
SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 10	Hearing Date:	7/2/2019
Author:	Chiu		
Version:	4/30/2019		
Urgency:	Yes	Fiscal:	Yes
Consultant:	Alison Hughes		

SUBJECT: Income taxes: credits low-income housing: farmworker housing

DIGEST: This bill increases the amount of state tax credits the California Tax Credit Allocation Committee (TCAC) can allocate for low-income housing and makes other changes to the state low-income housing tax credit (LIHTC) program.

ANALYSIS:

Existing law:

- 1) Allows a state tax credit for costs related to construction, rehabilitation, or acquisition of low-income housing. This credit, which mirrors a federal LIHTC, may be used by taxpayers to offset the tax under the Personal Income Tax, the Corporation Tax, and the Insurance Tax laws.
- 2) Requires the TCAC to annually allocate the California LIHTC based upon qualifications of the applicant and proposed project. The California LIHTC is available only to projects that receive an allocation of the federal LIHTC.
- 3) Limits the annual aggregate amount of the state LIHTC to \$70 million, as adjusted for an increase in the California consumer price index, plus any unused LIHTC from the preceding calendar year and any LIHTC returned in the calendar year. The state LIHTC awarded may be claimed as a credit over a four-year period.
- 4) Requires that \$500,000 of the LIHTC be set aside for farmworker housing developments and provides that the farmworker tax credit awards are not dependent on receiving a federal LIHTC.
- 5) Allows TCAC to award state LIHTCs to developments in a qualified census tract (QCT) or a difficult to development area (DDA) if the project is also receiving federal LIHTC, under the following conditions:

- a) Developments restrict at least 50% of the units to special needs households; and
 - b) The state credits do not exceed 130% of the eligible basis of the building.
- 6) Allows TCAC to replace federal LIHTC with state LIHTC of up to 130% of a project's eligible basis if the federal LIHTC is reduced in an equivalent amount.
 - 7) Defines a QCT as any census tract designated by the U.S. Department of Housing and Urban Development (HUD) in which either 50% or more of the households have an income that is less than 60% of the area median gross income or that has a poverty rate of at least 25%.
 - 8) Defines a DDA as an area designated by HUD on an annual basis that has high construction, land, and utility costs relative to area median income.

This bill:

- 1) Increases, for 2020 through 2024, the annual aggregate amount of state LIHTC by an additional \$500 million, as adjusted for inflation beginning in 2021. The additional \$500 million is not available to a new qualified low-income housing building that receives a federal 9% credit.
- 2) Increases, for 2020 through 2024, the annual aggregate amount of LIHTCs set-aside for farmworker housing from \$500,000 to \$25 million. Amounts that are unallocated or returned shall be added back to the \$500 million increase that may be allocated by TCAC to projects that do not receive a 9% credit.
- 3) Eliminates, on or after January 1, 2020, and before January 1, 2025, the dollar limitation of \$75,000, related to the offset of passive activity losses for rental real estate activities, if the taxpayer actively participated in the real estate activities.
- 4) Requires, for purposes of the Personal Income Tax (PIT) Law, the housing sponsor to demonstrate that it will invest an amount in the project at least equal to the amount of credit allocated to it with respect to the allocation of a credit on or after January 1, 2020.
- 5) Allows a qualified low-income building to be eligible for a cumulative state LIHTC of 95% of the qualified basis over four years if it meets all of the following requirements:
 - a) The building is at least 15 years old;

- b) The building is serving households of very low-income or extremely low-income such that the average maximum household income is not more than 45% of the area median gross income adjusted for household size, and the tax credit regulatory agreement is entered into for a period of not less than 55 years;
 - c) It would have insufficient LIHTC due to the building's low appraised value, to complete substantial rehabilitation; and,
 - d) The substantial rehabilitation will be complete with this 95% state LIHTC of the qualified basis.
- 6) Modifies the allocation of state LIHTCs that may be awarded to a federally subsidized low-income housing project receiving a federal 4% LIHTC as follows:
- a) A qualified low-income building is eligible for a cumulative state LIHTC over four years of 50% of the qualified basis of the building; and,
 - b) An existing qualified low-income housing building is eligible for a cumulative state LIHTC over four years of 13% of the qualified basis.
- 7) Includes members of a limited liability company within the definition of "taxpayer" and "housing sponsor."

COMMENTS

- 1) *Purpose of the bill.* According to the author, "Changes made to the corporate tax law at the federal level will undercut the efforts we have made to address the affordable housing crisis facing our state. As a result of the Trump tax plan California will lose 48,870 affordable rental homes, 55,230 jobs, \$4.6 billion in business income, and \$1.7 billion in local, state, and federal taxes. Low-income families will suffer the greatest from this loss. In the current market, 2.2 million extremely low-income and very low-income renter households are competing for 664,000 affordable rental units. We need more resources at our disposal to increase the number of rental units for lower-income families. Lack of affordability is fueling the rising number of people experiencing homelessness as more and more people pay over 50% of their household income on rent. It's simply not sustainable. AB 10 proposes a \$500M increase to the state's affordable housing tax credit, an extremely successful program that in turn leverages another \$1B in federal tax credits, local, and private sector investments. AB 10 also revises state law exempting state LIHTCs from the passive activity loss rules, which could significantly increase the state LIHTC equity pricing. This bill would expand the ability of individual tax payers to claim the LIHTC by eliminating the \$75,000 cap on an individual tax payer's offset for passive rental real estate activities in computing taxable income."

2) *Background of the federal LIHTC program.* The LIHTC is an indirect federal subsidy developed in 1986 to incentivize the private development of affordable rental housing for low-income households. The federal LIHTC program enables low-income housing sponsors and developers to raise project equity through the allocation of tax benefits to investors. TCAC administers the program and awards credits to qualified developers who can then sell those credits to private investors who use the credits to reduce their federal tax liability. The developer in turn invests the capital into the affordable housing project.

Two types of federal tax credits are available: the 9% and 4% credits. These terms refer to the approximate percentage of a project's "eligible basis" a taxpayer may deduct from his/her annual federal tax liability in each of 10 years. "Eligible basis" means the cost of development excluding land, transaction costs, and costs incurred for work outside the property boundary. For projects that are not financed with a federal subsidy, the applicable rate is 9%. For projects that are federally subsidized (including projects financed more than 50% with tax-exempt bonds), the applicable rate is 4%. Although the credits are known as the "9% and 4% credits," the actual tax rates fluctuate every month, based on the determination made by the Internal Revenue Service on a monthly basis. Generally, the 9% tax credit amounts to 70% of a taxpayer's eligible basis and the 4% tax credit amounts to 30% of a taxpayer's eligible basis, spread over a 10-year period.

Each year, the federal government allocates funding to the states for LIHTC on the basis of a per-resident formula. In California, TCAC is the entity that reviews proposals submitted by developers and selects projects based on a variety of prescribed criteria. Only rental housing buildings, which are either undergoing rehabilitation or newly constructed, are eligible for the LIHTC. In addition, the qualified low-income housing projects must comply with both rent and income restrictions.

Each state receives an annual ceiling of 9% federal tax credits and they are oversubscribed by a 2:1 ratio. Unlike 9% LIHTC, federal 4% tax credits are not capped; however, they must be used in conjunction with tax-exempt private activity mortgage revenue bonds which are capped and are administered by the California Debt Limit Allocation Committee. In 2019, the state ceiling for private activity bonds is set at \$4.15 billion.

The value of the 4% tax credits is less than half of the 9% tax credits and, as a result, 4% federal credits are generally used in conjunction with another funding source, like state housing bonds or local funding sources.

- 3) *Background of the state LIHTC program.* In 1987, the Legislature authorized a state LIHTC program to augment the federal tax credit program. State tax credits can only be awarded to projects that have also received, or are concurrently receiving, an allocation of the federal LIHTCs. The amount of state LIHTC that may be annually allocated by the TCAC is limited to \$70 million, adjusted for inflation. In 2014, the total credit amount available for allocation was \$99.4 million plus any unused or returned credit allocations from previous years. Current state tax law generally conforms to federal law with respect to the LIHTC, except that it is limited to projects located in California.

