

## 2021 Legislative Session Summary

On September 10, 2021, the California State Legislature adjourned session for the year before the clock hit 9:00 p.m.—the earliest session has adjourned in recent history. This unexpected ending capped a legislative session filled with unique developments and continuing surprises for even the most seasoned political followers, including a record \$75 billion budget surplus, a distracting gubernatorial recall effort, and a resurgent pandemic. After being critiqued for the quality of their work product in the COVID-19-impacted 2020 Session—when major bills failed due to a midnight procedural deadline—legislators returned in 2021 determined to address a variety of issues including housing/land use, police reform, and broadband access.

### Housing/Land Use

California’s reduced housing production levels stem from numerous market, financial, and resource issues, which include: builders profiting more from the upper-income markets, tighter mortgage underwriting criteria, the elimination of redevelopment, reduced affordable housing subsidies, increased material costs, lack of skilled labor, and many environmental, water, and other resource constraints. Yet, despite these other contributing factors, legislators continue to focus most of their legislative efforts on local land use authority. Several of this year’s most controversial housing bills made their way to the Governor’s desk prior to the last day of session, including:

#### ***SB 9 (Atkins)***

Easily the most controversial measure facing local government and their residents, SB 9 rezones single-family neighborhoods to allow both duplex development and lot splits, subject to ministerial permitting without public hearings or compliance with California Environmental Quality Act (CEQA). This bill is a reintroduction of last year’s SB 1120 (Atkins), which stalled at the end of the 2020 session due to time constraints. Initial versions of SB 9 contained vague and confusing language that, when combined with state Accessory Dwelling Unit (ADU) law, could potentially have allowed up to 10 units on a parcel. [RPPG shared a comprehensive and footnoted analysis prepared by RPPG’s Senior Policy Advisor, Dan Carrigg, that broke down each section of the bill and its implications.](#) This analysis was distributed with RPPG clients, lawmakers, and committee staff, and contributed to some tightening of the language, that limited total units to potentially five. After months of significant pressure, SB 9 was amended again with a month left of the legislative session. The key amendments included:

- **Owner Occupancy Requirement** – Extending an owner-occupancy requirement associated with a lot-split from one to three years and removing the previous five-year sunset to this provision.
- **Local Building Official Review** – Authorizing denials where a local building official finds, based upon a preponderance of evidence, that the proposed duplex development or lot split would have an adverse impact on public health, safety, or the physical environment that cannot be mitigated.

This bill was signed by the Governor on September 16, 2021. Implementation will likely generate significant controversy due to vague language and lack of due process for property owners affected by these developments.

***SB 10 (Wiener)***

This bill “authorizes” a city/county to overrule its existing zoning, provisions of a voter initiative, environmental analysis under CEQA, and rezone urban parcels (including those in single-family zones) to allow for ten units (plus additional ADUs). Parcels in fire hazard zones can also be rezoned by the authority if the project complies with applicable building standards. This bill was signed by the Governor on September 16, 2021.

***SB 8 (Skinner)***

Extends the sunset date from January 1, 2025, to January 1, 2030, of the Housing Crisis Act of 2019, which limited local discretion and timelines associated with considering development applications, this bill essentially “freezes” in place all local zoning and other requirements related to housing as of January 1, 2018. SB 8 also expands on the definition of “housing development project” to include both discretionary and ministerial projects, as well as projects to construct single dwelling units, and states that the receipt of a density bonus is not a basis for finding a project out of compliance with local zoning rules. Amendments added toward the end of session extend the application of new zoning ordinances and requirements on lower-income affordable housing projects 3 ½ years from the date the application receives final approval. Also, this bill requires local voter initiatives to include provisions that concurrently offset any reductions in net residential capacity within the proposed initiative and makes other related changes. This bill was signed by the Governor on September 16, 2021.

***AB 215 (Chiu)***

This bill was amended twice in the last weeks of session to include significant policy changes that were never properly analyzed or debated in a policy committee. Earlier versions of the bill attempted to make local governments responsible for actual housing production. Those provisions were removed and replaced with provisions that expand the authority of both the Attorney General and the Department of Housing and Community Development (HCD) to sue local governments over a long list of housing laws. Amendments also limit the time available to local agencies to complete their housing elements, by requiring a new 40-day process of public review prior to HCD accepting an element. These new public review provisions apply to any local agency that is required to submit a housing element after January 1, 2022, but will not apply to agencies with earlier due dates. Despite these significant last-minute changes, AB 215 passed with few legislators opposing.

