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**SENATE COMMITTEE ON HOUSING**  
**Senator Scott Wiener, Chair**  
**2023 - 2024 Regular**

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**Bill No:** AB 1319 **Hearing Date:** 6/20/2023  
**Author:** Wicks  
**Version:** 6/12/2023 Amended  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Alison Hughes

**SUBJECT:** Bay Area Housing Finance Authority: housing revenue

**DIGEST:** This bill makes several changes to the Bay Area Housing Finance Authority (BAHFA).

**ANALYSIS:**

*Existing law:*

- 1) Established BAHFA throughout the San Francisco Bay Area and set forth the governing structure and powers of the board, allowable financing activities, and allowable expenditures of the revenues generated.

*BAHFA Governing Board*

- 2) Defines “board” as the governing board of BAHFA, which is governed by the same board that governs MTC, and “executive board” as the executive board of Association of Bay Area Governments (ABAG).
- 3) States that the purpose of the authority is to raise, administer, and allocate funding and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production.

*BAHFA Powers*

- 4) Authorizes the authority to do the following:
  - a) Subject to the approval of the executive board, place a measure on the ballot to raise revenue and allocate funds throughout the San Francisco Bay Area.
  - b) Apply for and receive grants or loans from public and private entities.

- c) Solicit and accept gifts, fees, loans, and other allocations from public and private entities.
  - d) Deposit or invest moneys of the authority in banks or financial institutions including money that was not required for the immediate necessities of the authority.
  - e) Sue and be sued; engage counsel and other professional services; and enter into and perform necessary contracts.
  - f) Hire staff and utilize staff employed by MTC.
  - g) Allocate and deploy capital and generated fees or income in the form of grants, loans, equity, interest rate subsidies, and other financing tools to the cities, counties and other public agencies within the San Francisco Bay Area, and private affordable housing developers to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs.
  - h) Establish and modify the terms of potential capital investments deployed by the authority.
  - i) Collect data on housing production and monitor progress on meeting regional and state housing goals.
  - j) Provide support and technical assistance to local governments related to affordable housing production and preservation, and tenant protection.
  - k) Provide public information regarding the authority's housing programs and policies.
  - l) Incur and issue bonds and other indebtedness.
  - m) Purchase, lease, sell, rent, transfer, assign, and otherwise acquire or dispose of property, including real property.
  - n) Any other express or implied powers necessary to carry out the intent and purposes of this title.
- 5) Provides that, subject to approval by the executive board, if the authority proposes a measure that will generate revenues and that requires voter approval, the board of supervisors of the county or counties in which the authority has determined to place the measure on the ballot shall call a special election on the measure.
- 6) Requires each county included in the ballot measure to include, among other things, a summary of an expenditure plan provided by the authority for inclusion in the ballot pamphlet, as specified.

*BAHFA Financing Activities*

- 7) Authorizes the authority, subject to prior approval by the executive board, to raise and allocate new revenue through the following:

- a) Special taxes, subject to voter approval, including a parcel tax, gross receipts business license taxes (gross receipts tax), and a special business tax (head tax).
  - b) Commercial linkage fees.
- 8) Any funding mechanism or combination of funding mechanisms that requires voter approval may be placed on the ballot in all or a subset of the nine counties in the San Francisco Bay Area, but in no case shall it be placed on the ballot in fewer than four counties.
- 9) States the Legislature's intent for the funds to distribute the responsibility for addressing the affordable housing needs of the region across commercial developers, business above a certain size, taxpayers, and property owners within the region.

### *Expenditures*

- 10) Requires revenue to be used for the construction of new affordable housing, affordable housing preservation, tenant protection programs, planning and technical assistance related to affordable housing, and infrastructure to support housing, and those purposes detailed below.
- 11) Requires the allocation of regional housing revenues to be first approved by the executive board and subsequently by the authority. The funds shall be distributed in the form of a grant, loan, or other financing tool in a manner that achieves minimum shares over five-year periods after the revenue is approved by voters, as follows:
- a) A minimum of  $\frac{2}{3}$  for production and preservation of affordable housing, as follows:
    - i. A minimum of 52% for the production of rental housing that is deed restricted to be affordable to lower income households for at least 55 years.
    - ii. A minimum of 15% for preservation of housing that is deed restricted to be affordable to low- or moderate-income households for 55 years. Funding shall be subject to both of the following conditions:
      - (A) Existing residents of buildings acquired for the purpose of affordable housing preservation shall not be displaced.