While the state LIHTC program is patterned after the federal LIHTC program, there are several differences. First, investors may claim the state LIHTC over four years rather than the 10-year federal allocation period. Second, the rates used to determine the total amount of the state tax credit (representing all four years of allocation) are 30% of the eligible basis of a project that is not federally subsidized and 13% of the eligible basis of a project that is federally subsidized, in contrast to 70% and 30% (representing all 10 years of allocation on a present-value basis), respectively, for purposes of the federal LIHTCs. Furthermore, state tax credits are not available for acquisition costs, except for previously subsidized projects that qualify as “at-risk” of being converted to market rate.

Combining federal 9% credits (which amounts to roughly 70%) with state credits (which amounts to 30%) generally equals 100% of a project’s eligible basis. Combining federal 4% credits (which amounts to roughly 30%) with state credits (which amounts to 13%), only results in 43% of a project’s eligible basis.

- 4) *Background of state credits in DDAs and QCTs.* Federal law also allows credits equal to 130% of eligible basis if the project is located in a QCT or a DDA, a so-called “basis boost” of 30%. QCTs are designated by the Secretary of HUD, in which either 50% or more of the households have an income that is less than 60% of the area median gross income or have a poverty rate of 25%. The Secretary of HUD also draws DDAs using a ratio of construction, land, and utility costs to area median income.

State law prohibits TCAC from allocating state credits in QCTs or DDAs unless TCAC swaps out federal credits willing to forgo the “basis boost,” so that the

combined credit amount doesn't exceed 130% of basis. The rationale for this prohibition is that projects in these areas can qualify for more federal tax credits through a basis boost and therefore are already advantaged.

State law was recently amended to authorize TCAC, in limited cases, to award state LIHTCs for use in DDAs or QCTs, in addition to the federal credits. To qualify, a development must restrict at least 50% of the units to special-needs households. The change allows these projects to receive state credits of 30% of basis in addition to federal ones generated on 130% of basis.

This bill would also allow state 4% tax credits to be awarded to projects without regard to DDA or QCT status, with the main purpose of providing enough state tax credits to match the value of a 9% federal tax credit.

- 5) *Increasing amount of state credits.* This bill would increase the state LIHTC allocation by \$500 million per year, in addition to the existing \$70 million cap, as adjusted for inflation, between 2020 and 2024. It also includes a set-aside from the \$500 million increase to the LIHTC program of \$25 million for farmworker housing. There is currently a \$500,000 set-aside of low-income housing tax credits for farmworker housing developments serving farmworkers and their families. This bill would require any unused credits from the \$25 million set-aside to go to qualified non-farmworker housing projects that don't receive funding under the main program.
- 6) *Filling the gap.* This bill also increases the amount of state 4% tax credits awarded to each qualified new low-income housing project from 13% to 50% of the eligible basis, provided the project is also receiving a 4% federal tax credit. Developers that receive federal 9% credits can combine them with a sufficient subsidy to construct a low-income housing project, but TCAC can only allocate those credits up to a federal cap. While the 4% credits are not subject to a cap, they do not have the same value because developers cannot generate sufficient capital needed to cover the cost of the project.

This increase would apply to new construction and would more than triple the amount of equity that an investor in the project would receive, which would bring the return on 4% credits in line with 9% credits and would likely result in greater affordability for the project. The costs of acquiring an existing low-income building would also be eligible for the state LIHTC allocated from the new additional funding of \$500 million, but the applicable percentage used to calculate the amount of that credit would be limited to 13% of the project's eligible basis.

- 7) *Rehabilitating existing housing stock.* Many low-income housing developments in the state are older and need significant rehabilitation. These projects, therefore, require more investment due to their age and level of repairs, combined with low rents. This bill will significantly increase an amount of state LIHTC — 95% of the eligible basis — that may be awarded to a qualified low-income housing building that houses very low-income or extremely low-income tenants and meets all specified requirements, including the building's location, age, and value.
- 8) *Impact of Federal Tax Package on LIHTC.* As a result of the H.R. 1, the Tax Cuts and Jobs Act that passed in 2017, the federal reduction in the corporate tax rate from 35% to 21% is having a significant effect on the price of federal LIHTC. Novogradac & Company, LLC (Novogradac), a certified public accountant, estimates the price of the federal LIHTC has dropped from \$1.03 in March of 2016 to \$0.89 in December of 2017.

Although the price of the federal credit has been reduced, the decrease in the federal corporate tax rate could result in an increase in value to the state LIHTC. In general the state LIHTC equity pricing for allocated credits is strongly inversely correlated to the investor's federal income tax rate. According to Novogradac, "there is an inverse correlation because the state credit that reduces the investor's federal deduction for state income taxes, such that the higher the federal tax rate, the less valuable the state credit. When the corporate federal rate was 35%, state LIHTC equity prices were generally in the range of, but slightly greater than, 65 cents. Now that the federal rate has been reduced to 21%, equity pricing for allocated state credits is expected to increase, possibly in the range of 20 percent." An increase in the state LIHTC could help mitigate the loss resulting from the federal tax change.

In addition to increasing the total amount of the credit, California can make changes to tax law to increase the value of the state LIHTC. California uses "modified conformity" to federal income tax law, meaning it mirrors federal law, with certain exceptions. California's modified conformity to the federal passive activity loss rules restricts the ability of individual investors to use state LIHTCs. California caps the amount of passive activity for rental real estate activities an individual can offset with a state tax credit. According to Novogradac, "a revision to state tax law exempting state LIHTCs from the passive activity loss rules could significantly increase the state LIHTC equity pricing, even more so since tax reform limits individual taxpayers' federal deductions for state and local income taxes to \$10,000 and subjects individuals to federal tax rates that are significantly higher than corporate rates." The new federal tax law also establishes an individual tax rate of 37%, compared to a

corporate rate of 21%. This will provide individuals with a greater incentive to invest in state tax credits.

This bill would expand the ability of individual tax payers to claim the LIHTC by eliminate the \$75,000 cap on an individual tax payer's offset for passive rental real estate activities in computing taxable income.

- 8) *Costs and effects.* The increase in state LIHTCs is a tax credit, which means this is tax liability that would have otherwise gone to the general fund from corporations, which instead choose to invest in low-income housing tax credits. While it's possible that it could take \$500 million from the general fund, the idea is that investors would likely be seeking tax credits elsewhere and might, with the enactment of this bill, now build affordable housing. Further, there are positive economic impacts from the construction, job creation, and local tax benefits of building multifamily homes. The estimated one-year impacts of building 100 rental apartments in a typical local area include \$11.7 million in local income, \$2.2 million in taxes and other revenue for local governments, and 161 local jobs (1.62 jobs per apartment). The additional, annually recurring impacts of building 100 rental apartments in a typical local area include \$2.6 million in local income, \$503,000 in taxes and other revenue for local governments, and 44 local jobs (.44 jobs per apartment).
- 9) *Opposition.* Writing as a coalition, the California Coalition for Adequate School Housing, California Retired Teachers Association, California State PTA, and California Teachers Association oppose AB 10. They are asking the State to pause the creation of any additional tax credits until a comprehensive evaluation, including broader transparency and accountability can be created for all existing tax credits. Forty percent of every dollar shifted from the General Fund to a tax credit is money that would have gone to fund Proposition 98 and California's schools.
- 10) *Double-referral.* This bill is also referred to the Governance and Finance Committee.

RELATED LEGISLATION:

SB 9 (Beall, 2019) — allows a taxpayer who receives an allocation of state LIHTC from TCAC to sell all or any portion of the credit to one or more unrelated parties for each taxable year in which the credit is allowed for not less than 80% of the amount of the credit. *This bill is pending in the Assembly Housing and Community Development Committee.*

AB 71 (Chiu, 2017) — would have increased the amount of state tax credits the California Tax Credit Allocation Committee (TCAC) can allocate for low-income housing and makes other changes to the state low-income housing tax credit (LIHTC) program. *This bill was placed on the Inactive File on the Assembly Floor.*

AB 2817 (Chiu, 2016) — would have increased the amount of state tax credits the California Tax Credit Allocation Committee (TCAC) can allocate for low-income housing and makes other changes to the state low-income housing tax credit (LIHTC) program. *This bill was held in the Assembly Appropriations Committee.*

AB 35 (Chiu, 2015) — would have increased the amount of state tax credits the California Tax Credit Allocation Committee (TCAC) can allocate for low-income housing and makes other changes to the state low-income housing tax credit (LIHTC) program. *This bill was vetoed by Governor Brown. The veto message read:*

“Despite strong revenue performance over the past few years, the state's budget has remained precariously balanced due to unexpected costs and the provision of new services. Now, without the extension of the managed care organization tax that I called for in special session, next year's budget faces the prospect of over \$1 billion in cuts.

