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

Bill No: SB 1395 **Hearing Date:** 3/19/2024
Author: Becker
Version: 2/16/2024 Introduced
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Shelter crisis: Low Barrier Navigation Center: use by right:
building standards

DIGEST: This bill makes several changes related to homelessness housing options: (1) extends the sunset on authorized emergency housing under the Shelter Crisis Act (SCA) to January 1, 2036; (2) allows actions related to contracting for services for a homeless shelter under the SCA to be exempt from the California Environmental Quality Act (CEQA); (3) eliminates the sunset for by-right approval of low barrier navigation centers and exempts from CEQA certain actions by local agencies related to low barrier navigation centers; and (4) clarifies that state programs subject to “Housing First” includes programs that fund emergency shelters and interim housing.

ANALYSIS:

Existing law:

- 1) Authorizes a governing body to declare a shelter crisis, through a body of law known as the Shelter Crisis Act (SCA). “Declaration of a shelter crisis” is defined as the duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety.
- 2) Authorizes emergency housing, until January 1, 2026, to include homeless shelters upon the declaration of a shelter crisis by a city or county.
- 3) Authorizes the cities and counties in 2) above to suspend housing, health, habitability, planning and zoning, or safety standards and procedures during the shelter crisis and allows them to adopt, by ordinance reviewed by the Department of Housing and Community Development (HCD), local standards and procedures for the design, site development, and operation of homeless shelters and structures if it is determined that strict compliance with state and

local standards and laws would prevent, hinder, or delay the mitigation of the effects of the shelter crisis.

- 4) Requires lead agencies with the principal responsibility for carrying out or approving a project to prepare a negative declaration (ND), mitigated negative declaration (MND), or environmental impact report (EIR) for the project, unless the project is exempt from the California Environmental Quality Act (CEQA). If a project may have a significant effect on the environment, the lead agency must prepare a draft EIR.
- 5) Exempts from CEQA any extension of time given to a city or county to prepare or adopt any elements of a general plan.
- 6) Exempts from CEQA actions taken by HCD, the California Housing Finance Agency, and local governments to provide financial assistance or insurance to develop and build housing for people with low- or moderate-incomes as long as the project receiving the financial assistance or insurance is subject to review under CEQA by another public agency.
- 7) Exempts, upon the declaration of a shelter crisis, actions by the state or a local government from CEQA related to:
 - a) Leasing, conveying or encumbering land owned by a city, county, or city and county, or to facilitating the lease, conveyance or encumbrance of land owned by the local government for a homeless shelter constructed pursuant to the SCA; and
 - b) Providing financial assistance to a homeless shelter constructed pursuant to the SCA.
- 8) Requires all cities or counties that have declared a shelter crisis to report specified information to the Legislature by January 1 of each year.
- 9) Defines “low barrier navigation center” as a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.
- 10) Defines “low-barrier” as best practices to reduce barriers to entry, and may include, but is not limited to, accommodating the presence of partners, pets, the storage of possessions, and privacy, as specified.

- 11) Requires low barrier navigation centers to be a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses if it meets the following requirements:
 - a) Offers services to connect people to permanent housing through a services plan that identifies services staffing;
 - b) Is linked to a coordinated entry system;
 - c) Complies with housing first policies; and
 - d) Has a system for entering information regarding client information through the local Homeless Management Information System.
- 12) Requires agencies and departments administering state programs created on or after July 1, 2017 to incorporate the core components of Housing First.
- 13) Defines “Housing First” to mean the evidence-based model that uses housing as a tool, rather than a reward, for recovery and that centers on providing or connecting homeless people to permanent housing as quickly as possible. Housing First providers offer services as needed and requested on a voluntary basis and that do not make housing contingent on participation in services.

This bill:

- 1) Authorizes emergency housing under the SCA, until January 1, 2036, to include homeless shelters upon the declaration of a shelter crisis by a city or county.
- 2) Exempts, upon the declaration of a shelter crisis, actions by the state or a local government from CEQA related to approving a contract to provide services for people experiencing homelessness to a homeless shelter constructed pursuant to the SCA.
- 3) Expands the definition of a “low barrier navigation center” to be non-congregate and relocatable.
- 4) Eliminates the sunset on by-right approvals of low barrier navigation centers.
- 5) Provides that CEQA does not apply to the following actions by a local agency:
 - a) An action to lease or facilitate the lease of land owned by the local agency for a low barrier navigation center.
 - b) An action associated with a lease for a low barrier navigation center pursuant to subdivision (a).

