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

Bill No:	SB 1105	**Hearing Date:**	3/24/2022
Author:	Hueso		
Version:	3/15/2022		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: San Diego Regional Equitable and Environmentally Friendly Affordable Housing Finance Agency

DIGEST: This bill establishes the San Diego Regional Equitable and Environmentally Friendly Housing Agency (SD REEFHA or Agency) throughout San Diego. Further, it identifies the powers of the Agency, eligible revenue sources, eligible expenditures, anti-displacement protections, geographic equity requirements, and expenditure requirements.

ANALYSIS:

Existing law:

1) Establishes the Bay Area Housing Finance Authority (BAHFA) to raise, administer, allocate funding for affordable housing in the San Francisco Bay Area, and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production.

2) Sets forth the governing structure and powers of the BAHFA Board, allowable financing activities, and allowable expenditures of the revenues generated.

3) Establishes a number of housing assistance programs for affordable housing.

4) Defines "lower income households" as below 80% area median income (AMI).

5) Defines "persons and families of low- or moderate- income" as persons and families whose income does not exceed 120% AMI.

This bill:

1) Establishes the SD REEFHA in San Diego County, the purpose of which is to increase the supply of equitable and environmentally friendly housing in San

Diego County by providing increased funding for new production, reservation, and rental protection.

Board of the SD REEFHA

2) Requires the Agency to be governed by a board of directors (Board) composed of six voting members, including the following:

   a) One member appointed by the Mayor of the City of San Diego, to represent the City of San Diego.
   b) One member appointed by the San Diego County board of supervisors, to represent San Diego County.
   c) Four members representing the subregions of east county, north county coastal, north county inland, and south county.

3) Requires the Board to engage in a public process, as specified.

4) Authorizes the Board to appoint a chief executive officer, and authorizes the Agency to appoint a general counsel, inspector general, and board secretary.

5) Authorizes the Agency to establish its organizational structure, which may include the establishment of departments, divisions, subsidiary units, or similar entities.

6) Requires the members of the board to be appointed by April 1, 2023, and the Agency shall have no powers, duties, or responsibilities until that time.

7) Authorizes the Agency to act by ordinance, resolution, or minute action.

8) Requires the Board to form an advisory committee, composed of 11 voting members and one nonvoting member with knowledge and experience in the areas of affordable housing finance and development, preservation, or rental protections. It shall meet quarterly at a minimum.

9) Provides that if an eligible jurisdiction is found to be out of compliance with specified affordability targets at the end of a two-year period, the Board may take any of the following actions:

   a) Limit the funding for the jurisdiction to extremely low- (ELI) and very low-income housing (VLI) units only until compliance is reestablished.
   b) Require the funding allocated to the jurisdiction to be administered by the agency instead of the jurisdiction.

c) Increase funding incentives as needed to meet project and programmatic targets

Powers of the SD REEFHA

10) Authorizes the Agency to do the following:

a) Place on the ballot in San Diego County, including all the incorporated cities, funding measures to raise and allocate funds to the County of San Diego, the Cities in San Diego County, and other public agencies and housing projects in its jurisdiction for purposes of producing and preserving housing and supporting rental protection activities.
b) Apply for and receive grants from federal and state agencies.
c) Incur and issue indebtedness and assess fees on the purchaser of any debt issuance and agency loan products for reinvestment of those fees and loan repayments in affordable housing production and preservation.
d) Solicit and accept gifts, fees, grants, and other allocations from public and private entities.
e) Incur and issue bonds and otherwise incur liabilities or obligations.
f) Deposit or invest money in banks or financial institutions in the state.
g) Sue and be sued.
h) Engage counsel and other professional services.
i) Enter into and perform all necessary contracts.
j) Enter into joint powers agreements.
k) Hire staff, define their qualifications and duties, and provide a schedule of compensation for those duties.
l) Assemble parcels and lease, purchase, and otherwise acquire land for housing development.
m) Collect data on housing production and monitor progress on meeting regional and state housing goals.
n) Provide support and technical assistance to local governments in relation to producing and preserving affordable housing.
o) Provide public information about the Agency's housing programs and policies.
p) Any other express or implied powers necessary to carry out the intent and purpose of this bill.
q) Allocate and deploy capital and generated fees or income in the form of grants, loans, equity, interest rate subsidies, and other financing tools.