“Given these financial uncertainties, I cannot support providing additional tax credits that will make balancing the state's budget even more difficult. Tax credits, like new spending on programs, need to be considered comprehensively as part of the budget deliberations.”

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

California Housing Consortium (Co-Sponsor)
 California Housing Partnership (Co-Sponsor)
 Housing California (Co-Sponsor)
 Non-Profit Housing Association Of Northern California (Co-Sponsor)
 Abode Communities
 Affirmed Housing Group
 Bay Area Housing Advocacy Coalition
 Bay Area Regional Health Inequities Initiative

Burbank Housing Development Corporation
C & C Development
CalAsian Chamber Of Commerce
California Apartment Association
California Association Of Housing Authorities
California Association Of Local Housing Finance Agencies (Cal-Alhpa)
California Coalition For Rural Housing
California State Association Of Counties
California YIMBY
Corporation For Supportive Housing
County Of Santa Clara
EAH Housing
East Bay Asian Local Development Corp
Eden Housing
First Community Housing
Housing Authority Of The City Of Alameda
Housing Trust Silicon Valley
John Stewart Company
LeadingAge California
League Of California Cities
League Of Women Voters Of California
Los Angeles Homeless Services Authority
Many Mansions
Midpen Housing Corporation
Mono; County Of
National Association Of Social Workers, California Chapter
Pacific Companies, The
Palm Communities
Paulett Taggart Architects
Sacramento Area Council Of Governments
San Diego Housing Federation
San Francisco Housing Action Coalition
Southern California Association Of Governments
Southern California Association Of Nonprofit Housing
TELACU
The Coalition Of Homeless Services Providers
Ventura Council Of Governments
Ventura; County Of
Wakeland Housing And Development Corporation
Walnut Creek; City Of
1 Individual

OPPOSITION:

California Coalition for Adequate School Housing
California Retired Teachers Association
California State PTA
California Teachers Association

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SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 58	Hearing Date:	7/2/2019
Author:	Luz Rivas		
Version:	5/1/2019		
Urgency:	No	Fiscal:	Yes
Consultant:	Erin Riches		

SUBJECT: Homeless Coordinating and Financing Council

DIGEST: This bill adds a representative from the California Department of Education (CDE) to the Homeless Coordinating and Financing Council (HCFC).

ANALYSIS:

Existing law:

- 1) Establishes the HCFC, with the purpose of coordinating the state's response to homelessness by utilizing Housing First practices.
- 2) 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.
- 3) Requires the Governor to appoint up to 17 members to the HCFC. These include the Secretary of BCSH, or their designee, who shall serve as HCFC chair, and representatives of the following:
 - a) The state Department of Transportation.
 - b) The state Department of Housing and Community Development.
 - c) The state Department of Social Services.
 - d) The California Housing Finance Agency.
 - e) The state Department of Health Care Services.
 - f) The state Department of Veterans Affairs.
 - g) The state Department of Corrections and Rehabilitation.
 - h) The California Tax Credit Allocation Committee.
 - i) The Victim Services Program in the Office of Emergency Services.
 - j) A formerly homeless person who lives in California.

- k) A formerly homeless youth who lives in California.
 - l) Two representatives of local agencies or organizations that participate in the US Department of Housing and Urban Development's (HUD) Continuum of Care (CoC) Program.
 - m) State advocates or other members of the public or state agencies, at the Governor's discretion.
 - n) Two different stakeholder organizations, appointed by the Senate Rules Committee and the Assembly Speaker.
- 4) Authorizes the HCFC to invite stakeholders, individuals who have experienced homelessness, members of philanthropic communities, and experts to participate in meetings or provide information.
- 5) Establishes a number of goals for the HCFC, including, among others:
- a) Creation of partnerships among state agencies and departments, local government agencies, participants in HUD's CoC program, federal agencies, the U.S. Interagency Council on Homelessness, nonprofit agencies working to end homelessness, homeless services providers, and the private sector, for the purpose of arriving at specific strategies to end homelessness.
 - b) Brokering agreements between state agencies and departments and between state agencies and departments and local jurisdictions to align and coordinate resources, reduce administrative burdens of accessing existing resources, and foster common applications for services, operating, and capital funding.
 - c) Serving as a statewide facilitator, coordinator, and policy development resource on ending homelessness in California.

This bill adds a representative from the CDE to the membership of the HCFC.

COMMENTS

- 1) *Purpose of the bill.* The author states that as California's housing shortage intensifies, its homeless population continues to surge. Particularly troubling is the rise in student homelessness. Currently, California leads the nation in terms of youth homelessness, with more than 200,000 public school students being identified as homeless by the CDE. The author states that this is evident in her district, where many schools, including Telfair Elementary where she attended, report very high percentages of student homelessness. The adverse impact that housing instability has on academic performance and graduation rates is well documented. If homeless students are not given the support they need to obtain stable housing, the cycle of under-education, unemployment, and homelessness

is likely to continue to grow. This bill would ensure that those who work directly with homeless students are given a seat at the table by requiring the Governor to appoint a representative from the CDE to the HCFC.

- 2) *How does the state identify homeless students?* Existing federal law, the McKinney-Vento Homeless Assistance Act (Act), requires all school districts, county offices of education, and charter schools to identify homeless students enrolled in their schools and provide those students with certain rights and supportive services. These rights include access to preschool; immediate enrollment without regard to immunization and other records; access to district-funded transportation services; exemption from certain local graduation requirements; the right to a fifth year of high school, if needed; and credit for partial coursework, among others. These rights and services are only available to students who have been designated by their school district's McKinney-Vento liaison, a teacher or other local education educational agency (LEA) or school employee, as meeting the Act's definition of "homeless youth" (e.g., a student who lacks a fixed, regular, and adequate nighttime residence). In addition to identifying homeless students, a McKinney-Vento liaison is required to record information related to homeless students in their school or LEA. Each LEA is then required to annually report their homeless data to CDE, which subsequently certifies it and submits it to the U.S. Department of Education.
- 3) *How many homeless students are there in California?* A report by the California Homeless Youth project, *California's Homeless Students: A Growing Population* (September 2014) found that during the 2012-13 school year, nearly 270,000 of California's students experienced homelessness. According to data collected annually by CDE, there has been little change, with counties reporting 269,507 enrolled homeless students as of April 2019. CDE data indicates that only one county (Modoc) reports having zero enrolled homeless youth, and as recently as 2017, over a quarter of schools – about 2,700 of 10,500 schools – reported they had no identified homeless students and thus were providing no McKinney-Vento services. CDE notes that 400 school districts statewide have reported enrolling zero homeless students.

The California Homeless Youth Project report notes that data on homeless students may not provide a completely accurate picture of the state's homeless student population because it does not include students who have dropped out of school due to circumstances related to their homeless situation, nor does it include preschool-aged children. Furthermore, the report highlights the fact that many schools may not identify all of their homeless students, as they may be unaware of a child's or youth's housing situation, and the child or their parents may hesitate to disclose this information to school staff.

- 4) *The HCFC.* SB 1380 (Mitchell, 2016) created the HCFC to coordinate the state's response to homelessness with the state Department of Housing and Community Development (HCD). The HCFC is tasked with collaborating with all state agencies to ensure they revise or adopt guidelines and regulations that incorporate the core components of Housing First, if they do not already do so. In 2017, SB 918 (Wiener) expanded the role of the HCFC by requiring it to set and measure progress toward goals to prevent and end homelessness among California's youth. Last year, the HCFC was further tasked with administering the newly created Homeless Emergency Assistance Program (HEAP) to provide localities with flexible block grant funds to address their immediate homelessness challenges.
- 5) *Seventeen and counting.* Existing law requires the Governor to appoint up to 17 members of the HCFC. This bill would add an 18th member, and SB 687 (Rubio, 2019) would add three more members. These bills pose the risk of making the HCFC so large it cannot effectively do its work; attempting to get 21 people in the same room to work together could be a difficult task. Existing law authorizes the HCFC to invite stakeholders and other state agencies to participate in meetings or provide information, and requires the HCFC to coordinate and create partnerships with other agencies in addressing homelessness. In addition, there is already a seat on the HCFC for a formerly homeless youth, who could presumably speak directly to the experience of trying to attend school while homeless.
- 6) *Double referral.* This bill was heard in the Human Services Committee on June 10th, where it was approved on a 5-0 vote.