- (B) Buildings required for the purpose of affordable housing shall achieve 100% occupancy by low- or moderate-income households over time throughout unit turnover.
- iii. Provides that funding shall be subject to the following in the event that demolition or rehabilitation of housing units is required:
- (A) If the housing units are occupied at the date of acquisition, the housing development shall provide at least the same number of units of equivalent number of bedrooms to be made available at affordable rent or affordable to lower-income households.
- (B) If existing residents must be relocated due to demolition or rehabilitation needs, the developer must provide relocation benefits to the occupants of those housing rental units.
- (C) If existing residents must be relocated due to demolition or rehabilitation needs, the developer shall provide a right of first refusal for a comparable unit available in the new or rehabilitated housing development that is affordable to the household at an affordable rent or an affordable housing cost.
- b) A minimum of 5% for tenant protection programs for low- and moderate-income households. Funds may only be spent on the following:
- i. Pre-eviction and eviction legal services, counselling, advice and consultation, training, renter education, and representation, and services to improve habitability that protect against displacement of tenants.
- ii. Providing emergency rental assistance for lower income households, as specified.
- iii. Providing relocation assistance for lower income households beyond what is legally required of landlords according to local or state law.
- iv. Collection and tracking of information related to displacement and displacement risks, rents, and evictions in the region.
- c) A minimum of 10% for a grant program for local governments that qualify based on criteria funding guidelines established by the executive board and the authority in consultation with the advisory committee. Eligible expenditures must support housing and related uses, and include, but not be limited to, grants for the following:
- i. Technical assistance, preparation and adoption of planning documents, and process improvements to accelerate and support housing production, preservation, and tenant protections.

- ii. Infrastructure needs associated with increased housing production, including but not limited to, transportation, schools, and parks.
  - iii. One-time uses that address homelessness, including, but not limited to, homeless shelters.
  - iv. Programs to enable low- or moderate-income households to become or remain homeowners.
  - v. Tenant protection programs.
- 12) Requires the authority to distribute the revenue derived from a commercial linkage fee to each city or county in a manner that is consistent with a regional nexus study adopted by the executive board and the authority. These revenues shall be used exclusively for the production of housing units necessitated by a commercial development project on which the fee was imposed and as determined by the executive board and the authority board.
- 13) Requires the authority to distribute parcel and gross receipt taxes as follows:
- a) At least 80% of the revenue shall be allocated to the county of origin for expenditure in that county, consistent with the expenditure plan below.
  - b) Up to 20% shall be collected by the authority for expenditures consistent with the purposes set above and eligible to be used in any county in which the measure is in effect.
- 14) Requires the authority to distribute funds received through the head tax as follows:
- a) At least 50% of the revenue shall be allocated to the county of origin for expenditure in the county, consistent with the expenditure plan.
  - b) Up to 50% shall be collected by the authority for expenditures consistent with specified purposes and eligible to be used in any county in which the measure is in effect.
- 15) Requires the executive board and the authority to, in consultation with the advisory committee, adopt a regional expenditure plan for the uses of housing revenue by July 1 of each year. The expenditure plan shall set forth: (a) the share of revenue and estimated funding amount to be spent in each of the authorized categories, (b) indicate the household income levels to be served within each category of expenditures, and (c) estimate the number of affordable housing units to be built or preserved and the number of tenants to be protected.
- 16) Requires, to the extent feasible, the expenditure plan to include a description of projects to be funded, location, amount of funding, and anticipated outcomes.

Beginning in year two, the authority shall include a report in the regional expenditure plan that provides the allocations and expenditures of projects and projects funded.