11) Requires any construction project receiving funds from the Agency to constitute a public work that pays prevailing wages, and that all contractors and

subcontractors at every tier performing work on the project shall use a skilled and trained workforce, as specified.

12) Requires that if the Agency or a qualified voter initiative proposes a measure that will generate revenues pursuant to the provisions in this bill, the San Diego board of supervisors shall call a special election on the measure.

13) Prohibits the Board and Agency from the following:

   a) Regulating or enforcing land use decisions.
   b) Acquiring property by eminent domain.

14) Authorizes the Agency, either directly or through qualified voter initiative, to raise and allocate new revenue through all of the following mechanisms:

   a) Special taxes, including a parcel tax, a gross receipts business license tax, a special business tax, a special tax on vacant property, a documentary transfer tax, a special land value windfall tax, a special tax on real property, and a commercial linkage fee.
   b) Issuance of bonds, including general obligation bonds, revenue bonds, mortgage revenue bonds, and private activity bonds.

15) Requires the Agency to submit a performance audit report to the Legislature every other year.

SD REEFHA Expenditures

16) Requires revenue generated pursuant to this bill to be used to support the construction and preservation of housing, rental protection programs, planning, and technical assistance related to housing.

17) Requires the Agency to distribute regional housing funds in a manner that achieves the following shares in the annual expenditure plan. At a minimum, 70% of the programmatic budget shall be spent as follows:

   a) Funding shall be used for the following purposes, including but not limited to: land acquisition, housing acquisition, financing and ownership programs, as specified, and project-based rental assistance contracts restricted to ELI households.
   b) Financing for development costs associated with a project that is exclusively affordable to 120% AMI. A project may include a subset of at least 150 units or 50% of the total units, whichever is greater, in a larger development

that includes units targeted up to 150% AMI, in which case the Agency may only fund units that are designated for units that are up to 120% AMI.

c) For each of the eligible jurisdictions, the funds shall be reserved as follows:

    i. Between 20-40% of the funds shall be reserved for households between 0-50% AMI.
    ii. Between 20-40% of the funds shall be reserved for households between 50-80% AMI.
    iii. Between 20-40% shall be reserved for households between 80-120%.
    iv. A minimum of 10% shall be reserved for first time homeownership.
    v. 100% of the funds shall be for households that earn less than 120% AMI.

d) Requires eligible projects to be located in infill areas located near transit, jobs, and amenities and include resilient and sustainable building design features.

e) Requires projects to foster liveable communities that encourage mixed-use, walkable, bikeable, age-friendly development patterns with proximity to transit, jobs, open spaces, schools, and amenities. Consideration should be given to low-income communities that may lack certain liveable community infrastructure due to historical patterns of disinvestment.

18) Requires at least 5% of the total annual programmatic budget, excluding any bond indebtedness, shall be spent on countywide rental protection and support programs for renters with household incomes at or below 80% AMI. Eligible uses of the funds include, but are not limited to, all of the following:

a) Preeviction and eviction legal services, counseling, advice and consultation, training, renter education and representation, and services to improve habitability that protect against displacement of tenants.

b) Providing rental assistance for lower-income households. Rental assistance shall be provided to a specific household for a reasonable amount of time not to exceed six months, and shall be paired with supportive services, such as eviction prevention and defense, to the greatest extent possible.

c) Providing relocation assistance for lower income households beyond what is legally required of landlords according to local or state law.

19) Requires 10% of the total annual programmatic budget to be allocated as "annual priorities," and these funds may be used for any eligible activity outlined in this bill.

20) At least 5% of the total annual programmatic budget, excluding any bond indebtedness, shall be used for technical assistance, research, and policy development.

21) Prohibits more than 10% percent of the total annual programmatic budget, excluding any bond indebtedness, shall be used for the agencies administrative and operations expenses.

