the number of ownership units to be converted.

(C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

(i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to, and reserved for occupancy by, persons of the same or lower income group as the current occupants for a period of at least 40 years.

(ii) The unit is within an "assisted housing development," as defined in paragraph (3) of subdivision (a) of Section 65863.10.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, "committed assistance" means that the city or county enters into a legally enforceable

agreement during the period from the beginning of the projection period until the end of the second year of the planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. "Committed assistance" does not include tenant-based rental assistance.

(5) For purposes of this subdivision, "net increase" includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.

(6) For purposes of this subdivision, "the time the unit is identified" means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

(7) In the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to

complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

(d) A city or county may reduce its share of the regional housing need by the number of units built between the start of the projection period and the deadline for adoption of the housing element. If the city or county reduces its share pursuant to this subdivision, the city or county shall include in the housing element a description of the methodology for assigning those housing units to an income category based on actual or projected sales price, rent levels, or other mechanisms establishing affordability.

SEC. 3. Section 65589.4 of the Government Code is amended to read:

65589.4. (a) An attached housing development shall be a permitted use not subject to a conditional use permit on any parcel zoned for an attached housing development if local law so provides or if it satisfies the requirements of subdivision (b) and either of the following:

(1) The attached housing development satisfies the criteria of Section 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

(2) The attached housing development meets all of the following criteria:

(A) The attached housing development is subject to a discretionary decision other than a conditional use permit and a negative declaration or mitigated negative declaration has been adopted for the attached housing development under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). If no public hearing is held with respect to the discretionary decision, then the negative declaration or mitigated negative declaration for the attached housing development may be adopted only after a public hearing to receive comments on the negative declaration or mitigated negative declaration.

(B) The attached housing development is consistent with both the jurisdiction's zoning ordinance and general plan as it existed on the date the application was deemed complete, except that an attached housing development shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the attached housing development site has not been rezoned to conform with the most recent adopted general plan.

(C) The attached housing development is located in an area that is covered by one of the following documents that has been adopted by the jurisdiction within five years of the date the application for the attached housing development was deemed complete:

(i) A general plan.

(ii) A revision or update to the general plan that includes at least the land use and circulation elements.

(iii) An applicable community plan.

(iv) An applicable specific plan.

(D) The attached housing development consists of not more than 100 residential units with a minimum density of not less than 12 units per acre or a minimum density of not less than eight units per acre if the attached housing development consists of four or fewer units.

(E) The attached housing development is located in an urbanized area as defined in Section 21071 of the Public Resources Code or within a census-defined place with a population density of at least 5,000 persons per square mile or, if the attached housing development consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.

(F) The attached housing development is located on an infill site as defined in Section 21061.0.5 of the Public Resources Code.

(b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost to moderate-income households, consistent with Section 50052.5

of the Health and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.

(c) Nothing in this section shall prohibit a local agency from applying design and site review standards in existence on the date the application was deemed complete.

(d) The provisions of this section are independent of any obligation of a jurisdiction pursuant to subdivision (c) of Section 65583 to identify multifamily sites developable by right.

(e) This section does not apply to the issuance of coastal development permits pursuant to the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(f) This section does not relieve a public agency from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66473)).

(g) This section is applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is of vital statewide importance, and thus a matter of statewide concern.

(h) For purposes of this section, "attached housing development" means a newly constructed or substantially rehabilitated structure containing two or more dwelling units and consisting only of residential units, but does not include an accessory dwelling unit, as defined by paragraph (4) of subdivision (i) of Section 65852.2, or the conversion of an existing structure to condominiums.

SEC. 4. Section 65852.150 of the Government Code is amended to read:

65852.150. (a) The Legislature finds and declares all of the following:

(1) Accessory dwelling units are a valuable form of housing in California.

(2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the

disabled, and others, at below market prices within existing neighborhoods.

(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

(4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

(5) California faces a severe housing crisis.

(6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

(7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

(8) Accessory dwelling units are, therefore, an essential component of California's housing supply.

(b) It is the intent of the Legislature that an accessory dwelling unit-ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.

