
SENATE COMMITTEE ON HOUSING
Senator Nancy Skinner, Chair
2023 - 2024 Regular

Bill No: SB 1187 **Hearing Date:** 4/2/2024
Author: McGuire
Version: 2/14/2024 Introduced
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Housing programs: Tribal Housing Reconstitution and Resiliency Act

DIGEST: This bill creates a new tribal housing program, the Tribal Housing Grant Program (THGP), in the Department of Housing and Community Development (HCD) for the construction and rehabilitation of rental and for-sale housing.

ANALYSIS:

Existing law:

- 1) Includes a tribally-designated housing entity or a duly constituted governing body of an Indian reservation or rancheria as a qualifying applicant to a variety of housing programs.
- 2) Requires the Department of Housing and Community Development (HCD), under the G. David Singleton California Indian Assistance Program (CIAP), to provide comprehensive technical assistance to tribal housing authorities, housing sponsors, and governmental agencies on reservations, rancherias, and on public domain to facilitate the planning and orderly development of suitable, decent, safe, and sanitary housing for American Indians residing in those areas.

This bill:

- 1) Creates the Tribal Housing Grant Program Trust Fund (Fund), administered by HCD. The Fund, upon annual appropriation, allocates as follows:
 - a) 80% on an entitlement basis for a federally recognized Indian reservation or Rancheria, in the form of multipurpose block grants for housing and housing-related planning, programming, project predevelopment, operating subsidies, staffing, and administrative activities, as specified;

- b) 15% on a competitive basis for a federally recognized Indian reservation, Rancheria, or tribally designated housing entity for the construction, reconstruction, rehabilitation, or acquisition and rehabilitation of housing and infrastructure improvements, as specified; and
 - c) 5% for technical assistance to eligible tribes and tribally designated housing entities for capacity building.
- 2) Requires recipients to submit an annual plan and report to HCD to track uses and expenditures.
 - 3) Authorizes HCD to adopt guidelines to implement THGP.
 - 4) Authorizes the funds to be allocated for the following purposes:
 - a) Housing and housing-related program services for affordable housing (*e.g.*, home buyer assistance, homeowner rehabilitation, housing and credit counseling, rental assistance, energy retrofits, wrap-around services, etc.)
 - b) Housing and community development project costs (*e.g.*, acquisition, new construction, reconstruction, rehabilitation or conversion of affordable housing, site preparation, etc.)
 - c) Management services for affordable housing (*e.g.*, loan processing, inspections, tenant selection, etc.)
 - d) Administration costs
 - 5) Requires the funds to be allocated only for Indian and essential families and individuals in an Indian area, or lower income households residing in an Indian area, as defined.
 - 6) Requires award recipients to expend all program funds within three years from the date of execution of an agreement with HCD, and to expend all funds allocated to projects within five years from the date of execution of an agreement with HCD, unless granted an extension by HCD, as specified.
 - 7) Requires moneys paid and deposited into the Fund be continuously appropriated on an annual basis for a five-year period starting January 1, 2025, through December 31, 2029.

COMMENTS:

- 1) *Author's statement.* "For far too long California tribes weren't eligible for state funding despite the fact that tribes are disproportionately represented among the state's homeless and have higher rates of poverty, overcrowded and

substandard homes, than any other population. Even now, tribal governments struggle to meet the requirements for housing grants because these programs are not set up to meet the needs of tribal communities. The golden state must end this injustice and advance funding that is diversified and has the ability to address the unique needs of California tribal governments.”

- 2) *Background.* California has 109 federally recognized tribes including nearly 100 small reservations and Rancherias spread out across the state. Nearly 360,500 Californians identify in whole or part as American Indian and/or Native American. The rate of tribal poverty is more than twice that of the rest of California's population and one third of tribal residents live below the federal poverty rate.

For decades, tribal communities have been excluded from benefiting from state-administered housing programs. Over time, this led to increased disparities in access to safe, affordable housing among tribal communities in California. To improve communication and consideration of the needs of tribes, Governor Edmund “Jerry” Brown issued Executive Order (EO) B-10-11 in 2011. This order established the Governor's Office of the Tribal Advisor and requires all state agencies and departments to encourage early consideration, communication, and consultation with tribes when developing legislation, guidelines, regulations, rules, or policies on matters that affect tribes and their communities.

