

TOWNSEND

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MEMO

To: City of Cupertino
Legislative Review Committee

From: Townsend Public Affairs, Inc.

Date: February 26, 2021

Subject: Consider adopting a position on Senate Bill 7 – Jobs and Economic Improvement Through Environmental Leadership Act of 2021

Summary

SB 7 (Atkins) would extend the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 (the Act) for four years, until January 1, 2026. Additionally, the measure makes housing projects that meet certain requirements, including affordable housing requirements, eligible for certification under the Act.

In order to be eligible for expedited judicial review of CEQA challenges afforded under the Act, a housing project must:

- Be located on an infill site.
- Be consistent with the general use designation, density, building intensity, and applicable policies specified in either a sustainable communities strategies or an alternative planning strategy.
- Result in a minimum investment of \$15 million, but less than \$100 million, upon completion.
- Contain at least 15% affordable housing.
- Require, upon completion of the housing development project, the lead agency or applicant to notify the Office of Planning and Research of the number of housing units and affordable units established by the project.

To date, ten of the nineteen projects that applied as Environmental Leadership Development Projects (ELDP) have included a housing component. These projects range in size from 210 residential units (West Yucca project in Los Angeles) to 3,000 residential units (Oakland Athletics Stadium project). As of yet, none of the ten projects have been completed.

According to the Senate Environmental Quality Committee, “SB 7 adds a new category of projects that could qualify for AB 900 certification – smaller affordable housing projects. To qualify, the project must, among other things, be located on an infill site, be consistent with a sustainable communities strategy or alternative planning strategy, have at least 15% of the project be dedicated to affordable housing, and must result in a minimum investment of \$15 million in California. In comparison, ELDP residential projects were subject to LEED Gold, did not have a minimum affordable housing requirement, and were required to result in \$100 million investment in California. By lowering the investment requirement, removing the LEED component thereby

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lowering environmental standards, and imposing a minimum affordable housing requirement, SB 7 provides an incentive for the development of affordable housing projects.”

SB 7 is substantially similar to SB 995 (Atkins) from the 2020 legislative session. The City adopted a support if amended position on SB 995.

The City’s letter on SB 995 indicated, “The City’s concern with SB 995 is that lowering the minimum investment level to \$15 million may not be the appropriate amount, particularly in areas of the state that have high land values. In Cupertino, a \$15 million investment could result in a development with as few as 15 units. Additionally, in cities that have minimum affordability requirements, like Cupertino, this bill does not require a housing development to contain any affordable housing beyond what would otherwise be required under local ordinances.

We would request that you considered strengthening SB 995 by requiring a housing development to create additional affordable housing, beyond what is required locally, to be eligible for expedited judicial review of CEQA. Similarly, we would request that you consider amending the bill to provide a sliding investment scale based on regional economic conditions. The City believes that both amendments would ensure that to take advantage of the streamlined judicial review of CEQA, a project must include a meaningful amount of affordable housing.”

Status

SB 7 was introduced on December 7th. The measure has been referred to the Senate Environmental Quality Committee. The bill is scheduled to be considered by the Committee on February 22nd.

Support

Supporters of SB 7 include: Bay Area Council, Building and Construction Trades Council, California Assn of Realtor, California Labor Federation, California State Council of Laborers, City of San Diego, City of San Jose, Facebook, Google, numerous local trades unions, Santa Clara & San Benito Counties Building & Construction Trades Council, Silicon Valley Leadership Group, and TechEquity Collaborative.

Opposition

There is no official opposition yet registered to SB 7.

Recommended Action

A) Adopt a support if amended position on SB 7 and authorize the Mayor to send letters to the state legislature, unless the City Council decides to place this bill on a future Council agenda to consider as the full Council;

Or B) Make a recommendation that the City Council take a support if amended position on SB 7.