- c) An action to provide financial assistance to a low barrier navigation center.
 - d) An action to construct or operate a low barrier navigation center.
 - e) An action to enter into a contract to provide services to a low barrier navigation center.
- 6) Clarifies that state programs that are subject to housing first includes programs that fund emergency shelters, interim housing, and housing.

COMMENTS:

- 1) *Author's statement.* "California has fewer housing units affordable and available to households earning below 50 percent of Area Median Income than any other state, the fourth highest rate of homelessness and the highest rate of unsheltered homelessness in the nation. The longer unhoused residents go without shelter, the less likely they'll be able to return to self-sufficiency. As California invests in more permanent housing, more must be done to bring unsheltered people indoors and save lives. An innovative approach to sheltering people experiencing homelessness has been gaining momentum: non-permanent or relocatable housing communities built on underutilized vacant land. This burgeoning new solution is cost-effective, rapid, scalable, and provides a new tool for local governments to immediately address unsheltered homelessness while permanent housing is under construction. SB 1395 fills a consequential gap as California moves to end homelessness by empowering local governments who want to build interim housing to do so quickly and cost-effectively. With the development of more interim housing, we can put a roof over the heads of our unhoused neighbors to provide the security, stability, and dignity necessary to get our neighbors back on their feet."
- 2) *Homelessness: stats and causes.* According to the most recent point in time (PIT) count, 171,521 people were experiencing homelessness in California—representing 30% of the nation's homeless population. Two-thirds of the homeless population in California is unsheltered. Over half (51%) of all unsheltered people in the US were in California. A lack of affordable housing is the biggest contributor to homelessness. As housing costs continue to rise, rent becomes less affordable for lower-income households, who are forced to live beyond their means (paying more than 30% of income on housing costs) or are pushed out of their homes, leading to rapid increases in homelessness. Variation in rates of homelessness cannot be explained by variation in rates of individual factors such as poverty or mental illness; however, cities with higher rents and lower rental vacancy rates (i.e., tighter housing markets) are directly linked to higher per capita rates of homelessness.

The overwhelming evidence shows that the solution to homelessness is providing more habitable, stable, and permanent housing at all income levels, and in particular, more housing affordable to the lowest income earners. While increasing the supply of affordable housing is the priority solution to the homelessness crisis, there is a spectrum of housing solutions that different levels of governments should offer, depending on the specific needs of the individual or family experiencing homelessness. For example, many families merely require temporary rental assistance to maintain housing or rapid rehousing to reconnect to permanent housing. Some populations require more intensive services in conjunction with permanent housing options. For those living on the streets or in encampments, a shelter can provide short-term, temporary respite. Shelters generally have very low rates of exiting to permanent housing. Interim solutions, such as bridge housing communities and low barrier navigation centers, provide a spectrum of housing and healthcare services, particularly to marginalized communities and those with pets, and may be necessary while a more permanent solution (such as rental assistance or the construction of a new unit) can be attained. The end goal should always be connections to housing that is truly affordable, low barrier, permanent, safe, and habitable as quickly as possible.

- 3) *SCA*. The existing *SCA* – set to sunset on January 1, 2026 – permits a local jurisdiction to declare a shelter crisis with limited liability to provide emergency housing. The intent of the *SCA* is to allow local governments to act more nimbly to provide temporary shelter solutions to deal with a local homelessness crisis. Under the *SCA*, the local jurisdiction may allow homeless persons to occupy designated public facilities for the duration of the crisis. Further, the *SCA* suspends local housing, health, and safety standards for public facilities to the extent full compliance would hamper mitigation of the effects of the shelter crisis. Emergency housing is typically provided as shelter beds allowing for an overnight stay in existing structures such as gyms.

In 2017, with the signature of AB 932 (Ting, Chapter 786), the Legislature expanded local authority for a few select localities – which was later expanded statewide through the passage of AB 2553 (Ting, Chapter 147, Statutes of 2020) – to provide emergency shelter to people experiencing homelessness by expanding “emergency housing” under the *SCA* to include homeless shelters located or constructed on any land owned or leased by the locality. Under the emergency declaration, homeless shelters do not have to be consistent with local land use plans, including general plans, during the shelter crisis.

Locals are further authorized to adopt ordinances that adopt reasonable local standards and procedures for design, site development, and operation of

homeless shelters and the structures, in lieu of compliance with local building approval procedures or state housing, health, habitability, planning and zoning, or safety standards. The ordinance must demonstrate that at the time of adoption strict compliance with state and local standards and laws would in any way prevent or delay the mitigation of the effects of the shelter crisis. These ordinances must also adopt health and safety standards and procedures for homeless shelters to ensure minimal public health and safety, and must be approved by HCD.

