
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2021 - 2022 Regular

Bill No:	AB 2233	Hearing Date:	6/21/2022
Author:	Quirk-Silva		
Version:	4/21/2022		
Urgency:	No	Fiscal:	Yes
Consultant:	Mehgie Tabar		

SUBJECT: Excess state land: development of affordable housing

DIGEST: This bill requires the Department of General Services (DGS) to develop a plan to facilitate development of affordable housing on state-owned excess land.

ANALYSIS:

Existing law:

- 1) Requires, pursuant to Executive Order N-06-19, DGS and the Department of Housing and Community Development (HCD) to identify excess state-owned property for affordable housing projects.
- 2) Requires DGS to follow a series of specified steps in the disposal of state properties identified by controlling departments and agencies as being in excess of their programmatic needs.
- 3) Requires HCD and DGS to develop a searchable database of surplus local sites for affordable housing, and for HCD to provide DGS with an annual list of vacant sites suitable and available for residential development.
- 4) Requires local governments to provide DGS with an inventory of infill, high-density sites to include in DGS' searchable surplus property database.
- 5) Permits the Director of DGS to, with the consent of the state agency concerned, lease for any period of time any real property or interest in real property that belongs to the state, when the director deems the leasing serves a beneficial public purpose limited to the development of housing, as specified.
- 6) Defines "excess land" to mean property that is no longer needed for either an existing or ongoing state program or a function of the state.

This bill:

- 1) Requires DGS to develop, not later than September 1, 2023, a set of criteria to consistently evaluate state-owned parcels for suitability as affordable housing sites.
- 2) Requires DGS, HCD, and the California Housing Finance Agency (CalHFA) to develop, not later than March 29, 2024, screening tools for prioritizing affordable housing development on excess state land, as specified.
- 3) Requires DGS, not later than April 30, 2024, to do the following:
 - a) Create a digitized inventory of all excess state land by, among other things, conducting a comprehensive survey of all state-owned property; and
 - b) Provide the Legislature with a report on its progress in applying the screening tools described in 2) to this digitized inventory, including providing a comprehensive map, as specified.
- 4) Requires DGS, on or before July 1, 2024, and every four years thereafter, to do all of the following:
 - a) Conduct a review of all state-owned property and identify state-owned parcels that are potentially viable for affordable housing based on the established criteria developed in 1);
 - b) Following each review, contact all related state agencies to determine excess state land;
 - c) Collaborate with HCD to prioritize excess state land for development; and
 - d) Following each review, issue a report on the results of its review of state-owned property, including a determination as to which excess state lands are suitable for affordable housing and the results of DGS' contact with the state agencies that possess the excess state lands.
- 5) Requires DGS, on or before September 30, 2024, and in consultation with HCD, to issue requests for proposals on individual state-owned parcels and accept proposals from developers of affordable housing interested in entering into low-cost, long-term ground leases, as specified.
- 6) Requires DGS to annually verify a sample of the responses provided by state agencies in response to the survey, for purposes of ensuring the accuracy of their inventory of excess state land.
- 7) Requires that all state agencies must:

- a) Respond to DGS' request for information to satisfy the requirements of this bill;
 - b) Consider exchanging excess state land with local governments for other parcels for purposes of affordable housing development and preservation, if the exchange is appropriate and maximizes regional capacity to build and preserve affordable housing units; and
 - c) Use all existing legal and financial authority to expedite and prioritize the developments described in 5), above.
- 8) Allows the Department of Transportation to sell surplus property to DGS at less than the property's current fair market value, to the extent permissible, if the property is used for the development of affordable housing.

COMMENTS:

- 1) *Author's statement.* According to the author, "Before the COVID 19 pandemic, our State was facing the nation's worst housing crisis and in the last two years we have seen several families become housing insecure. Some Californians have had their homes foreclosed on, while others are on the brink of homelessness.

AB 2233 will require the Department of General Services and the Department of Housing and Community Development to carry out the duties prescribed in Executive Order N-06-19 to identify improvements and establish criteria in order to maximize the use of excess state property for affordable housing."

- 2) *Converting Excess State Property to Affordable Housing.* The State of California owns over 3,100 properties and over 44,000 parcels totaling nearly seven million acres in size. Most of these are actively in use by the state's departments and agencies, or are non-developable land.

When a controlling department or agency has determined that their land is in excess of its programmatic needs, then DGS works to dispose of the excess property. Until recently, DGS' prioritization for this disposal was to transfer to other state agencies, sell to local governments, sell to affordable housing developers, or sell on the open market, in that order. During the period between 2010 and 2020, DGS disposed of 64 properties, of which seven were utilized for affordable housing.

In January 2019, Governor Newsom issued Executive Order (EO) N-06-19, which ordered DGS and HCD to identify and inventory excess state-owned

property for affordable housing projects. In doing so, this EO reoriented DGS' priorities to focus on facilitating the conversion of excess property to affordable housing. Within the required three months, DGS reviewed over 44,000 parcels, and identified 92 properties potentially suitable for housing. As of March 2022, DGS has offered 19 of these properties for affordable housing development, each of which is proceeding through the planning, development, or construction phase. These properties will provide approximately 1,700 units of affordable housing.