RELATED LEGISLATION:

SB 687 (Rubio, 2019) — increases the number of HCFC members appointed by the Governor from 17 to 20 by requiring the Governor to additionally appoint a formerly homeless college student, a formerly homeless veteran, and a formerly homeless parent. *This bill is in the Assembly Housing Committee.*

SB 333 (Wilk, 2019) — requires the HCFC, by July 1, 2021, to develop and implement a statewide strategic plan for addressing homelessness in the state. Also requires the HCFC, by January 1, 2021, to implement strategic plans to assist Continuums of Care to better implement US Department of Housing and Urban Development (HUD) recommended activities and/or to better meet federal HUD requirements. *This bill is in the Assembly Housing Committee.*

AB 67 (Luz Rivas, 2019) — requires HCD, in coordination with the HCFC, to create a state homeless integrated data warehouse, as specified. *This bill will be heard in this committee today.*

AB 307 (Reyes, 2019) — requires the HCFC to develop a grant program to support homeless youth and to prevent and end homelessness among California's youth, as specified. *This bill will be heard in this committee today.*

AB 1702 (Luz Rivas, 2019) — requires BCSH to create additional staff positions at the HCFC and requires the HCFC to make recommendations to the Legislature on streamlining homeless programs and service delivery. *This bill will also be heard in this committee today.*

SB 918 (Wiener, Chapter 841, Statutes of 2018) — establishes the Homeless Youth Act of 2018 to better serve the state's homeless youth population and requires the HCFC to take on additional related responsibilities that are focused on addressing the needs of youth experiencing homelessness.

SB 850 (Senate Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2018) — provided for over \$600 million in funding to various projects aimed at reducing homelessness. Also moved the HCFC from HCD to BCSH, authorized the creation of an HCFC Executive Director, and provided for the allocation of several staff members to HCFC.

SB 1380 (Mitchell, Chapter 847, Statutes of 2016) — established the HCFC to oversee implementation of the Housing First regulations and, among other things, identify resources, benefits, and services that can be accessed to prevent and end homelessness in California. It also required state agencies or departments that fund, implement, or administer state housing or housing-related services programs to adopt guidelines and regulations to include Housing First policies.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

California Alternative Payment Program Association
California Coalition For Youth
California School Employees Association
California State Association Of Counties
Child Care Alliance Of Los Angeles
Child Care Resource Center

Corporation For Supportive Housing
Housing California
John Burton Advocates For Youth
Los Angeles County Office Of Education
Los Angeles Unified School District
Non-Profit Housing Association Of Northern California
Santa Monica; City Of
Shelter Partnership
Southern California Association Of Nonprofit Housing
Union Station Homeless Services

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 67	Hearing Date:	7/2/2019
Author:	Luz Rivas		
Version:	5/17/2019		
Urgency:	No	Fiscal:	Yes
Consultant:	Erin Riches		

SUBJECT: Homeless integrated data warehouse

DIGEST: This bill requires the state Department of Housing and Community Development (HCD), in coordination with the Homeless Coordinating and Financing Council (HCFC), to create a state homeless integrated data warehouse, as specified.

ANALYSIS:

Existing law:

- 1) Establishes the HCFC, with the purpose of coordinating the state's response to homelessness by utilizing Housing First practices.
- 2) 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.
- 3) Requires the Governor to appoint up to 17 members to the HCFC. These include the Secretary of BCSH, or their designee, who shall serve as HCFC chair, and representatives of the following:
 - a) The state Department of Transportation.
 - b) The state Department of Housing and Community Development (HCD).
 - c) The state Department of Social Services (DSS).
 - d) The California Housing Finance Agency.
 - e) The state Department of Health Care Services (DHCS).
 - f) The state Department of Veterans Affairs (CDVA).
 - g) The state Department of Corrections and Rehabilitation (CDCR).
 - h) The California Tax Credit Allocation Committee.

- i) The Victim Services Program in the Office of Emergency Services.
 - j) A formerly homeless person who lives in California.
 - k) A formerly homeless youth who lives in California.
 - l) Two representatives of local agencies or organizations that participate in the US Department of Housing and Urban Development's (HUD) Continuum of Care (CoC) Program.
 - m) State advocates or other members of the public or state agencies, at the Governor's discretion.
 - n) Two different stakeholder organizations, appointed by the Senate Rules Committee and the Assembly Speaker.
- 4) Authorizes the HCFC to invite stakeholders, individuals who have experienced homelessness, members of philanthropic communities, and experts to participate in meetings or provide information.

This bill:

- 1) Requires HCD, in coordination with the HCFC, to create a state homeless integrated warehouse to compile data from collaborative agencies' Homeless Management Information Systems (HMIS). Requires information compiled for the warehouse to include, but not to be limited to, data necessary to determine all of the following:
- a) Basic demographic information about individuals experiencing homelessness or who are at risk of homelessness, including, if available, ethnic and racial identity, sexual orientation, gender identity, and gender expression.
 - b) The number of individuals with disabilities and the number of families with a head of household experiencing a disability who have been homeless for at least one year or at least four times in the last three years.
 - c) Homeless individuals' access to benefits.
 - d) The number of individuals and families experiencing homelessness.
 - e) The number, and entry and exit dates of:
 - i. Homeless individuals and families living in emergency housing.
 - ii. Homeless individuals and families living in transitional housing.
 - iii. Homeless individuals and families living in permanent housing.
 - f) Last known location or zip code of homeless individuals or families when housed.
 - g) Stated reasons for homelessness.
 - h) Disability status of people experiencing homelessness.
 - i) Veteran status of people experiencing homelessness.

- 2) Requires HCD to cooperate and collaborate with CDCR, the state Department of Education, DHCS, the Department of State Hospitals (DSH), DSS, and CDVA to draft and carry out a strategy to integrate information into the data warehouse to provide longitudinal, cost-based studies to determine all of the following:
 - a) The number of people imprisoned each year who were homeless upon arrest, and the cost of their imprisonment.
 - b) The number of parolees experiencing homelessness each year, and the cost of their parole.
 - c) The number of children in California schools experiencing homelessness.
 - d) The number of children receiving foster care services whose family members are homeless, and the cost of the foster care provided to those children each year.
 - e) Relevant information regarding the number of homeless individuals receiving services through DSH, DSS, and CDVA, and the cost and outcomes of those services.
 - f) The number of people living in housing funded through HCD programs, who were homeless upon admission.
- 3) Requires HCD to facilitate the creation of a users group, including but not limited to a minimum of five and a maximum of 15 select members of contributing CoCs, to ensure quality, relevance, and appropriate access to the integrated data.
- 4) Requires the data warehouse to comply with all relevant state and federal laws relating to privacy and personally identifying information.
- 5) Requires participating agencies to input and update their data quarterly at minimum, once the warehouse is completed.
- 6) Encourages local agencies providing homeless services that use HMIS to collaborate with HCD in developing the data warehouse.
- 7) Makes implementation of this bill contingent upon legislative appropriation, including funds from private donations if available, to HCD.

COMMENTS

- 1) *Purpose of the bill.* The author states that California is experiencing a homeless crisis. Despite the state's continuous effort to provide intervention and rapid rehousing programs, more and more people are becoming homeless than we can

house. For example, according to the 2019 Los Angeles Homeless Services Authority (LAHSA) report, despite housing 21,631 people in 2018, there was a 16% increase in homelessness in the City of Los Angeles, and a 12% increase in Los Angeles County, based on the 2017 and 2019 homeless point-in-time counts. This shows that there is a fundamental problem with our current approach to tackling homelessness. This bill would require HCD, in coordination with the HCFC, to create a statewide data warehouse using local HMIS data throughout California, for the purpose of developing a composite portrayal of the homeless population and services currently provided to people who are homeless, as well as integrating local homeless data with state information to better inform policies to address homelessness.