***AB 989 (Gabriel)***

Had this bill not stalled it would have established an Office of Housing Appeals in the California Department of Housing and Community Development (HCD) and would establish procedures by which an applicant who proposes a housing development project pursuant to the Housing Accountability Act (HAA) may appeal a local agency’s decision on the project application to the appeals committee. Essentially it would have offered a developer-friendly venue for disputes, rather than a neutral court. With other bills such as SB 9 taking priority, AB 989 went under the radar. Ultimately, however, after a concerted effort to raise concerns about the potential impacts, the bill was placed on the Senate Inactive File.

### ***AB 1401 (Friedman)***

Another contentious bill that stalled was AB 1401 by Assemblymember Friedman, which would have prohibited public agencies from enforcing any minimum parking requirements for a commercial, residential, or other development if located within one half mile of public transit. This bill was held on the Senate Appropriation Suspense File.

### **Police Reform**

Several incidents involving law enforcement have resulted in the desire to address the need for police reform. After a series of high-profile measures to address police reform stalled last year at the end of session, reform-minded Democrats renewed their efforts in 2021, furthered by a commitment by Senate Pro Tempore Toni Atkins who pledged to make police reform a legislative priority for 2021.

### ***SB 2 (Bradford)***

SB 2 was clearly the most controversial public safety measure debated this year. SB 2, as introduced, would give the state's Commission on Peace Officer Standards and Training (POST) the power to decertify an officer for wrongdoing. California is one of four states who do not have a decertification process for police officers. It also created an advisory board made up of mostly civilians, without policing experience, to investigate serious misconduct allegations and make recommendations to the commission on whether to revoke an officer's certification. After much scrutiny and concern from fellow lawmakers, the author agreed to take amendments. Under the revised bill, California's POST would be empowered to strip an officer's certification, but only on a two-thirds vote and after an advisory board recommended the action.

### ***SB 16 (Skinner)***

This bill expands the categories of police personnel records that are subject to disclosure under the California Public Records Act (CPRA) and modifies existing provisions regarding the release of records subject to disclosure that were authorized under SB 1421 (Skinner) from 2018. The bill includes significant privacy protections that permit the redaction of the identifying information of victims, witnesses, and complainants.

### ***AB 89 (Jones-Sawyer)***

This bill would require the Office of the Chancellor of the California Community Colleges to develop a modern policing degree program, with the commission and other stakeholders to serve as advisors, and to submit a report on recommendations to the Legislature outlining a plan to implement the program on or before June 1, 2023. This bill also increases the minimum qualifying age from 18 to 21 years of age for peace officers.

### **Brown Act**

As part of the state's initial response to the coronavirus pandemic, Governor Newsom issued Executive Order N-25-20, which authorized local legislative bodies to hold public meetings via teleconference and waived some legal requirements for teleconference meetings under the Brown Act. Public agencies, as well as members of the public, have gotten used to a level of convenience and flexibility offered by teleconference meetings, and two specific bills sought to address these issues.

***AB 339 (Lee)***

The legislation originally called on local agencies when conducting meetings to ensure call-in and internet-based options via Zoom or another platform for all public meetings. It also mandated that meetings have closed captioning and translators/translation services available.

After significant opposition from a large coalition of local agencies including cities, counties, hospital districts, and community colleges, the bill was scaled down to only require remote participation options for local jurisdictions with populations of more than 250,000. There are no language translation or closed captioning requirements, and the bill has a sunset clause that will make requirements obsolete in 2023.