In 2019, Governor Gavin Newsom issued EO N-15-19, which reaffirmed the previous executive order and added a formal apology to California’s First Nations for atrocities committed and discriminatory practices enacted by the State against tribal communities. This marked a major step forward in California's commitment to acknowledge past wrongdoings and build relationships with tribes. The work to explore the historical relationship between California’s First Nations and the State as well as to recommend paths forward continues through the California Truth & Healing Council.

- 3) *Funding for Indian reservations and Rancherias.* HCD previously operated a program to provide technical assistance to Indian reservations and Rancherias in planning for affordable housing, but it was not funded beyond 2006.

A bill passed in 2019, AB 1010 (Eduardo Garcia, Chapter 660), required HCD to provide technical assistance to tribal housing authorities, housing sponsors, and governmental agencies on reservations, rancherias, and on public domain. The goal of this technical assistance is to facilitate the planning and orderly

development of suitable, decent, safe, and sanitary housing for tribes residing in those areas.

- 4) *The Problem.* Since 2014, only 13 out of 109 tribes have been awarded State funds for housing and housing-related services. Generally, larger tribes have been awarded funds; other tribes lack the financial necessary resources to attract and retain long-term housing program and project staff with experience navigating the state's complex housing programs. These awards have funded the development of 441 homes.

Despite passage of AB 1010 (2019), which made tribes eligible for most state housing programs, tribes and tribally designated housing entities still face serious structural obstacles to accessing and competing in these programs, such as AHSC, which requires applicants to have at least 10 years of experience developing housing of a similar size. These state programs have only been available to tribes since 2019; therefore they cannot meet the experience requirements (most tribes access federally-funded housing programs which focus on single family housing and home ownership, rather than on larger, multifamily housing projects).

Existing housing programs also conflict with tribal sovereignty, laws, and culture; navigating these challenges require time-consuming waivers from program rules. Current programs do not fit tribal needs and conditions.

This bill would address these challenges by creating a new and separate housing program specific to tribal needs.

- 5) *"If at first you don't succeed...."* This bill is nearly identical to SB 18 (McGuire, 2023), which was vetoed by the Governor for the following reasons:

"I want to thank the authors and their supporters for their commitment to providing more safe and affordable housing for California's tribal residents. These legislative efforts are well-intentioned, and I share the desire to further remove barriers and increase tribal access to housing and homelessness programs.

"I signed legislation in 2019 to make tribes eligible for most State housing programs, and I remain committed to doing more. My Administration has provided tribal set asides in a variety of new programs we created, including: \$30 million in the Behavioral Health Infrastructure Bond Act of 2023; \$29 million through the first round of the Multifamily Super Notice of Funding Availability, which combines funding for four affordable housing

funding programs; \$20 million recently awarded through the Homeless, Housing Assistance and Prevention program (HHAP); and a forthcoming Homekey Tribal Entity Notice of Funding Availability of approximately \$75 million, to name a few.

“But system overhauls such as those included in these two bills need to be made through the budget process where a dedicated grant program to address tribal housing needs - using either new general fund and/or reappropriation of existing tribal set-asides - can be established, along with appropriate program rules to streamline application processes, with more flexible uses to better meet the unique housing needs of tribal governments.

“I am committed to addressing these important issues in next year's budget and look forward to working with the Legislature and our tribal partners to help deliver these critical dollars to tribal communities where - and how - they are needed.”

RELATED LEGISLATION:

SB 18 (McGuire, 2023) — would have created a new tribal housing program, the THGP, at HCD for the construction and rehabilitation of rental and for-sale housing. *This bill was vetoed by the Governor.*

AB 371 (Eduardo Garcia, 2023) — would have created a Tribal Housing Advisory Committee in the Business, Consumer Services, and Housing Agency. *This bill was vetoed by the Governor.*

AB 1010 (Eduardo Garcia, Chapter 660, Statutes of 2019) — made the governing body of Indian reservations and Rancherias eligible to receive funding from various state affordable housing programs.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, March 27, 2024.)

SUPPORT:

Burbank Housing Development Corporation
CalChamber
California Coalition for Rural Housing
California Housing Partnership Corporation

California Tribal Business Alliance
Housing California
Public Advocates

OPPOSITION:

None received.

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