- 2) *The HCFC.* SB 1380 (Mitchell, 2016) created the HCFC to coordinate the state's response to homelessness with the HCD. The HCFC is tasked with collaborating with all state agencies to ensure they revise or adopt guidelines and regulations that incorporate the core components of Housing First, if they do not already do so. In 2017, SB 918 (Wiener) expanded the role of the HCFC by requiring it to set and measure progress toward goals to prevent and end homelessness among California's youth. Last year, the HCFC was further tasked with administering the newly created Homeless Emergency Assistance Program (HEAP) to provide localities with flexible block grant funds to address their immediate homelessness challenges. One of the stated goals of the HCFC is to create a statewide data system or warehouse that collects local data through HMIS.
- 3) *HMIS.* Federal funding for supportive housing and other homeless services is coordinated through local jurisdictions called Continuums of Care (CoCs). HUD requires all CoCs to implement a HMIS as a condition of funding. HMIS is a local information technology system that is used to collect and track client-level data and data on the provision of housing and services to homeless individuals. California has 43 CoCs, each of which is responsible for selecting and implementing an HMIS software solution that complies with HUD's data collection, management, and reporting standards.

Unfortunately, these databases are not connected. Therefore, individuals who experience homelessness in more than one CoC jurisdiction may get counted more than once in statewide counts. Also, if they receive services through multiple CoCs, the full extent of the services they receive is unknown by each CoC. Without accurate aggregated statewide data, researchers have found it difficult to evaluate the state's homeless population and programs and to monitor the state's progress towards addressing homelessness. Several states,

including Michigan, Connecticut, and New York have built statewide HMIS data warehouses to better inform their policies to address homelessness. This bill, in part, directs HCD, in coordination with the HCFC, to create a statewide HMIS data warehouse throughout California for the purpose of developing a composite portrayal of the homeless population in the state.

- 4) *Implementation concerns.* This bill poses potentially significant implementation issues. Compiling data from 43 different CoCs and many different software implementations of HMIS into one database will require major investments in staff and resources to accomplish. Although a few states have successfully created similar statewide databases, they have fewer CoCs to compile. Gathering data from state agencies is also potentially complicated, due to differences in data collection and management standards, and in the different sectors (prisons, hospitals, and schools) that interact with homeless people. Under this bill, HCD and other state agencies would have to figure out how to properly manipulate and transform the relevant data in order to integrate it correctly into one data warehouse.
- 5) *Privacy Concerns.* This bill also poses potential concerns about ensuring the privacy of individuals whose data is being shared and collected. The bill states that the data warehouse shall comply with all relevant state and federal laws regarding privacy and personally identifying information. In addition, each HMIS has its own privacy policies in place, which include contractual obligations and standards of privacy that cannot be overridden by the state. To develop the data warehouse, HCD would have to negotiate and implement protection that satisfies the privacy requirements for all the various contracts and obligations. One option to avoid sharing protected personal information would be to create a universal identification system that allows matching records without sharing protected personal information.
- 6) *Trying again.* This bill is virtually identical to AB 2161 (Chiu, 2018), which was held on the Senate Appropriations Committee's suspense file last year.
- 7) *Amendments.* **The author will accept amendments that are technical and clarifying and provide further direction to DSS regarding foster youth data.**

RELATED LEGISLATION:

AB 58 (Luz Rivas, 2019) — adds a representative from the state Department of Education to the HCFC. *This bill will be heard in this committee today.*

SB 687 (Rubio, 2019) — increases the number of HCFC members appointed by the Governor from 17 to 20, requiring the Governor to additionally appoint a formerly homeless college student, a formerly homeless veteran, and a formerly homeless parent. *This bill is in the Assembly Housing Committee.*

SB 333 (Wilk, 2019) — requires the HCFC, by July 1, 2021, to develop and implement a statewide strategic plan for addressing homelessness in the state. The bill also requires the HCFC, by January 1, 2021, to implement strategic plans to assist Continuums of Care (CoCs) to better implement HUD recommended activities and/or better meet federal HUD requirements. *This bill is in the Assembly Housing Committee.*

SB 573 (Chang, 2019) — continuously appropriates \$250 million General Fund per year to HEAP. *This bill is in the Assembly Housing Committee.*

AB 67 (Luz Rivas, 2019) — requires HCD, in coordination with the HCFC, to create a state homeless integrated data warehouse, as specified. *This bill will be heard in this committee today.*

AB 307 (Reyes, 2019) — requires the HCFC to develop a grant program to support homeless youth and to prevent and end homelessness among California's youth, as specified. *This bill will be heard in this committee today.*

AB 1702 (Luz Rivas, 2019) — requires BCSH to create additional staff positions at the HCFC and requires the HCFC to make recommendations to the Legislature on streamlining homeless programs and delivery. *This bill will be heard in this committee today.*

SB 918 (Wiener, Chapter 841, Statutes of 2018) — established the Homeless Youth Act of 2018 to better serve the state's homeless youth population and requires the HCFC to take on additional related responsibilities that are focused on addressing the needs of youth experiencing homelessness.

SB 850 (Senate Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2018) — provided for over \$600 million in funding to various projects aimed at reducing homelessness. Also moved the HCFC from HCD to BCSH, authorized the creation of an HCFC Executive Director, and provided for the allocation of several staff members to HCFC.

SB 1380 (Mitchell, Chapter 847, Statutes of 2016) — established the HCFC to oversee implementation of the Housing First regulations and, among other things, identify resources, benefits, and services that can be accessed to prevent and end homelessness in California. It also required state agencies or departments that

fund, implement, or administer state housing or housing-related services programs to adopt guidelines and regulations to include Housing First policies.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

California Apartment Association
California School Employees Association
Housing California
Santa Monica; City Of

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No: AB 139 **Hearing Date:** 7/2/2019
Author: Quirk-Silva
Version: 6/17/2019
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Emergency and Transitional Housing Act of 2019

DIGEST: This bill makes several changes to housing element law regarding emergency shelters.

ANALYSIS:

Existing law:

- 1) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.
- 2) Provides for each community's fair share of housing to be determined through the RHNA process, which is composed of three main stages:
 - a) The Department of Finance and the Department of Housing and Community Development (HCD) develop regional housing needs estimates;
 - b) Councils of government (COGs) allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and
 - c) Cities and counties incorporate their allocations into their housing elements.
- 3) Requires COGs to provide specified data assumptions to HCD from each COG's projections, including, among other things, the vacancy rates in existing housing stock and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs.
- 4) Requires cities and counties to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. Requires the housing element to consist of an identification and analysis of existing and

projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall contain, among other things:

- a) The identification of zone or zones where emergency shelters are allowed as a permitted use without a conditional use or discretionary permit (hereinafter emergency shelter zones). The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelters, except that each local government shall identify a zone or zone that can accommodate at least one year round emergency shelter.
 - b) An analysis of any special housing needs. The need for emergency shelters shall be assessed based on annual and seasonal need.
- 5) Requires that emergency shelters within an emergency shelter zone may only be subject to written objective standards that include, among other things, off-street parking based on demonstrated need, provided that the standards do not require more parking for shelters than for other residential or commercial uses within the same zone.
- 6) Requires a COG or HCD where appropriate, to the extent sufficient data is available from local governments, to include specified factors to develop the methodology that allocates regional housing needs.
- 7) Requires each local government to review its housing element as frequently as appropriate to evaluate:
- a) The appropriateness of housing goals, objectives, and policies in the attainment of the state housing goal;
 - b) The effectiveness of the housing element in attaining the communities housing goals and objectives;
 - c) The progress of the city, county, or city and county, in the implementation of the housing element.

This bill:

- 1) Clarifies that the emergency shelter zone shall include sufficient capacity to accommodate the need for emergency shelter. "Sufficient capacity" means a zone or zones necessary to accommodate a combination of the local government's extremely low-income regional housing need allocation and the most recent homeless point-in-time count.