SEC. 5. Section 65852.2 of the Government Code is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit, and standards that

prevent adverse impacts on any real property that is listed in the California Register of Historic Places. ~~However, notwithstanding subdivision (d), a local agency shall not impose parking standards for an accessory dwelling unit in any of the following instances:~~

~~(i) The accessory dwelling unit is located within one-half mile of public transit or shopping.~~

~~(ii) The accessory dwelling unit is located within an architecturally and historically significant historic district.~~

~~(iii) The accessory dwelling unit is part of the existing primary residence.~~

~~(iv) When on-street parking permits are required, but not offered to the occupant of the accessory dwelling unit.~~

~~(v) When there is a car share vehicle located within one block of the accessory dwelling unit.~~

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 90 days of submittal of a complete building permit application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of accessory dwelling units.

(b) (1) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) within 90 days after receiving the application. Notwithstanding Section

65901 or 65906, every local agency shall ministerially approve the creation of an accessory dwelling unit if the accessory dwelling unit complies with all of the following:

(A) The unit is not intended for sale separate from the primary residence and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The accessory dwelling unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area.

(F) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building code requirements that apply to detached dwellings, as appropriate.

(I) Approval by the local health officer where a private sewage disposal system is being used, if required.

(2) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed accessory dwelling units on lots zoned for residential use that contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(4) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of accessory dwelling units if these provisions are consistent with the limitations of this subdivision.

(5) An accessory dwelling unit that conforms to this subdivision shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not otherwise permit at least a 500-foot accessory dwelling unit or a 500-foot efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway. Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon fire and life safety conditions. This subdivision shall not apply to a unit that ~~complies with paragraph (1) of subdivision (b).~~ *is described in subdivision (e).*

(e) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit or shopping.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

~~(e)~~

(f) Notwithstanding subdivisions (a) to ~~(d),~~ *(e),* inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

~~(f)~~

(g) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000). Accessory dwelling units shall not be considered new residential uses for the purposes of calculating private or public utility connection fees, including water and sewer service.

~~(g)~~

(h) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of accessory dwelling units.

~~(h)~~

(i) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

~~(i)~~

(j) As used in this section, the following terms mean:

(1) "Living area," means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on

the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

~~(j)~~

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for second units.

SEC. 6. Section 66412.2 of the Government Code is amended to read:

66412.2. This division shall not apply to the construction, financing, or leasing of dwelling units pursuant to Section 65852.1 or accessory dwelling units pursuant to Section 65852.2, but this division shall be applicable to the sale or transfer, but not leasing, of those units.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB 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

CURRENT BILL STATUS

MEASURE : S.B. No. 1069
AUTHOR(S) : Wieckowski (Coauthor: Assembly Member Atkins).
TOPIC : Land use: zoning.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 06/16/2016

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/30/2016
LAST HIST. ACTION : From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 2.) (June 29). Re-referred to Com. on APPR.
COMM. LOCATION : ASM LOCAL GOVERNMENT

TITLE : An act to amend Sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2 of the Government Code, relating to land use.

COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 1069
AUTHOR : Wieckowski
TOPIC : Land use: zoning.

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY
2016
June 30 From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 2.) (June 29). Re-referred to Com. on APPR.
June 16 Read second time and amended. Re-referred to Com. on L. GOV.
June 15 From committee: Do pass as amended and re-refer to Com. on L. GOV. (Ayes 6. Noes 0.) (June 15).
May 27 Referred to Coms. on H. & C.D. and L. GOV.
May 16 In Assembly. Read first time. Held at Desk.
May 16 Read third time. Passed. (Ayes 29. Noes 3. Page 3872.) Ordered to the Assembly.
May 10 Read second time. Ordered to third reading.
May 9 From committee: Be ordered to second reading pursuant to Senate Rule 28.8.
Apr. 29 Set for hearing May 9.
Apr. 26 Read second time and amended. Re-referred to Com. on APPR.
Apr. 25 From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 6. Noes 0. Page 3616.) (April 20).
Apr. 20 From committee: Do pass and re-refer to Com. on GOV. & F. (Ayes 10. Noes 1. Page 3616.) (April 19). Re-referred to Com. on GOV. & F.
Apr. 14 Set for hearing April 20 in GOV. & F. pending receipt.
Apr. 13 From committee with author's amendments. Read second time and amended. Re-referred to Com. on T. & H.
Apr. 12 Set for hearing April 19.
Apr. 7 Re-referred to Coms. on T. & H. and GOV. & F.
Apr. 6 From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
Feb. 25 Referred to Com. on RLS.
Feb. 17 From printer. May be acted upon on or after March 18.
Feb. 16 Introduced. Read first time. To Com. on RLS. for assignment. To print.