- 17) Requires the regional housing plan to contain specified information for any specific project that has received an allocation of regional housing revenue during the prior year, including whether the project proponent has requested or been eligible to receive a building permit and whether the project proponent has obtained approval or certification that the development is habitable.
- 18) Requires each county to adopt an expenditure plan applicable to county housing revenue that specifies the proposed allocation of funds and demonstrates how the funds will meet the minimum allocations identified, as specified.
- 19) Requires the authority to submit an annual report to the Legislature on allocations and expenditures under its control, as specified.

**This bill:**

- 1) Clarifies that BAHFA may place one measure per election on the ballot.
- 2) Enables BAHFA to allocate and deploy revenue to any nonprofit entity that is involved in financing affordable housing development, preserving and enhancing existing affordable housing, and funding tenant protection programs.
- 3) Enables BAHFA to issue mortgage revenue bonds.
- 4) Enables BAHFA to acquire, hold, develop, operate, and dispose of real property, including residential real property.
- 5) Enables BAHFA to create one or more California limited liability companies of which BAHFA is the sole member, and exercise any of the powers granted to BAHFA through those limited liability companies.
- 6) Specifies that BAHFA's powers include those implied powers that are incidental to carrying out the intent and purposes of the law that created BAHFA.
- 7) Removes the requirement that the summary of a ballot measure related to BAHFA include a description of any specific projects planned to be funded by the ballot measure.

- 8) Exempts the following actions taken by BAHFA from the California Environmental Quality Act (CEQA):
  - a) Raising, administering, or allocating funding for tenant protection, affordable housing preservation, or new affordable housing production; and
  - b) Providing technical assistance.
- 9) Allow BAHFA to incorporate administrative costs into calculating and expending any commercial linkage fee that it establishes.
- 10) Specifies that the general obligation bond indebtedness that may be incurred or refunded by BAHFA for any purpose allowed by state law.
- 11) Provides that for purposes of incurring general obligation bond indebtedness, acquisition or improvement of real property includes, but is not limited to, real property owned by private parties, loans and grants for acquisition and improvement of real property, capitalized staff time, capitalized operating reserves, demolition costs, relocation costs and the costs of providing temporary housing.
- 12) Expands the definition of what constitutes BAHFA's revenue to include any loan repayments, investment income, or income derived from the ownership or operation of real property.
- 13) Specifies that, to the extent permitted by law, BAHFA's revenues must be applied in the following order of priority:
  - a) To operation and maintenance of any housing project, if so required by the relevant financing documents;
  - b) To the payment of bonds with respect to which revenues have been pledged;
  - c) To the payment of obligations in connection with bonds;
  - d) To the payment of administrative costs; and
  - e) To any other purpose permitted by law and authorized by the portion of law that controls BAHFA.
- 14) Specifies that all moneys received by BAHFA are considered trust funds that must be applied solely for purposes specified by law.
- 15) Removes the specification that regional housing revenues derived from a general obligation bond must not be spent for tenant protection programs.

- 16) Enables expenditures for tenant protection programs to include homelessness prevention services, including, but not limited to, emergency financial assistance, supportive services, and housing problem solving.

**COMMENTS:**

- 1) *Author's statement.* "AB 1319 enacts targeted modifications to state law governing the BAHFA to maximize the benefits BAHFA can deliver for the region's residents. At no cost to the state, these changes will provide the Bay Area additional tools to lower housing development costs, expand housing options affordable to lower income households, and protect vulnerable renters."
- 2) *BAHFA.* In 2019, following a robust regional collaborative effort, the legislature passed and the governor signed AB 1487 (Chiu, Chapter 598) which established BAHFA throughout the San Francisco Bay Area and set forth the governing structure and powers of the board, allowable financing activities, and allowable uses of the revenues generated. Its purpose was to raise, administer, and allocate funding and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production. That bill established MTC as the board of the authority, and ABAG as the executive board, making ABAG the lead agency.
- 3) *Actions taken since 2019.* Since the passage of AB 1487, BAHFA has hired an executive director and staff, and completed a draft Business Plan and Equity Framework. In 2020, BAHFA received \$20 million from the state budget to help pilot large-scale approaches to address regional housing challenges, including a region-wide online portal designed to simplify the process of finding and applying for an affordable unit. BAHFA is also gearing up to place its first regional housing bond on the ballot to raise billions of dollars to fulfill its mission of delivering housing affordability at scale.

