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

Bill No: AB 1719 **Hearing Date:** 6/13/2022
Author: Ward
Version: 4/18/2022
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Housing: Community College Faculty and Employee Housing Act of 2022

DIGEST: This bill establishes the Community College Faculty and Employee Housing Act of 2022.

ANALYSIS:

Existing law:

- 1) Pursuant to the Teacher Housing Act of 2016:
 - a) Defines “teacher or school district employee” as any person employed by a unified school district maintaining prekindergarten, transitional kindergarten, and grades 1-12 inclusive, an elementary school district maintaining prekindergarten, transitional kindergarten, and grades 1-8 inclusive, or a high school district employing grades 1-12 inclusive, including but not limited to certificated and classified staff.
 - b) Creates a state policy supporting housing for teachers and school district employees and further permits school districts and developers in receipt of local or state funds or tax credits designated for affordable rental housing to restrict occupancy to teachers and school district employees on land owned by school districts, so long as that housing does not violate any other applicable laws.
 - c) Authorizes local public employees and other members of the public to occupy housing authorized by this Act.
- 2) Enacts the Unruh Civil Rights Act, which specifically outlaws discrimination in California based on sex, race, color, religion, ancestry, national origin, age, disability, medical condition, genetic information, marital status, or sexual orientation.

- 3) Enacts the Fair Employment and Housing Act, which prohibits the existence of a restrictive covenant that makes housing opportunities unavailable based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income or ancestry.

This bill:

- 1) Establishes the Community College Faculty and Employee Housing Act of 2022, which provides that a community college district may establish and implement programs that address the housing needs of community college district employees and faculty who face challenges in securing affordable housing.
- 2) Creates a state policy supporting housing for community college employees and faculty as described in Section 42(g)(9) of the Internal Revenue Code to allow the following:
 - a) A community college district and a developer in receipt of local or state funds or tax credits designated for affordable rental housing to restrict occupancy to community college district employees or faculty on land owned by the community college district; and
 - b) A developer in receipt of tax credits designated for affordable rental housing to retain the right to prioritize and restrict occupancy on land owned by community college district to employees and faculty so long as that housing does not violate any other applicable laws.

COMMENTS:

- 1) *Author's statement.* "A 2019 study found that of the California Community College students, 60% were housing insecure in the previous year, and 19% were unhoused in the previous year. Community College Districts need new authority to provide affordable housing to those that work and study in their districts.

AB 1719 will extend the flexibility afforded to K-12 school districts under current law to community college districts seeking to provide affordable housing options to district faculty, staff, and foster you. This bill will allow community college districts with the appropriate existing land and resources to be active members in addressing California's exasperated housing crisis."

- 2) *Low Income Housing Tax Credits (LIHTC).* Most affordable housing created in the state is funded in part by federal and state LIHTC. LIHTC are used to

develop housing for households that make up to 80% of the area median income (AMI). California receives an allocation of federal tax credits each year based on a per-resident formula. In 2020, the state awarded \$1.06 billion in federal tax credits. In 1987, the Legislature authorized the creation of a state LIHTC program to augment the federal tax credit program. The state tax credit program has an ongoing statutory authorization of \$70 million. The 2019-20 budget authorized an additional \$500 million for state tax credits and the Governor's May budget continues this allocation for the 2020-21 budget year.

Generally under federal Internal Revenue Service (IRS) rules, if a residential unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for federal LIHTC. However, federal IRS law also states that a qualified LIHTC project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants (1) with special needs, (2) who are members of a specified group under a federal program or state program or policy that supports housing for such a specified group, or (3) who are involved in artistic or literary activities.

- 3) *Teacher Housing Act of 2016*. In 2016, SB 1413 (Leno, Chapter 732) established the Teacher Housing Act of 2016 to facilitate the acquisition, construction, rehabilitation, and preservation of affordable housing for teachers and school employees. School districts are authorized to establish and implement programs that address the housing needs of teachers and school district employees by leveraging funding sources including state, federal, local, public, private and resources available to housing developers, promoting public and private partnerships, and fostering innovative financing opportunities. SB 1413 also created a state policy supporting the use of federal and state LIHTC to fund housing for teachers and school district employees on land owned by the school district and permitting school districts to restrict occupancy to teachers and school district employees.

The intent of SB 1413 was to provide express state statutory authority to permit school districts to construct housing on their property and limit the occupancy to teachers and school districts employees. As mentioned above, federal law creates an exemption to the "general use" requirement that allows the use of federal and state tax credits if a state establishes a policy or program that supports housing for such a specified group. AB 1413 established this policy by allowing school districts to restrict occupancy of affordable housing on school district land constructed with federal or state low-income housing tax credits to the teachers and school district employees.

By declaring a state policy supporting housing for teachers/school district employees, these housing projects could qualify under federal law as general public housing and therefore be eligible for both federal and state LIHTCs.

AB 3308 (Gabriel), Chapter 199, Statutes of 2020, further amended the Act to make clear that school districts could still access LIHTC if the school district restricts occupancy of housing constructed on their land to their own employees, but at their discretion offers the housing to other public employees.

- 4) *Community College Faculty and Employee Housing Act of 2022.* This bill gives community college faculty and employees the same benefits as allowed for school districts under the Act. The sponsor of the bill, the San Diego Community College District has land it plans to develop as housing for its faculty and employees and wishes to access LIHTC. This bill does not provide any funding or create any land use enhancements to facilitate the production of housing. Rather, this bill allows a community college district and a developer to use state or local funds or LIHTC to construct affordable rental housing on land owned by the community college district and restrict occupancy to community college district employees or faculty.
- 5) *Opposition.* The State Building and Construction Trades Council are opposed because the bill does not require prevailing wages or use of a skilled and trained workforce.

RELATED LEGISLATION:

AB 3308 (Gabriel, Chapter 199, Statutes of 2020) — allowed school districts to restrict occupancy of affordable housing on school district-owned land, funded with low income housing tax credits (LIHTC), to teachers and school district employees of the school district that owns the land. It further allows public employees to also occupy the housing constructed under this provision.

SB 1413 (Leno, Chapter 732, Statutes of 2016) — established the Teacher Housing Act of 2016 and provided that a school district may establish and implement programs that address the housing needs of teachers and school district employees who face challenges in securing affordable housing.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 8, 2022.)

SUPPORT:

San Diego Community College District (Sponsor)
American Federation of State, County, and Municipal Employees (AFSCME),
AFL-CIO
California Federation of Teachers AFL-CIO
California School Employees Association
Community College Facility Coalition
Community College League of California
Meta
Peralta Community College District
San Jose-Evergreen Community College District

OPPOSITION:

State Building and Construction Trades Council

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