- 2) Clarifies that shelters in emergency shelter zones shall only be required to include sufficient parking to accommodate all staff working in the shelter.
- 3) Adds that, in housing element's assessment of special housing needs, the need for emergency shelters shall be assessed based on the need for emergency shelter based on the number of beds available on a year round and seasonal basis, the number of shelter beds that go unused on an average monthly basis within a one-year period, and the percentage of those in emergency shelters that move to permanent housing solutions.
- 4) Requires the COG or HCD to include the housing needs of individuals and families experiencing homelessness in developing the methodology that allocates regional housing needs.
- 5) Requires each local government to also evaluate as frequently as appropriate the effectiveness of the housing element goals, policies, and related actions to meet the community's needs, including the needs for emergency shelters.

COMMENTS

- 1) *Purpose of the bill.* According to the author, "[t]his bill updates California Housing Element law to reflect the state's homeless crisis and the need for every community to better assess the number of individuals and families facing homelessness and implement more targeted transition strategies to long term permanent housing for these Californians."
- 2) *Inadequate housing and shelter for California's homeless.* Homelessness in California is no longer confined to urban corridors; it pervades both urban and rural communities across the state and puts stress on local resources, from emergency rooms to mental health and social services programs to jails. The homelessness crisis is driven in part by the lack of affordable rental housing for lower income people. In the current market, 2.2 million extremely low-income and very low-income renter households are competing for 664,000 affordable rental units. Of the 6 million renter households in the state, 1.7 million are paying more than 50% of their income towards rent. The National Low Income Housing Coalition estimates that the state needs an additional 1.5 million housing units affordable to very-low income Californians.
- 3) *State investments to house people experiencing homelessness.* Over the last several years, the state has approved the investment of several billion dollars to permanently house people experiencing homelessness, as well as address immediate shelter needs. In 2018, the voters approved Propositions 1 and 2,

which, together, provide significant investments for the construction of permanent housing for low-income families at risk of homelessness and persons with a mental illness experiencing chronic homelessness. Additionally, last year, the State established the Homeless Emergency Assistance Program and approved the expenditure of \$500 million in one-time funding to provide localities with flexible block grant funds to address their immediate homelessness challenges.

- 4) *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. 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. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. HCD estimates the RHNA for each region, distributes these assessments to the COGs, and then the COG determines how to distribute the RHNA among its cities and counties. Existing law requires a COG to consider a number of factors in compiling the RHNA distribution, such as housing opportunities and constraints, high housing cost burdens, market demand for housing, and more. Communities also identify regulatory barriers in their housing elements to housing development and propose strategies to address those barriers. State law requires cities and counties to update their housing elements every eight years.

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.

Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially 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 California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

5) *Shelters in the housing element.* SB 2 (Cedillo, 2007) required local governments, in their housing element, to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. Local governments must treat supportive housing the same as other multifamily residential housing for zoning purposes, and may only apply the same restrictions as multifamily housing in the same zone to supportive housing. Additionally, current law does not require a local government to identify zones with sufficient capacity to accommodate emergency shelters. As a result, some emergency shelter zones are not actually capable of accommodating a shelter on any of their sites. This bill would require local governments to identify and zone enough sites to accommodate their extremely low-income regional housing needs and the most recent homeless point in time (PIT) count. It would also require shelters in shelter zones to provide only sufficient parking for staff; some jurisdictions impose high parking minimums to block shelter construction. Sufficient parking for staff may however be a greater number than what is currently required for other properties in the shelter zone. **The author has agreed clarify that the shelter shall provide sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone.**

Existing law requires a housing element to include an analysis of any special housing needs including for the elderly, persons with disabilities, large families, farmworkers, families with a female head of household, and families and persons in need of emergency shelter. Emergency shelter is assessed based on seasonal and annual need. This bill would require the need for emergency shelter to be based on the number of shelter beds available on a year-round and seasonal basis, the number of shelter beds that go unused on an average monthly basis within a one-year period, and the percentage of people in shelters that move to permanent housing solutions. It would also require COGs and HCD to include the housing needs of individuals and families experiencing homelessness to develop the methodology that allocates regional housing needs and requires each local government to also evaluate as frequently as appropriate the effectiveness of the housing element goals, policies, and related actions to meet the community's needs, including the needs for emergency shelters.

RELATED LEGISLATION:

SB 48 (Wiener, 2019) — would have created a streamlined approval process for low-barrier navigation centers that connect people experiencing homelessness to services and permanent housing solutions. Would have also made changes to housing element law with regards to zoning where emergency shelters are allowed as a permitted use without a conditional use or discretionary permit, as specified. *This bill was held in the Senate Appropriations Committee.*

SB 744 (Caballero, 2019) — specifies that an existing streamlined approval process for permanent supportive housing projects also applies to services projects tied to a housing development. *This bill will be heard in the Assembly Housing and Community Development Committee on July 3rd.*

AB 1197 (Santiago, 2019) — excludes emergency shelters funded by state programs from the term “project” and would thereby exempt those projects from CEQA. *This bill is pending in the Appropriations Committee.*

AB 2162 (Chiu, Chapter 753, 2018) — streamlined affordable housing developments that include a percentage of supportive housing units and onsite services.

SB 35 (Wiener, Chapter 366, Statutes of 2017) — created a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment (RHNA) numbers.

SB 2 (Cedillo, Chapter 633, Statues of 2007) — required cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

California Apartment Association
National Association of Social Workers, California Chapter
Orange; County Of

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 168	Hearing Date:	7/2/2019
Author:	Aguiar-Curry		
Version:	7/1/2019 Amended		
Urgency:	No	Fiscal:	No
Consultant:	Alison Hughes		

SUBJECT: Housing: streamlined approvals

DIGEST: This bill establishes a scoping consultation process before the submission of a SB 35 application to determine if there are potential tribal cultural resources on a proposed project site. If there are tribal cultural resources, the applicant must go through a process, as specified, to identify tribal cultural resources and mitigate any impact to those sites.

ANALYSIS:

Existing law:

- 1) Provides that specified development projects, under SB 35 (Wiener, 2017), may submit an application subject to a streamlined, ministerial approval process and not subject to a conditional use permit if the development is not on a site that is any of the following:
 - a) A coastal zone.
 - b) Either prime farmland or farmland of statewide importance, as specified, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
 - c) Wetlands, as defined.
 - d) Within a very high fire severity zone or within a high or very high fire hazard severity zone, as specified.
 - e) A hazardous waste site, as specified.
 - f) Within a delineated earthquake fault zone unless the development complies with applicable seismic protection building code standards adopted by the Building Standards Commission and any local building department.
 - g) Within a special flood hazard area or regulatory floodway as specified.
 - h) Lands identified for conservation, as specified.
 - i) Habitat for protected species, as specified.
 - j) Lands under conservation easement.

- 2) Defines “tribal cultural resource” as any of the following:
 - a) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either (i) included or determined to be eligible for inclusion in the California Register of Historical Resources, or (ii) included in a local register of historical resources.
 - b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be a significant resource to a California Native American Tribe.
 - c) A cultural landscape, to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.
- 3) Requires, under AB 52 (Gatto, 2014), the lead agency responsible for reviewing a project under the California Environmental Quality Act (CEQA), prior to the release of certain CEQA reports for a project, to consult with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, as requested by the tribe. As a part of this consultation, the parties may propose mitigation measures capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. Declares that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment, and that public agencies must, when feasible, avoid damaging effects to any tribal cultural resource.

This bill [as proposed to be amended July 1st]:

- 1) Requires the local government, before it begins to review and approve an application, shall engage in a scoping consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the development. Requires the scoping consultation to be limited to determining whether any potential tribal resource is located on the development site.
- 2) Defines “scoping consultation” process as the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values, with the goal of determining whether a tribal cultural resource is located on the development site. The

scoping consultation shall be conducted in a way that is mutually respectful of each party's sovereignty.