In preparing for this regional bond, MTC and affordable housing advocates have identified a number of modifications and clarifications that would benefit the ability of BAHFA to collect and expend revenue. This bill contains those proposed modifications and clarifications, including:

- a) Amending the revenue-raising process by:
  - i) Specifying that BAHFA is able to conduct more than one ballot measure, which is currently unclear in the statute. This would enable BAHFA to run ballot measures over the coming years;



- ii) Specifying that BAHFA has the power to issue mortgage revenue bonds through a limited liability company. This would enable BAHFA to begin financing development prior to passage of the regional revenue measure;
- iii) Removing the requirement that election materials provide BAHFA's expenditure plan and a description of any specific projects planned to be funded. This requirement proved infeasible because affordable housing projects are privately developed, and largely unknowable to the developers, counties, and BAHFA, in advance of a ballot measure;
- iv) Clarify that BAHFA may directly levy taxes. Currently the law is unclear as to whether BAHFA may levy those taxes or if they would be reliant on each county to which the tax applies to collect the taxes and send them to BAHFA.

b) Amending the utilization and disbursement of revenue by:

- i) Allowing BAHFA to allocate funds to entities that cannot currently receive funding, such as nonprofits offering tenant support services;
- ii) Clarifying that BAHFA may hold, develop, operate, and dispose of real property, enabling the region to move nimbly to secure available land for affordable housing;
- iii) Allowing BAHFA to disburse revenues without CEQA review. This power is similar to that held by the state's Department of Housing and Community Development; and
- iv) Expanding the way BAHFA can expend its revenue to include homelessness prevention services. These services would include activities proven to prevent homelessness, such as emergency financial assistance, supportive services, and housing problem solving.

4) *Double-referral*. This bill was also referred to the Governance and Finance Committee.

**RELATED LEGISLATION:**

**AB 1487 (Chiu, Chapter 598, Statutes of 2019)** — established BAHFA throughout the San Francisco Bay Area and sets forth the governing structure and powers of the BAHFA Board, allowable financing activities, and allowable expenditures of the revenues generated.

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

**POSITIONS:** (Communicated to the committee before noon on Wednesday, June 14, 2023.)

**SUPPORT:**

Association of Bay Area Governments (ABAG) (Co-Sponsor)  
Metropolitan Transportation Commission (Co-Sponsor)  
All Home  
Alta Housing  
Bay Area Lisc  
Burbank Housing  
California Housing Partnership  
City of Half Moon Bay  
City of San Jose  
Community Land Trust Association of West Marin  
Destination: Home  
East Bay Housing Organization (EBHO)  
East Bay YIMBY  
Eden Housing  
Enterprise Community Partners, INC.  
Epacando  
Facebook, INC.  
Generation Housing  
Greenbelt Alliance  
Grow the Richmond  
Housing Choices Coalition for Persons With Developmental Disabilities, INC.  
Housing Leadership Council of San Mateo County  
Housing Trust Silicon Valley  
John Stewart Company  
Lanterman Housing Alliance  
League of Women Voters of California  
Livable California  
Mayor Deborah Penrose, City of Half Moon Bay  
Menlo Together  
Midpen Housing  
Mission Street Neighbors  
Monument Impact  
Mountain View Yimby  
Napa-Solano for Everyone  
Nonprofit Housing Association of Northern California  
Northern Neighbors SF  
Peninsula for Everyone  
Progress Noe Valley  
Public Advocates  
Resources for Community Development

Sacred Heart Community Service  
San Francisco Bay Area Planning and Urban Research Association (SPUR)  
San Francisco YIMBY  
Santa Rosa YIMBY  
Save the Bay  
Silicon Valley At Home (SV@HOME)  
Silicon Valley Community Foundation  
South Bay YIMBY  
Southside Forward  
The John Stewart Company  
The San Francisco Foundation  
Transform  
Urban Habitat  
YIMBY Action

**OPPOSITION:**

None received.

**-- END --**