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********FLOOR ALERT********

DATE: May 10, 2016

TO: Members, California State Senate

FROM: Kendra Harris, Legislative Representative
(916) 658--8250

RE: **SB 1069 (Wieckowski)** *(as amended 4/26/16)*
Request for NO Vote

The League of California Cities urges your NO vote on Senate Bill 1069 by Senator Wieckowski, which would further restrict a local agency's ability to impose requirements on second units, which would be renamed "accessory dwelling units."

SB 1069 is so prescriptive that it removes any local land use flexibility and limits the public engagement process. The measure departs significantly from existing law which prescribes the minimum standards of a local ordinance of an ADU and instead prescribes the maximum standards of an ADU thereby removing all local land use flexibility.

In addition, this measure could result in rate hikes to existing private and public utility customers. Under SB 1069, an ADU cannot be considered a new residential unit for purposes of calculating utility connection fees. The cumulative impact of thousands of new units on a water or sewer system could create financial strains for utility agencies resulting in rate hikes on existing customers who have already paid their fair share to be part of that system.

Local governments must balance competing priorities when determining the conditions attached to the development of accessory dwelling units. Working with residents of our communities, cities must look at the potential impacts on the community that result from these units, such as, impaired neighborhood character, spillover effects on nearby homes and businesses due to inadequate parking, and loss of privacy for existing homeowners.

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April 15, 2016

The Honorable Bob Wieckowski
California State Senate
State Capitol, Room 3086
Sacramento, CA 95814

RE: SB 1069 (Wieckowski) Land Use: Zoning
Notice of Opposition, As Amended 4/13/16

Dear Senator Wieckowski:

The League of California Cities is writing to register our opposition to Senate Bill 1069 (Wieckowski). This bill requires an ordinance for the creation of accessory dwelling units (ADUs) to include specified provisions regarding areas where ADUs may be located, standards, and lot density. This bill would revise requirements for the approval or disapproval of an ADU application when a local agency has not adopted an ordinance.

This measure removes local authority to prohibit second units. Under existing law, a local government can prohibit if they make very strict findings. This is a significant change in law. Secondly, this measure requires that cities approve second units in a second family home. Lastly, the bill prohibits cities from requiring parking for a second unit in a historic district or within ½ mile of shopping. All of these provisions remove local control over the approval of secondary units.

For these reasons we must oppose this measure. If you have any questions regarding the League's position on this bill, please call me at (916) 658-8250.

Sincerely,

Kendra Harris
Legislative Representative

Cc: Members, Senate Transportation and Housing Committee
Members, Governance and Finance Committee
Alison Dinmore, Consultant, Senate Transportation and Housing Committee
Anton Favorini-Csorba, Consultant, Senate Governance and Finance
Doug Yoakam, Senate Republican Caucus Consultant
Ryan, Eisberg, Senate Republican Caucus Consultant

Roberto Mejia <roberto.mejia@lacity.org>

AB 2299 motion

1 message

Claire Bowin <claire.bowin@lacity.org> Mon, Jul 11, 2016 at 11:28 AM
To: Roberto Mejia <roberto.mejia@lacity.org>
Cc: Matthew Glesne <matthew.glesne@lacity.org>

Roberto

Thanks for letting DCP provide you text to assist you in preparing a response to the two motions introduced last June by Councilpersons Martinez and Buscaino in regards to SB 1069 and AB 2299.

Please see our suggested language attached.

--
Thanks,

Claire

Claire Bowin, Senior City Planner
Policy Planning and Historic Resources Division
Citywide Section
City Hall,Room 272
213.978.1213

Please note my work schedule is five days/week

DCP comments on proposed resolution (1).docx
16K

SB 1069 (Wieckowski) – Second Dwelling Unit (SDU)

Issues Raised in the Resolution

1. **Minimum Standards vs. Maximum Standards –** The resolution states that the proposed law would differ from current law in that it prescribes the maximum standards for a SDU, rather than minimum standards in current law.

   Analysis: It is not clear what exactly the resolution is referring to on this point. Current law makes clear that it is meant to establish a set of *maximum standards* that local agencies shall use to evaluate proposed second units on lots zoned for residential use which contain an existing single-family dwelling (65852.2 (b)(3))). The proposed law would not amend this provision. Additional clarity is needed.

2. **Parking –** The resolution raises the same parking issues identified in the AB 2299 bill. The bill contains provisions that overlap. Please see the discussion contained in that analysis.