- 3) Requires the scoping consultation process to be conducted in a way that is mutually respectful of each party's sovereignty, and recognizes that California Native American tribes traditionally and culturally affiliated with a geographic area have knowledge and expertise concerning the resources at issue. Any determination will take into account the significance of the resource to the culturally affiliated California Native American tribe.
- 4) Provides that if, after completing the scoping consultation, it is determined that no potential tribal cultural resource is located on the development site, the local government may review and approve the SB 35 application.
- 5) Requires that, if it is determined that a potential tribal cultural resource is located on the development site, the local government shall not approve the SB 35 application until the local government has consulted with a California Native American tribe and followed the requirements under AB 52.
- 6) Declares that a California Native American tribe that participates in the AB 52 process is entitled to all the rights and remedies that the tribe would be entitled in connection with the AB 52 process.
- 7) Declares that the requirements under this bill shall not be construed to apply any provisions of CEQA except those provisions specifically indicated in the AB 52 process.
- 8) States Legislative intent that this bill is intended to clarify that SB 35 did not intend to divest California Native American tribes of input during the streamlined approval process or CEQA process.
- 9) States Legislative intent that this bill intends to implement the California Native American tribe consultation process established by AB 52 should there be a potential for tribal resources to be present on a site considered by a development using SB 35.

COMMENTS

- 1) *Purpose of the bill.* According to the author, this bill "is consistent with existing California law, which protects tribal lands. Without this bill, tribal cultural resources may be subject to destruction and desecration. We have lost much of our State's Native history, and once a religious or cultural artifact, site,

or burial ground is lost, it cannot be replaced. To honor California's history and diversity, it is important that we continue to honor the consultation process with Native American tribes and protect tribal cultural resources. Protecting these sacred places will ensure that generations of Californians to come can value the sovereignty of Native American tribes and communities, and facilitate housing development by avoiding litigation.”

- 2) *Housing streamlining and SB 35*. 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 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 California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

SB 35 (Wiener, Chapter 366, Statutes of 2017) requires local jurisdictions that have not met their above moderate-income or lower-income regional housing needs assessment (RHNA) to streamline certain developments.

- 3) *Tribal cultural sites*. According to the 2010 Census, California has the highest Native American population in the country, with approximately 720,000 people in the state who identify as Native American. There are currently 109 federally recognized Indian tribes in California and 78 entities petitioning for recognition. California tribes currently have nearly 100 separate reservations or Rancherias.

The phrase “Tribal Cultural Resources” in California was first legally recognized and defined under AB 52 (Gatto, Chapter 532, Statutes of 2014) under CEQA. The primary intent of AB 52 was to include California Native American Tribes early in the environmental review process and to establish a new category of resources related to Native Americans that require consideration under CEQA, known as tribal cultural resources. The process established by AB 52 is crucial for a tribal community to participate in a consultation process to identify tribal cultural resources and mitigate any impact to those sites.

Tribal cultural resources are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe.

Tribal cultural resources are sometimes referred to as “sacred sites” more generally. Sacred sites may be burial grounds, important archaeological areas, or religious objects. They are like churches, and are often sites of special ceremonies and healing. Tribal cultural resources are of central importance to Native American nations because Native religion and culture is essential to the survival of Native American/American Indian nations as a distinctive cultural and political group. Many Native Americans have land-based religions, meaning they practice their religion within specific geographic locations; their faith renders that land is itself a sacred, living being.

In some instances, tribal cultural resources have been publicly identified, such as those included or determined to be eligible for inclusion in the California Register of Historical Resources or a local registry of historical resources. However, this is not always the case. Identification may require additional analysis and process or a tribe may choose to not publicly disclose locations due to a concerns that the sites may be at risk for desecration, whether purposeful or not.

This bill establishes a scoping consultation process before the submission of a SB 35 application to determine if there are potential tribal cultural resources on a proposed project site. If there are tribal cultural resources, the applicant will then have to go through CEQA (limited to the AB 52 process) to identify tribal cultural resources and mitigate any impact to those sites. If there are no tribal cultural resources on the proposed site, then the project can continue to seek an SB 35 permit. A local government is not authorized to provide an SB 35 permit until the scoping consultation and, if applicable, AB 52 process, has been completed.

- 4) *Ongoing discussions.* The amendments taken on July 1st are intended to codify an agreement reached between stakeholders, the author’s office, and the Committee. This language will likely need to be modified/improved to make clarifications. The Chair and author remain committed to working out these issues before this bill reaches the Senate Floor.
- 5) *Triple-referred.* This bill is also referred to the Environmental Quality Committee (second) and the Governance and Finance Committee (third).

RELATED LEGISLATION:

SB 35 (Wiener, Chapter 366, Statutes of 2017) — created a streamlined, ministerial approval process for infill developments in localities that have failed to meet their RHNA numbers.

AB 52 (Gatto, Chapter 532, Statutes of 2014) — established procedures and requirements under the California Environmental Quality Act (CEQA) for the purpose of avoiding or minimizing impacts to tribal cultural resources.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

Big Valley Band Of Pomo Indians
Dry Creek Rancheria Band Of Pomo Indians
Fernandeño Tataviam Band Of Mission Indians
Habematolel Pomo Of Upper Lake
Jamul Indian Village Of California
Middletown Rancheria
Mooretown Rancheria
Pala Band Of Mission Indians
Tolowa Dee-Ni' Nation
Tule River Tribe
Wilton Rancheria
Yocha Dehe Wintun Nation

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 173	Hearing Date:	7/2/2019
Author:	Chau		
Version:	6/10/2019 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Lizeth Perez		

SUBJECT: Mobilehomes: payments: nonpayment or late payments

DIGEST: This bill extends the Register Your Mobilehome Program, a tax abatement program for mobilehome owners, by one year.

ANALYSIS:

Existing law:

- 1) Requires mobilehomes and manufactured homes (hereafter referred to as mobilehomes) sold as new prior to July 1, 1980, to pay a vehicle license fee (VLF), and requires annual payment to the Department of Housing and Community Development (HCD).
- 2) Provides that non-payment of the VLF constitutes a lien on the mobilehome, and prohibits HCD from issuing a duplicate or new certificate of title or registration card or amending the permanent title record of the mobilehome that is the subject of that lien.
- 3) Provides that mobilehomes not subject to the VLF are subject to local property tax and requires HCD to withhold the registration, or transfer of registration, of a mobilehome subject to local property taxes until the applicant presents a tax clearance certificate or conditional tax clearance certificate issued by the county tax collector.
- 4) Requires the county tax collector to issue a tax clearance certificate to a mobilehome owner if specified requirements are met.
- 5) Provides that a tax clearance certificate may indicate that no local property tax is due or is likely to become due, or that any applicable local property tax has been paid or will be paid in a manner not requiring the withholding of registration or the transfer of registration.

- 6) Provides that local property taxes on unsecured property, including mobilehomes, are transferred from the secured roll to the unsecured roll of the corresponding year by the county auditor and are collected in the same manner as other delinquent taxes on the unsecured roll.
- 7) Authorizes the management of a mobilehome park to terminate a tenancy for failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.
- 8) Requires HCD to waive the outstanding charges, fees, or penalties, amend the title record, and issue a duplicate, substitute, or new certificate of title, registration card, or copy of a registration card, if the applicant meets the following requirements:
 - a) The applicant is not currently the registered owner.
 - b) The applicant provides documentation demonstrating ownership and the date of acquisition of ownership interest, to HCD's satisfaction.
 - c) The application is made prior to December 31, 2019.
 - d) The applicant pays any charges assessed by HCD during the period between the time the applicant took ownership interest or December 31, 2015, whichever is later, and the time the applicant applies for relief.
 - e) Any lien under the Property Tax Postponement (PTP) program has been satisfied.
 - f) The applicant has not previously filed for relief under this tax abatement program.
- 9) Provides that HCD may establish a long-term payment program of up to five years, and may take out a lien in favor of the state in the amount owing after the applicant takes ownership, which must be paid in full if the mobilehome is later transferred. Failure to make payments required by the plan is a violation of the program and HCD may suspend, revoke, or cancel the certificate of title.
- 10) Requires a county tax collector to issue a tax liability or tax clearance certificate to a person with a conditional transfer of title who applies for the certificate prior to January 1, 2019, and pays the reduced taxes under the abatement program. The reduced taxes include those reasonably owed from the date of sale as shown on the conditional transfer of title without penalties or interest, and not to exceed the amounts attributable one year prior to January 1, 2017.

