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

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**Bill No:** AB 2295 **Hearing Date:** 6/21/2022  
**Author:** Bloom  
**Version:** 5/2/2022  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Alison Hughes

**SUBJECT:** Local educational agencies: housing development projects

**DIGEST:** This bill authorizes a housing development project to be an allowable use on any real property owned by a local educational agency, as specified.

**ANALYSIS:**

*Existing law:*

- 1) Allows a city or county to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including land use authority.
- 2) Establishes the Teacher Housing Act of 2016, which establishes that:
  - a) It is state policy to support housing for teachers and school district employees.
  - b) School districts and developers in receipt of local or state funds or tax credits designated for affordable rental housing may restrict occupancy to teachers and school district employees on land owned by school districts.
  - c) School districts may allow local public employees or other members of the public to occupy housing created through the Teacher Housing Act.

**This bill:**

- 1) Authorizes a housing development project to be deemed an allowable use on any real property owned by a local agency if the development meets the following requirements:
  - a) The development has at least 10 units.

- b) The housing development shall have a deed restriction that ensures, for a period of 55 years that at least a majority of the units be set at an affordable rent to lower income households, and at least 30% of the units shall be affordable to lower-income households.
  - c) All of the units shall be rented by local educational employees, local public employees, followed by general members of the public, as specified.
  - d) The residential density for the housing development shall be the greater of the following:
    - i) The residential density allowed on the parcel by the city or county.
    - ii) The applicable density deemed appropriate to accommodate housing for lower income households as provided under housing element law (known as the “Mullin Densities” see Comment 4 below).
  - e) The height shall be the greater of the following:
    - i) The height limit allowed on the parcel by the city or county.
    - ii) Thirty feet.
  - f) The property is adjacent to a property that permits residential uses.
  - g) Requires the housing development to satisfy other local objective zoning standards, objective subdivision standards, and objective design review standards that do not preclude the housing development from achieving the residential density or height permitted in this bill.
- 2) Requires the local agency to maintain ownership of a housing development that meets the requirements of this section for the length of the 55-year affordability covenant.
- 3) Sunsets the provisions of this bill on January 1, 2033.

**COMMENTS:**

- 1) *Author’s statement.* According to the author, “California’s affordable housing crisis is exacerbating teacher shortages. Skyrocketing housing prices and stagnant salaries have made it more difficult for teachers to live in the communities they teach. Despite the high interest by school districts to house their staff, the average educational workforce housing project takes more than seven years to complete. Local resistance, restrictive zoning and complicated bureaucratic processes delay projects and increase cost. We can do better for our teachers. By easing the administrative and bureaucratic hurdles, AB 2295 will help school districts construct enough housing to meet the current demand,

address teaching shortages, and help keep quality teachers and staff in the classroom.”

- 2) *Housing needs and approvals generally.* Every city and county in California is required to develop a general plan that outlines the community’s vision of future development through a series of policy statements and goals. A community’s general plan lays the foundation for all future land use decisions, as these decisions must be consistent with the plan. General plans are comprised of several elements that address various land use topics. Seven elements are mandated by state law: land use, circulation, housing, conservation, open-space, noise, and safety. Each community’s general plan must include a housing element, which outlines a long-term plan for meeting the community’s existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its “fair share” of its region’s housing needs, which is completed through the regional housing needs allocation (RHNA) process. To do so, each community establishes an inventory of sites (“site inventory”) designated for new housing that is sufficient to accommodate its fair share. Each jurisdiction then has three years to complete any rezoning necessary to accommodate the units identified in their housing element and in the site inventory than identifies where potential development would occur. Communities also identify regulatory barriers to housing development and propose strategies to address those barriers. State law requires cities and counties to update their housing elements every eight years.
- 3) *Zoning ordinances generally.* Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. A zoning ordinance may be subject to the California Environmental Quality Act (CEQA) if it will have a significant impact upon the environment. The adoption of ADU ordinances, however, are explicitly exempt from CEQA. There are also several statutory exemptions that provide limited environmental review for projects that are consistent with a previously adopted general plan, community plan, specific plan, or zoning ordinance.

In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially, or by-right, require only an administrative review

designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the CEQA, while projects permitted ministerially generally are not.

- 4) *Mullin densities*. A local government must determine whether each site in its site inventory for its housing element can accommodate some portion of the jurisdiction's share of the regional housing needs assessment requirement by income category during the housing element planning period. A community must use the "default zoning densities," also referred to as "Mullin densities," to determine whether a site is adequately zoned for lower income housing or must provide an alternative analysis. Current default densities are as follows:
  - a) 15 units per acre: cities within non-metropolitan counties; non-metropolitan counties with metropolitan areas.
  - b) 10 units per acre: unincorporated areas in all nonmetropolitan counties not included in the 15 units per acre category.
  - c) 20 units per acre: suburban jurisdictions.
  - d) 30 units per acre: jurisdictions in metropolitan counties.
  
