



April 12, 2018

The Honorable Jim Beall  
California State Senate  
State Capitol, Room 2082  
Sacramento, CA 95814

**Re: SB 827 (Wiener): Planning and zoning: transit-rich housing  
As amended on April 9, 2018 – OPPOSE**

Dear Senator Beall,

The California State Association of Counties (CSAC), the Urban Counties of California (UCC) and the Rural County Representatives of California (RCRC) are regrettably opposed to Senate Bill 827, which would override county general plans, housing elements, specific plans, and zoning ordinances in unincorporated areas located near qualifying transit service, even if such plans already allow for higher-density residential uses.

Our organizations support incentives for infill development near transit as a means of reducing greenhouse gas emissions; including providing counties parity with cities for environmental review streamlining for infill projects in densely-populated unincorporated areas. We also recognize the statewide interest in promoting the development of sufficient housing affordable to households at all income levels. Accordingly, our organizations could support a more balanced approach to increasing residential density near transit if it were focused on establishing broad goals while maintaining an appropriate level of community involvement and discretion. This approach could be embedded within the existing Regional Housing Needs Allocation (RHNA) process.

Unfortunately, our organizations fundamentally disagree with the overly-prescriptive approach taken by SB 827, which will have unintended consequences as applied in both urban and non-urban unincorporated areas. SB 827 conflicts with locally-driven transit-oriented plans, fails to consider the interaction with existing plans and state law allowing higher densities in exchange for enhanced affordability, and undermines the intent of state policies requiring community engagement in land use planning, especially in disadvantaged communities. Specifically, we believe this bill does all of the following:

**Overrides Community-Driven Transit-Oriented Plans.** SB 827 makes no allowance for the many unincorporated areas that have already undergone extensive work within their local communities to approve land use plans that allow and streamline higher-density housing development in areas with high-quality transit service. In fact, SB 827 could be seen as undermining work undertaken in good faith within affected communities by substituting state-imposed standards for locally-driven plans that accomplish the same fundamental goal, to densifying residential and mixed use neighborhoods with access to transit. While our

organizations recognize the legitimacy of statewide goals to promote infill development, overriding local plans adopted with the same fundamental intent as this bill is not the answer. Counties that have engaged their communities in these planning processes should not be left to deal with the fallout when those plans are overridden. Moreover, the precedent SB 827 sets with regard to direct state intervention in zoning, as compared to broad goal-setting through RHNA, will likely discourage future proactive transit-oriented planning by local governments.

**Conflicts with State Mandated Environmental Justice Planning.** Many urbanized unincorporated areas with high-quality transit service also happen to be low-income communities affected by the legacy of redlining. According to the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment, many of these same communities experience both high exposure to pollution and high susceptibility to negative health outcomes related to pollution.<sup>1</sup>

SB 1000 (Leyva, 2016), requires counties to develop an environmental justice element or related general plan policies when more than one general plan element is amended. Among its provisions, SB 1000 requires the identification of disadvantaged communities within a jurisdiction based on specified socioeconomic and environmental factors. Once identified, the element or policies must identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities and promote civil engagement in the public decision-making process. There is an inherent and unresolved conflict between SB 1000's state mandate to proactively identify disadvantaged communities and engage those community members in the planning processes governed by the general plan and SB 827, which overrides any resulting local land use plans

**Allows Sprawl Development in Unincorporated Areas.** An unintended consequence of SB 827 would be overturning existing plans that allow for limited residential uses in unincorporated communities outside of urban centers that happen to have low-frequency commuter rail service.<sup>2</sup> Promoting additional residential growth in these far-flung areas, which have limited or no local transit and which are located outside of urban services boundaries, conflicts with SB 827's goals by promoting additional residential development with high vehicle miles traveled.

**Undermines State Density Bonus Law.** The state's density bonus law already allows developers to exceed local zoning standards and receive other concessions in exchange for including specified percentages of units affordable to moderate or low-income households. This tool can be especially helpful in urban unincorporated areas that are zoned for higher-density housing, but not at the exact height limits and floor area ratio standards imposed by SB 827. Such existing local plans must be viewed in the context of state and local incentives allowing higher density. For example, a form-based code allowing three- to four-story development along an unincorporated transit corridor might not meet the exact standards included in SB 827, a development that includes a sufficient percentage of affordable units would be able to build projects at those densities.

SB 827 would provide a benefit to developers similar to density bonus without requiring commensurate levels of affordability. For instance, consider a hypothetical four-story apartment building with 15 units on each floor. Under density bonus law, adding a fifth floor with an

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<sup>1</sup> For example, all of the transit-oriented districts identified in the County of Los Angeles 2035 General Plan have areas that score at or above the 80th or 90th percentile under CalEnviroScreen Version 3.0 (see: <http://planning.lacounty.gov/tod/> and <https://oehha.ca.gov/calenviroscreen/maps-data>).

<sup>2</sup> An example of this community type is unincorporated San Martin located outside of Santa Clara County urban services boundaries: [https://www.sccgov.org/sites/dpd/DocsForms/Documents/SCC\\_BoundariesMap.pdf](https://www.sccgov.org/sites/dpd/DocsForms/Documents/SCC_BoundariesMap.pdf).

additional 15 units (a twenty-five percent bonus), would require significantly more affordability than the same density increase under SB 827:

<i>Hypothetical 75-Unit Building</i>		
<b>Affordable Units Required</b>	<b>Density Bonus</b>	<b>SB 827 Bonus</b>
Moderate Income Units	23	6
Low Income Units	11	3
Very Low Income Units	6	2

Counties have designed their existing zoning with state density bonus law and local implementing ordinances in mind.<sup>3</sup> SB 827 would undermine these programs.

As noted above, our organizations acknowledge the state's legitimate interest in local land use planning that both accommodates development of an adequate supply of housing affordable to all income levels and supports environmental goals. Accordingly, our organizations could support alternative approaches to meet these goals that build off of existing state and local planning processes. For example, further consideration of the availability of high-quality transit in the allocation of regional housing needs among jurisdictions is warranted and would help achieve the same goals as SB 827 without unnecessarily limiting public involvement in the planning process. Unfortunately, our organizations must respectfully oppose the one-size-fits all approach taken by SB 827, especially as it applies to our state's unincorporated communities.

If you need additional information regarding our position on this measure, please do not hesitate to contact Chris Lee (CSAC) at (916) 327-7500 or [clee@counties.org](mailto:clee@counties.org), Jolena Voorhis (UCC) at (916) 327-7535 or [jolena@urbancounties.com](mailto:jolena@urbancounties.com), and Tracy Rhine (RCRC) at 916-447-4806 or [trhine@rcrcnet.org](mailto:trhine@rcrcnet.org).

Sincerely,



CHRISTOPHER LEE  
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CSAC



JOLENA L. VOORHIS  
Executive Director  
UCC



TRACY RHINE  
Legislative Representative  
RCRC

cc: The Honorable Scott Wiener, California State Senate  
Members, Senate Transportation and Housing Committee  
Alison Hughes, Consultant, Senate Transportation and Housing Committee  
Doug Yoakam, Consultant, Senate Republican Caucus

<sup>3</sup> For example, Sonoma County allows a density bonus of up to 100-percent above zoned density for projects with specified percentages of affordable units.