

COMMENTS:

- 1) *Author's statement.* "Passing this legislation will clarify existing law and provide the necessary direction to county assessors to administer the exemption equitably across all jurisdictions. Failure to pass this legislation will likely lead to continued disputes with county assessors as to how to apply existing law, and likely incentivize Public Housing Authorities to hold property directly as opposed to with instrumentalities, which would lead to increased costs and inefficiencies to PHAs with no corresponding increase in property tax revenue. California is already facing a housing crisis, and it is the responsibility of the state Legislature to help empower and support Public Housing Authorities that provide essential services to their communities and the state as a whole."
- 2) *Public Housing Authorities.* The Housing Authorities Law creates PHAs as public bodies exercising public and essential governmental functions. PHAs are independent public entities created by state law almost entirely funded by the federal government. They administer the Federal Section 8 Housing Choice Voucher program, which provides rental subsidies for lower-income households. Some PHAs also own and develop affordable housing.
- 3) *Tax Exemptions.* The California Constitution provides that property held by public entities is exempt from taxation. In addition, state law adopted in 1953 states that property held by PHAs is exempt from taxation.

According to the sponsors of the bill, the Housing Authority of the City of Los Angeles (HACLA) and the California Association of Housing Authorities (CAHA), HACLA recently received a tax bill for over \$3 million from the Los Angeles County Assessor for several properties that had previously been treated as tax-exempt by the Assessor.

- 4) *Instrumentalities.* According to the U.S. Department of Housing and Urban Development (HUD), an instrumentality is "an entity related to the PHA whose assets, operations, and management are legally and effectively controlled by the PHA, through which PHA functions or policies are implemented and that utilize public housing funds or public housing assets for the purpose of carrying out public housing development functions of the PHA. For HUD's purposes, an instrumentality assumes the role of the PHA and is the PHA under the public housing requirements for purposes of implementing public housing development activities and programs. Instrumentalities must be authorized to act for and to assume such responsibilities. In addition, an instrumentality must abide by the public housing requirements that would be applicable to the PHA."

HUD “encourages PHAs to take innovative approaches to implementation of public housing programs including the creation of partnerships to increase the capacity and experience of the PHA. PHAs have diverse experience and skills and must evaluate what is in the interest of the PHA and its clients prior to utilizing an Affiliate or Instrumentality for development and/or the operation of public housing programs. If the PHA determines that the use of an Affiliate or Instrumentality to assist in the development of public housing and to administer and manage PHA programs is in the best interest of the PHA, the HUD encourages PHAs to use Affiliates and Instrumentalities, so long as the implementation of the public housing program is consistent with the applicable public housing requirements.”

According to CAHA, instrumentalities allow PHAs to obtain financing for housing construction and rehabilitation, manage risk, and lower insurance cost. CAHA also states that the federal government encourages and in some cases requires PHAs to hold properties in instrumentalities.

- 5) *Clarifying guidance for tax assessors.* This bill makes clear that property held by a nonprofit public benefit corporation—an instrumentality—that is controlled by a PHA is included in the existing exemption from taxation in state law. This clarification will serve as guidance to county assessors when determining if a property owned by a PHA through an instrumentality is tax-exempt.
- 6) *Double-referral.* This bill was also referred to the Senate Governance & Finance Committee.

RELATED LEGISLATION:

AB 653 (Reyes, 2023) — creates, upon appropriation, a grant program for PHAs to provide landlord incentives and other housing navigation services to housing choice voucher participants. *This bill is pending referral in the Senate.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 31, 2023.)

SUPPORT:

California Association of Housing Authorities

OPPOSITION:

None received.

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