- 5) *Housing on School District Land*. According to *Education Workforce Housing in California: Developing the 21st Century Campus* (issued by cityLAB-UCLA et al. in December 2021) there are more than 1,000 LEAs in California. Collectively, they own more than 150,000 acres of land. According to recent research, of land owned by LEAs, there are 7,068 properties with potentially developable land of one acre or more, totaling 75,000 acres statewide. At a density of 30 dwelling units per acre, such properties could contain 2.3 million units of housing – more than enough to house the state's 300,000 teachers and 350,000 other LEA employees.

Despite the potential for development, there is very little housing on LEA property. This is understandable, given that the primary function of this land is for educational purposes. It is also because there are myriad impediments to completion of employee housing on LEA property, including:

- a) *Lack of expertise*. The core competency of LEAs is education. To the degree there is expertise in new construction or facilities management, it is focused on educational facilities, not on building and managing housing.

- b) *Lack of funding.* Given exceedingly high construction costs, the price of new housing exceeds what is affordable to most LEA staff. As such, to develop employee housing, LEAs will need to identify public sources of funding.
- c) *Lack of permission.* Getting housing approved in California is often a laborious and risky process, reflecting the complexity of government review, public processes, and required analysis under CEQA. LEA properties typically face the additional hurdle of not having zoning that allows housing or specified development standards for housing projects. As such, if an LEA wanted to build housing for its employees, the LEA would need to seek permission from a local government to establish the right to build housing and identify objective standards for the project to conform with.

Despite the impediments, state and local officials are increasingly exploring ways to facilitate housing on LEA property, as a way to help LEAs recruit and retain employees. The Teacher Housing Act of 2016 (SB 1413, Leno, Chapter 732, Statutes of 2016), created a state policy to support housing for teachers and school district employees, and specified that projects can receive local or state funds or tax credits if developments are restricted to school district employees. Since June 2018, eight California LEAs have put a proposition or measure before local voters to fund education workforce housing development, with six of these measures passing. Recent research identified 46 LEAs pursuing housing projects on 83 different sites. However, to date, California is home to just four completed education workforce housing developments by Los Angeles Unified School District and Santa Clara Unified School District.

- 6) *Authorizing residential in educational land.* This bill would help facilitate the production of more housing by increasing the sites available to be developed for residential uses to include real property owned by an LEA. The projects shall contain at least 10 units and require at least 30% of the units affordable to lower income households. The projects are required to provide first priority to local educational agency employees, followed by local public employees, and finally to members of the public.
- 7) *G&F Committee Amendments.* The author agreed to accept the following amendments in the prior committee, which include the following amendments:
  - a) One year delay
  - b) Add that if a local agency has not adopted objective standards applicable to the parcel then the standards from the nearest residential multi-family parcel that can accommodate the height and density in the bill applies.
  - c) Limit to infill sites within an urban area and that complies with a local urban limit line or urban growth boundary.

- d) Provide that a housing development project under the bill shall comply with all infrastructure-related requirements, including impact fees that are existing or pending at the time the application is submitted, imposed by a city or county or a special district that provides service to the parcel.
  - e) HCD must provide written notice to all city and county planning departments no later than January 31, 2023, that the bill will become effective on January 1, 2024.
- 8) *Opposition.* The State Building and Construction Trades Council are opposed because the bill reduces local discretion and fails to include the requirement for a skilled and trained workforce. South Bay Cities Council of Governments are also opposed to reducing local government discretion.
- 9) *Incoming!* This bill was heard in the Senate Governance and Finance Committee on June 15th and received a vote of 5-0.

#### **RELATED LEGISLATION:**

**SB 6 (Caballero, 2022)** — enacts the Neighborhood Homes Act, establishing housing as an allowable use on any parcel zoned for office or retail uses. *This bill is pending in the Assembly Housing and Community Development Committee.*

**AB 115 (Bloom, 2021)** — would have made specified housing developments an authorized use on commercially-zoned land. *This bill died in the Assembly Local Government Committee.*

**SB 1385 (Caballero, 2020)** — would have enacted the Neighborhood Homes Act, establishing housing as an allowable use on any parcel zoned for office or retail uses. *This bill failed passage in the Assembly Local Government Committee.*

**AB 3107 (Bloom, 2020)** — would have made specified housing developments an authorized use on commercially-zoned land. *This bill died in the Senate Housing Committee.*

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

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

**SUPPORT:**

California School Boards Association (Sponsor)

California School Employees Association

Citylab UCLA

People Assisting the Homeless (PATH)

Southern California Association of Non-profit Housing (SCANPH)

**OPPOSITION:**

South Bay Cities Council of Governments

State Building & Construction Trades Council of California

**-- END --**