



June 24, 2021

Assembly Member Cecilia Aguiar-Curry  
Chair, Assembly Local Government Committee  
1020 N Street, Room 157  
Sacramento, California 95814

**RE: SB 10 (Wiener et al.) Oppose Unless Amended**

Dear Chair Aguiar-Curry,

The undersigned organizations, write to express our opposition to SB 10, unless amended to address significant concerns with the bill.

We greatly support the authors' efforts to increase densities in urban areas and we thank the authors for their attention to this important issue amid California's escalating affordable housing crisis. However, we have very strong concerns regarding multiple aspects of the proposed approach.

First, while we sympathize with the need to revisit outdated voter-approved land use ordinances that inhibit inclusionary densification, we do not think that giving unilateral authority to jurisdictions to override voter-approved initiatives is the correct approach. We appreciate the recent amendments made to limit this provision, but these limitations do not go far enough to address the sweeping implications this provision could have on all types of constructive voter approved land use actions. These include, but are not limited to, urban growth boundaries, inclusionary housing ordinances and rent-control ordinances. SB 10 will undermine the voter-initiative power of the public, which is a fundamental and necessary tenet of a functioning democracy.

Giving such authority to a local elected body, presents not only a an unprecedented shift of constitutionally-defined power away from the people, but also a separation of powers issue, as the invalidation of voter-approved initiatives is a power that has always resided with the judiciary, as we believe it should. There is no reasonable narrowing of the proposal that would address these fundamental concerns, and we ask that this bill explicitly state that the powers provided to a jurisdiction by the bill do not extend to the over-turning of *any* voter-approved initiative.

We also feel it is necessary to provide some additional constraints to these provisions, in order to ensure that the intent of the bill is realized without undercutting our jurisdictions' ability to meet California greenhouse gas (GHG) and vehicle miles travelled (VMT) reduction goals, or perpetuating historic patterns of segregation.

These provisions should include the following:

- The geographic extent of the bill should be constrained to Low-VMT zones, wholly within Urban areas and Urban clusters as defined by the Census Bureau, for both cities and unincorporated areas. "Low-VMT zones" (per the OPR Technical Advisory on SB 743 (2013) CEQA Guidelines) are areas exhibiting per capita VMT performance of -15% of city or regional average.
- These provisions should exclude any sites on a list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code, and all sites allowed by these provisions should be subject to a preliminary endangerment assessment prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.
  - If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.
  - If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.
- A cumulative municipal services review should be undertaken by the jurisdiction to assess infrastructure readiness before these provisions are enacted in anticipation of these increased densities.
- A value capture mechanism that sets aside a portion of the increased property value from the up-zoned area to support affordable housing should be required of the jurisdiction to employ these provisions.

We find that these constraints are necessary to ensure that we can meet our affordable housing needs in a way that provides healthy, safe places to live with equitable access to opportunity, while achieving California's climate mandates. Inadvertently incentivizing the dramatic increase of housing density in areas away from job centers and services will not serve our state's climate or equity goals.

Again, we support the intent of SB 10, but until these concerns are addressed we must regretfully oppose the proposal.

Sincerely,



Matthew Baker  
Policy Director, Planning and Conservation League



Dan Silver, Executive Director, Endangered Habitats League



Duncan McFetridge, President, Save Our Forests and Ranch Land;  
Director, Cleveland National Forest Foundation



Claire Schlotterbeck, Executive Director, Hills For Everyone



Gillian Martin, Director, Cavity Conservation Initiative



Michael Wellborn, President, Friends of Harbors, Beaches and Parks

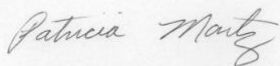


Gloria Sefton, Co-Founder, Saddleback Canyons Conservancy

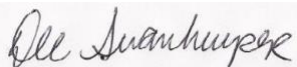
Gayle Waite, President, Laguna Canyon Conservancy



Charles Klobe, President, Stop Polluting Our Newport



Patricia Martz, Ph. D., President, California Cultural Resource Preservation Alliance



Dee Swanhuysen, Chair, Sonoma County Rural Alliance

Ray Chandos, Founder, Rural Canyons Conservation Fund

Thomas Anderson, Administrative Director, Amigos de Bolsa Chica