Anti-displacement Protections

22) Authorizes funding for affordable housing preservation to be used to acquire, rehabilitate, place affordability restrictions on, and preserve existing housing units, housing from the private market, and units in residential hotels in order to prevent the loss of affordability and expand permanent affordability. Housing preservation funding is subject to the following:
    a) Existing residents of buildings acquired for the purpose of affordable housing preservation shall not be permanently displaced,
    b) Buildings acquired for the purpose of affordable housing preservation shall achieve 100% occupancy by extremely low- or very low-income households over time through unit turnover.

23) Requires funding used for the demolition or rehabilitation of existing units to do the following:

    a) Any property that has residential uses, had residential uses in the last five years and were vacated or demolished, or that are or were subject an affordability covenant or rent control, shall be subject to a policy requiring the replacement of all those units available at an affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy.
    b) Replacement requirements shall be consistent with those in density bonus law, and requires the developer to provide relocation benefits to the occupants if the residents need to be relocated due to demolition, as specified.

24) Requires the developer to provide a first right of refusal for a comparable unit available in the new or rehabilitated housing development that is affordable to the household at an affordable rent or affordable housing cost, if existing occupants that are lower income households are required to vacate their units due to demolition or rehabilitation needs.

Expenditure plan

25) Requires the Board to adopt an annual expenditure plan for the use of housing revenue by July 1 of each year.

a) The annual expenditure plan shall set forth the share of revenue and estimated funding amount to be spent on each activity authorized by this bill, indicate the household income levels to be served within each category of expenditures, and estimate the number of affordable housing units to be built or preserved and the number of tenants to be protected.
b) To the extent feasible, the regional expenditure plan shall include a description of any specific project or program proposed to receive funding, including the location, amount of funding, and anticipated outcomes.

26) Requires the annual expenditure plan to include the following information for any specific project that has received an allocation of regional housing revenue during the prior year:

a) Whether the project proponent has requested a building permit for the project, and if so, the date when it was requested.
b) Whether the project proponent is eligible to request a building permit for the project, and if so, the date when it became eligible.
c) Whether the project proponent has obtained final approval or certification that the housing development is habitable, such as a certificate of occupancy, and if so, the date when it was obtained.

Geographic Equity

27) Requires revenue generated pursuant to this part to be allocated according to the following geographic distribution schedule:

a) 50% of annual funding shall be allocated, on an affordable regional housing needs assessment goal basis, to the eligible jurisdictions;
b) 50% of annual funding shall be distributed at the discretion of by the Agency to the eligible jurisdictions or eligible projects and programs consistent with the guiding principles of the agency.

28) Authorizes any eligible jurisdiction to receive a direct allocation of all or part of the jurisdiction's funding if all of the following conditions are met:

a) The jurisdiction agrees to adopt and adhere to Agency financing policies and guidelines, including public engagement and notice provisions outlined in this chapter.

b) All funded projects are in compliance with the Agency's eligible uses and affordability requirements.
c) The jurisdiction agrees to allocate its funding within 12 months through administrative processes without being subject to additional legislative process.
d) The jurisdiction is in compliance with Affirmatively Furthering Fair Housing in California guidelines.

COMMENTS:

1) *Author's statement.* According to the author, "Just as the entirety of California is facing a housing crisis, the San Diego region is struggling to meet its housing demand. For the past decades, this has been driving up living costs, and forcing people to make the decision to live farther away from urban centers and commuting longer distances to work every day. With more congestion, increased traffic has only exacerbated pollution concerns, emphasizing the fact that our housing and climate crises are interconnected. These issues require sensible approaches that consider how we can best manage our need to increase housing with making sure that we are equitably distributing resources, because unfortunately, our lowest income residents and people of color are bearing the highest burdens associated with these crises. By establishing a regional housing agency in San Diego, we can make sure that we are doing our best to address these concerns on a larger scale, by coordinating efforts between cities to allocate resources more efficiently and more equitably. Everyone deserves a place to call home, and our goal is to help make that priority a reality for more San Diegans across the county."