In March of 2022, the State Auditor issued an audit entitled "State Surplus Property: The State Should Use Its Available Property More Effectively to Help Alleviate the Affordable Housing Crisis." The audit had positive things to say about the EO, stating that the audit had "found that the executive order has proven effective in its intent, and we estimate that it could ultimately make way for more than 32,000 housing units." It also recognized that, because of the EO, the pace of converting excess state property to affordable housing has accelerated from less than one per year to more than six.

However, the audit went on to identify a number of issues with implementation of the EO, including that:

- a) At current staffing levels, it will take DGS seven more years to offer up the remaining 73 properties identified in the initial analysis;
- b) Given the expedited nature of the initial review, DGS missed sites that would have been identified using more rigorous search criteria; and
- c) That the EO did not create an ongoing process for reviewing, identifying, and disposing of excess land for the provision of affordable housing.

The audit concludes with recommendations for the Legislature, DGS, and HCD. The audit recommended that the Legislature pass legislation to enact the EO, as well as to implement further recommendations to improve the efficacy of the EO to facilitate ongoing conversion of excess state property to affordable housing.

This bill would implement the audit's recommendations regarding codifying the EO and related policies. It would do so by requiring DGS to undertake a series of actions that would establish an ongoing system for identifying and disposing of state excess land. Specifically, DGS would be required to:

- a) Develop a set of criteria to consistently evaluate state-owned parcels for suitability as affordable housing sites;

- b) Collaborate with HCD and CalHFA to develop screening tools for prioritizing affordable housing development on excess state land;
- c) Create a digitized inventory of all excess state land by, among other things, conducting a comprehensive survey of all state-owned property;
- d) Conduct a review of all state-owned property and identify state-owned parcels that are potentially viable for affordable housing based on the criteria they established;
- e) Contact all related state agencies to determine excess state land;
- f) Collaborate with HCD to prioritize excess state land for development;
- g) Issue a report on the results of its review of state-owned property, including a determination as to which excess state lands are suitable for affordable housing and the results of DGS' contact with the state agencies that possess the excess state lands; and
- h) In consultation with HCD, issue requests for proposals (RFPs) on individual state-owned parcels and accept proposals from developers of affordable housing interested in entering into low-cost, long-term ground leases. The RFP must consider factors such as the number of units to be built, the level of affordability, the cost of construction, the ability to complete the project in a timely way, and the use of renewable construction materials.

This bill would enact the EO and audit by requiring state departments and agencies to facilitate DGS' ability to convert excess property to affordable housing, by requiring those departments and agencies to:

- a) Respond to DGS' request for information to satisfy the requirements of this bill;
- b) Consider exchanging excess state land with local governments for other parcels for purposes of affordable housing development and preservation, if the exchange is appropriate and maximizes regional capacity to build and preserve affordable housing units; and
- c) Use all existing legal and financial authority to expedite and prioritize the affordable housing developments.

Finally, as recommended in the audit, the bill allows the Department of Transportation to sell to DGS surplus property at less than the property's current fair market value, to the extent permissible, if the property is used for the development of affordable housing.

- 3) *Opposition.* The State Building and Construction Trades Council submitted an oppose unless amended position, arguing that the bill should require that affordable housing projects build on state surplus properties utilize a “skilled

and trained workforce,” which is a metric that generally requires that a specified percentage of each construction craft or trade is unionized.

- 4) *Triple-referral*. Due to the COVID-19 Pandemic and the unprecedented nature of the 2021 Legislative Session, all Senate Policy Committees are working under a compressed timeline. This timeline does not allow this bill to be referred and heard by more than two committees as a typical timeline would allow. In order to fully vet the contents of this measure for the benefit of Senators and the public, this analysis includes information from the other committees included in the original referral. This bill has also been referred to the Senate Governmental Organization Committee.

According to the Senate Transportation Committee:

“Article XIX of the California Constitution strictly limits how transportation funds are spent. Those limitations remain when property acquired with those funds is declared surplus and used for a non-transportation purpose. Depending on the purpose, such usage may be impermissible unless the transportation funds are reimbursed. Similarly restrictions apply to properties acquired with federal transportation funds. This bill should ensure that any sale of land by Caltrans complies with the California Constitution and federal law.”

RELATED LEGISLATION:

AB 2592 (McCarty, 2022) — requires, by January 1, 2024, DGS to prepare and report to the Legislature a streamlined plan to transition underutilized multistory state buildings into housing for the purpose of expanding affordable housing development and adaptive reuse opportunities. *This bill is pending in the Senate Governmental Organization Committee.*

AB 950 (Ward, 2021) — authorizes the Department of Transportation to sell its excess real property to the city, county, or city and county where the real property is located if the local government agrees to use the property for affordable housing, emergency shelters, or feeding programs. *This bill is pending in the Senate Appropriations Committee.*

SB 6 (Beall, Chapter 667, Statutes of 2019) — required DGS to create a public, searchable database of sites in local government’s housing element inventory of land suitable for residential development and state surplus properties.

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

**POSITIONS: (Communicated to the committee before noon on Wednesday,
June 15, 2022.)**

SUPPORT:

California Apartment Association
California Housing Partnership Corporation

OPPOSITION:

State Building and Construction Trades Council of California

-- END --