Locals must simultaneously adopt a plan to address the shelter crisis, including, but not limited to, the development of homeless shelters and permanent supportive housing, as well as onsite supportive services, and provide specified data on the outcome of that plan (such as housing exits and number of shelter beds and new affordable housing units created).

The SCA contains a narrow CEQA exemption for shelters constructed under the SCA; specifically, it states that CEQA shall not apply to actions taken by a state agency or a local government to lease, convey, or encumber land owned by a local government or to facilitate the lease, conveyance, or encumbrance of land owned by the local government for, or to provide financial assistance to, a homeless shelter constructed or allowed by this section.

This bill would expand the CEQA exemption for shelters constructed under the SCA to apply to actions to approve a contract to provide services for people experiencing homelessness to a homeless shelter constructed pursuant to the SCA. This bill would also extend the sunset on the SCA to January 1, 2036.

- 4) *Low Barrier Navigation Centers.* Current law authorizes a by-right approval process for low-barrier navigation centers. Low-barrier navigation centers may be located in areas zoned for mixed uses and nonresidential zones that allow for multifamily uses, must be low barrier (allow for the presence of partners, pets, possessions, and privacy), and offer services to connect people to permanent housing through a services plan.

This bill would clarify that low barrier navigation centers eligible for by right approval may be non-congregate and relocatable. Additionally, this bill would eliminate the sunset for by right approval.

Lastly, this bill would provide similar CEQA exemptions for specific governmental actions related to funding eligible projects, contracting for services, and leasing sites used for low barrier navigation centers. The committee has heard from several local governments that absent explicit

exemptions related to local government actions, local counsel's offices have to spend considerable staff time and resources preparing CEQA-related documents when seeking approval to enter into necessary contracts for services, entering into land leases, and even financing projects. The time spent doing this work often delays their ability to stand up and open projects quickly, which is often needed in cases where county funds are being combined with state and local funding. These CEQA exemptions are similar to those provided for 100% affordable and permanent supportive housing developments.

- 5) *If at first you don't succeed....* The author introduced a bill last year – SB 634 (Becker) – that would have created a new by-right approval process for “opportunity housing” projects, in an attempt to create less expensive, interim housing solutions that are available on more parcels of land. Those projects, while similar to low barrier navigation centers, differed in the following notable ways: (a) projects could be occupied by persons and families at risk of homelessness (instead of those currently experiencing homelessness); (b) projects could be sited on medical and faith-based land; and (c) could be located on a privately held parcel that has no demonstrable use within the next five years, or a publicly owned parcel that the local jurisdiction has determined has no demonstrable use within the next five years and the jurisdiction is willing to negotiate a lease or license agreement with an opportunity housing project proponent for the parcel. The author continued to work with the opposition and Senate Housing and Local Government committees after that bill was held in Senate Appropriations Committee in May 2023. That ongoing work informed the bill in its present form.
- 6) *Double referral.* This bill has also been referred to the Senate Environmental Quality Committee.

RELATED LEGISLATION:

SB 406 (Cortese, Chapter 150, Statutes of 2023) — allowed local agencies to utilize a particular CEQA exemption limited to actions taken to provide financial assistance or insurance to develop and build housing for people with low- or moderate-incomes.

SB 634 (Becker, 2023) — would have required an “opportunity housing project,” as defined, to be a use by-right in areas zoned for mixed use, and nonresidential zones permitting multifamily uses, medical use, or faith-based use, if the project meets certain requirements. The bill would also have required HCD to investigate possible changes to the California Building Code for health, safety, and fire standards that could unnecessarily increase project construction costs for

opportunity housing projects, while ensuring housing quality, as specified. *This bill was held in the Senate Appropriations Committee.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, March 13, 2024.)

SUPPORT:

Bay Area Council (Co-Sponsor)
San Francisco Bay Area Planning and Urban Research Association (SPUR) (Co-Sponsor)
DignityMoves (Co-Sponsor)
California Community Builders
East Bay YIMBY
Five Keys
Gensler
Grow the Richmond
Homefirst Services of Santa Clara County
Housing California
How to ADU
Midpen Housing Corporation
Mountain View YIMBY
Napa-Solano for Everyone
North Bay Leadership Council
Northern Neighbors
Peninsula for Everyone
People for Housing Orange County
PRC Baker Places
Progress Noe Valley
San Francisco YIMBY
San Luis Obispo YIMBY
San Mateo County Economic Development Association
Santa Cruz YIMBY
Santa Rosa YIMBY
South Bay YIMBY
Southside Forward
Streets for People
The Sobrato Organization
Tim Lewis Communities
Urban Environmentalists

Ventura County YIMBY
YIMBY Action
3 Individuals

OPPOSITION:

None received.

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