2) *BAHFA*. In 2019, the Legislature passed and the Governor signed AB 1487 (Chiu, Chapter 598), which created a new regional option to address the lack of affordable housing in the San Francisco Bay Area. Specifically, that bill provided the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) – acting as the BAHFA – with new tools to raise billions of dollars to fund the production, preservation, and protection of affordable housing. It enabled the region to support local jurisdictions by providing additional funding to address infrastructure and other needs associated with new residents. That bill was formulated in partnership with the Bay Area's local elected leaders and other regional leaders following a multiyear regional stakeholder process to collectively ensure that the entire Bay Area was on track to provide affordable housing efficiently and effectively to all residents. That bill 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. It also established MTC as the board of the authority, and ABAG as the executive board, making ABAG the lead agency.

3) *LA County Housing Authority (SB 679, Kamlager)*. In 2021, the legislature contemplated a similar model for LA County in SB 679. That bill would have established the Los Angeles County Affordable Housing Solutions Agency (LACAHSA), and authorized LACAHSA to utilize specified local financing tools for the purpose of funding renter protections, and the preservation and production of housing units affordable to households earning up to 80% AMI, with financing priority on the lowest levels of affordability. Specifically that bill would have authorized LACAHSA to raise revenues through a parcel tax, gross receipts business license tax, a document transfer tax, or the issuance of bonds. At least 50% of the annual programmatic budget would have been spent on affordable housing creation, preservation, and ownership; between 30 and 40% spent on renter protections; and up to 10% could be used for administrative purposes. The LACAHSA board would be required to adopt an expenditure plan demonstrating how the fund are being used with project specific data.

4) *SD REEFHA*. This bill creates a regional housing entity for San Diego County and the cities within. Its purpose 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 within the County. The bill sets forth the governing structure and powers of the Board, allowable financing activities, and allowable uses of the revenues generated. The Agency is authorized to raise revenue through new taxes (special taxes, including a parcel tax, a gross receipts business license tax, a special business tax, a special tax on vacant property, a documentary transfer tax, a special land value windfall tax, a special tax on real property, and a commercial linkage fee) and bonds (including general obligation bonds, revenue bonds, mortgage revenue bonds, and private activity bonds).

   More specifically, this bill requires 70% of the funds to be used for land and housing acquisition, financing, ownership programs, and project based rental assistance; 5% for rental protection and support; 10% for “annual priorities”; 5% for technical assistance; and no more than 10% of the for administrative expenses. It also includes ant displacement provisions to ensure one-for-one replacement of demolished affordable housing units, relocation assistance, and first right of refusal for those households whose homes are demolished.

Unlike the Los Angeles and Bay Area regional efforts, however, it is unclear what the local buy-in has been or which stakeholders have been engaged in the determining how the funds will be allocated in this bill. Locals plan to work out the details in the coming months, including identifying how the funds will be expended, and which revenue sources are authorized. Additionally, they plan to work locally to collect signatures for a possible 2024 ballot measure. As such, the bill may change significantly in the next several months.

5) *Can't they form a Joint Powers Authority (JPA) on their own?* Local agencies do not need legislative authority to form a JPA unless it requires powers not common to all its members, or when statutory certainty and specificity is preferable to the agreement's details. In this instance, the authority needs specified authority to generate certain revenues. This bill also provides the authority to shift tax questions to the voters at the regional level, rather than at the individual county level. This bill has not specified however which activities various new taxes and bond indebtedness may be spent. Moving forward, the author may wish to specify these expenditures.

6) *Gutted.* This bill was gut-and-amended in the Senate Rules Committee on March 15th.

7) *Double-referral*. This bill was also referred to the Senate Governance and Finance Committee, which has jurisdiction over local governance structures and local financing authorities.

RELATED LEGISLATION:

SB 679 (Kamlager, 2021) — establishes LACAHSA, and authorizes LACAHSA to utilize specified local financing tools for the purpose of funding renter protections, and the preservation and production of housing units affordable to households earning up to 80% of the area median income (AMI). *This bill is pending in the Assembly Housing and Community Development Committee.*

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: No

POSITIONS: (Communicated to the committee before noon on Thursday, March 17, 2022.)

SUPPORT:

Supervisor Terra Lawson-Remer, County of San Diego

OPPOSITION:

None received.

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