***AB 361 (Rivas, Robert)***

Sponsored by the California Special District’s Association, this bill allows local agencies to continue to meet remotely for as long as the state’s COVID-19 emergency order is continued. Late amendments added a sunset date to allow local agencies under the Brown Act to meet remotely under **any** statewide emergency declaration until January 1, 2024 and applies similar provisions for state agencies under the Bagley-Keene Act until January 31, 2022. Amendments included an urgency clause, allowing the bill to go into effect immediately upon the Governor’s signature. **This bill was signed by the Governor on September 16, 2021.**

**Governor Newsom’s Executive Order to allow for remote public meetings will expire on September 30, 2021. RPPG collaborated with our legal colleagues at [RPLG](#) to provide local agencies the necessary background and next steps for both AB 339 (Lee) and AB 361 (Rivas). That article can be found [here](#).**

**Broadband**

This year, historic investments were made through the State Budget with \$6 billion allocated to support broadband infrastructure development. The pandemic placed a spotlight on the challenges created by inequitable access to internet technology, which hinders the education of students, particularly those in low-income or rural areas, and effectively bars families from taking proper advantage of everything from accessing telehealth, online banking, and government services. The coalition in support of increased broadband access included not only broadband providers but the California School Board Association and other education groups.

In addition, there were several other bills that sought to expand the siting of wireless equipment and broadband access.

***SB 556 (Dodd)***

This bill would preempt local authority and expand the types of public infrastructure that must be made available to place small wireless facilities to include light poles and traffic signal poles, among others. This bill is on the Governor’s desk and is similar to SB 649, a bill vetoed by Governor Brown four years ago.

### ***AB 14 (Aguiar-Curry)/SB 4 (Gonzalez)***

These bills extend the California Advanced Services Fund (CASF) program to encourage deployment of broadband service to unserved Californians and expand projects eligible for CASF grants managed by the Public Utilities Commission (PUC).

### **COVID-19 VACCINATION REQUIREMENTS**

During the end of session rush, two attempts were made to introduce legislation to mandate vaccinations in the workplace. The measures would have been introduced through the “gut and amend” process when lawmakers essentially create a new bill without having to start the entire legislative process from scratch.

The first proposal required people to prove they’re fully vaccinated against COVID-19 to enter indoor businesses and force workers to either get the shots or be regularly tested. That proposal, which would have been AB 455, is dead for the year. Assembly Member Buffy Wicks, D-Oakland, pledged to reintroduce similar legislation in January 2022, as she continues to negotiate with stakeholders from both the business and labor communities.

Proposed amendments for AB 1102 (Low) would have established legal protections for employers that mandate the vaccine for their workers or require them to be regularly tested for COVID-19. The proposal aimed to deter lawsuits from employees or job applicants who seek to file discrimination claims against businesses with COVID-19 vaccine rules. Although the coalition originally backing the bill included some of the most high-profile and powerful business organizations in the state, including the California Chamber of Commerce, negotiations broke down and the bill failed to be amended and moved forward.

### **Budget**

The 2021 budget session was like no other in legislative history and budget priorities closely mirrored those policy areas highlighted above. In May, the Governor announced an unprecedented \$75.7 billion budget surplus. This surplus allowed for massive one-time investments to mitigate the impacts COVID-19 has had on the economy, schools, and the public health care system, and advance other policy priorities. Major budget allocations include:

- **Housing and Homelessness**
  - \$12 billion in new funding for homelessness programs over the next two years
  - \$1 billion in support for local governments to address homelessness in both 2021-22 and 2022-23
  - \$3 billion for the creation and preservation of affordable housing
  - \$300 million General Fund one-time for the Home Safe Program, over two years, to help combat senior homelessness
  - \$380 million one-time for the CalWORKs Housing Support Program, over two years, to house families in the program and help them avoid eviction
  
- **Drought, Wildfire Preparedness and Climate Resiliency**

- \$200M annual continuous appropriation from Greenhouse Gas Reduction Fund (GGRF) for wildfire and forest resiliency activities
  - Establishes annual reporting requirements for programs related to wildfire and forest resilience funded in the 2020 and 2021 budget acts
  - Streamlines CEQA review process for wildfire-related projects
  - Extends the water shutoff moratorium date to December 31, 2021
- **Broadband Infrastructure and Transportation**
    - \$6 billion over a multi-year period for broadband infrastructure and improved access to broadband services throughout the state, including \$3.75 billion for middle-mile infrastructure in unserved communities
    - \$350 million for the transportation adaptation grant program
    - \$328 million for a variety of beautification and improvement projects along the state highway system and local streets and roads

Now that Governor Newsom has defeated recall efforts, he has until October 10 to sign or veto the nearly 700 bills pending on his desk. Any bill that includes an urgency clause will go into effect immediately upon the Governor's signature. All other bills will go into effect on January 1, 2022, unless stated otherwise in the legislation.

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