- 11) Provides that upon the issuance of a tax liability certificate, the applicant shall be listed as the owner of record for all local property tax purposes and the home shall not be subject to lien or seizure based on any taxes abated pursuant to this program.
- 12) Provides that the abatement program does not relieve any owner other than the applicant from tax liability, including penalties and interest, arising from the non-payment prior to the date of sale. The abatement program does not prohibit a county tax collector from collecting delinquent taxes, penalties, or interest due prior to the date of sale, from any owner other than the applicant.
- 13) Provides that on or after January 1, 2020, it is unlawful for any person to use, cause, or permit to be used for occupancy, any mobilehome, wherever the mobilehome is located, that does not conform to HCDs registration requirements, provided that HCD has provided notice to the occupant of the registration requirements and any registration fees due.

This bill:

- 1) Requires HCD to prepare a one-sided notice that summarizes the Register Your Mobilehome Program and provides relevant contact information.
- 2) Extends the application deadline for the Register Your Mobilehome Program from December 31, 2019 to December 31, 2020.
- 3) Requires HCD to publish an analysis of mobilehome registrations that came into compliance through the Register Your Mobilehome Program, as specified, by March 1, 2020.
- 4) Extends the date by which it shall be unlawful for any unregistered mobilehome to be used for occupancy from January 1, 2020 to January 1, 2021.
- 5) Extends the date by which a person may apply for a tax liability certificate or tax clearance certificate from January 1, 2020 to January 1, 2021.

COMMENTS

- 1) *Purpose of the bill.* According to the author, "In 2016, the Legislature enacted AB 587, which established a tax abatement program called the Register Your Mobilehome California program, for mobilehome owners who are unable to transfer title of their homes into their names due to tax delinquencies that were

incurred by prior owners. Since the program started in 2017, mobilehome owners have saved over \$1.5 million and the program is on pace to save mobilehome owners \$2 million by the time it sunsets on December 31, 2019. Despite the success, there are still tens of thousands of homeowners who have not been able to take advantage of the program. AB 173 would extend the sunset on the Register Your Mobilehome California tax abatement program for 1 year to continue to help mobilehome owners who are unable to transfer title of their homes into their names due to tax delinquencies incurred by prior owners.”

- 2) *Background.* Mobilehomes are an important source of affordable housing. About 200,000 mobilehomes – almost half of all mobilehomes in the state – are not properly registered. HCD is responsible for titling and registering mobilehomes. Mobilehomes purchased prior to July 1, 1980, are subject to a VLF, while those purchased after July 1, 1980, are subject to a local property tax. Before transferring title of a mobilehome subject to property taxes, the buyer must obtain a tax clearance certificate from the county tax collector, indicating that all property taxes have been paid. If a mobilehome is subject to VLF, the buyer must pay all fees and penalties to HCD before title can be transferred. Nonpayment of VLF constitutes a lien on the mobilehome in favor of the state, and nonpayment of property taxes means the county tax collector can pursue collection of the delinquent property taxes. If either of these situations arises, HCD cannot amend the title to reflect the new owner’s name, and therefore the new owner cannot obtain proof of ownership over the home.

Buying and selling mobilehomes often transpires informally, which means that buyers and sellers may not be aware of delinquent taxes and fees that prevent the transfer of title. Presently, there are few notification requirements for VLF delinquencies, and a buyer may only become aware of a delinquency when they attempt to transfer title of an already purchased mobilehome. If a seller does not pay these delinquent fees and a buyer is unable to do so, there is little else the buyer can do while tax and fee delinquencies accrue over time. The informal manner by which mobilehomes are sold also leaves HCD and county tax collectors with out-of-date ownership information for the home. Without proper title to a mobilehome, a buyer may face a number of issues. Current law provides that buyers cannot legally make repairs to the home, insure their home, or transfer ownership to another person if the home is not properly registered. Additionally, on or after January 1, 2020, the buyer may be subject to eviction from a mobilehome park because parks will be prohibited from renting spaces to homes that do not conform to HCD’s registration requirements.

- 3) *The Register Your Mobilehome Program.* AB 587 (Chau, 2016) created an amnesty program for mobilehome owners who cannot transfer title into their names due to delinquent taxes and fees that may have been incurred by prior owners. Applicants for the program are first required to prove ownership to the satisfaction of HCD and then pay any reduced charges assessed or enter into a payment plan. At that point, for homes on the VLF system, HCD transfers the title. For homes on the local property tax system, HCD issues the applicant a “conditional title,” which the applicant then brings to their local county tax collector. Once the applicant pays the reduced local property taxes due under the abatement program, the tax collector can update their property tax records and issue a tax liability certificate, which would clear the title once filed with HCD. The amnesty program does not relieve any owner other than the applicant from tax liability arising from nonpayment prior to the date of sale to the applicant, so a county tax collector still has the ability to collect these amounts, including fees and penalties, from any owner other than the applicant. This is intended to ensure against both a seller and an owner obtaining abatements. The current mobilehome owners are responsible for paying their share of any fees and taxes accrued since they took ownership up to one year before the start date of the program (January 1, 2015).
- 4) *Results of the program.* As of January 2019, HCD has received 2,116 applications for the tax abatement program. Despite outreach efforts by HCD, the program has only contributed to the registration of approximately 1% of the state’s unregistered mobilehomes, a much lower figure than was anticipated at the program’s inception. Mobilehome owners are often physically, economically, and/or socially marginalized, and the lack of regular communication between HCD and the homeowners makes outreach more difficult. In order to increase participation, this bill requires HCD to provide a one-sided notice that summarizes the program and provides relevant contact information; HCD currently posts this flyer on its website.

HCD began implementing the program in late 2017, meaning that the program has only been in effect for less than two years. This bill extends the program by one year, allotting the three years that the program was originally intended to run for; this gives mobilehome owners an extra year to register their homes without paying back-taxes and fees. This bill also requires HCD to produce an analysis to determine the efficacy of the program; this information can be utilized to determine whether to further extend the program in the future.

- 5) *Arguments in Opposition.* The California Association of County Treasurers and Tax Collectors (CACTTC) opposes the bill unless amended to eliminate local property tax homes from the program, prohibit park owners from utilizing the

program, and require mobilehomes to display a registration sticker. CACTTC states that the program has cost the state more than it has produced in bringing homes current and, despite substantial outreach, has yielded little result for individual homeowners. Specifically, they point to the low utilization of the program by owners of local property tax units (15% of all program applicants) and ask for a long-term solution to mobilehome titling and taxation. They also express concerns that park owners have utilized the program to take over abandoned mobilehomes and in some instances have purchased these homes in a warehouseman's lien auction for only \$1, making a profit. CACTTC states that this outcome was not the intended purpose of the program.

- 6) *Double referral.* This bill is double referred to the Governance and Finance Committee.

RELATED LEGISLATION:

AB 587 (Chau, Chapter 396, Statutes of 2016) — created a tax abatement program for mobilehome owners who cannot transfer title into their names due to delinquent taxes and fees that may have been incurred by prior owners.

AB 999 (Daly, Chapter 376, Statutes of 2015) — established due process requirements for mobilehome park owners (park management) seeking to dispose of an abandoned mobilehome without first being required to pay any unpaid property taxes on the mobilehome.

SB 415 (Craven, Chapter 506, Statutes of 1991) — among other things, provided that nonpayment of certain mobilehome fees to HCD would constitute a lien in favor of the state.

AB 2227 (Mays, Chapter 796, Statutes of 1991) — provided for a system of taxing all new and most used mobilehomes purchased on or after July 1, 1980 in a manner similar to conventional homes.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

Golden State Manufactured-Home Owners League (Sponsor)

OPPOSITION:

California Association of County Treasurers & Tax Collectors

-- END --

SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 307	Hearing Date:	7/2/2019
Author:	Reyes		
Version:	5/16/2019		
Urgency:	No	Fiscal:	Yes
Consultant:	Erin Riches		

SUBJECT: Homeless youth: grant program

DIGEST: This bill requires the Homeless Coordinating and Financing Council (HCFC) to develop a grant program to support homeless youth and to prevent and end homelessness among California's youth, as specified.

ANALYSIS:

Existing law:

- 1) Establishes the HCFC in the Business, Consumer Services, and Housing Agency (BCSH), with the purpose of coordinating the state's response to homelessness by utilizing Housing First practices.
- 2) 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.
- 3) Requires the Governor to appoint up to 17 members to the HCFC. These include the Secretary of BCSH, or their designee, who shall serve as HCFC chair, and representatives of the following:
 - a) The state Department of Transportation.
 - b) The state Department of Housing and Community Development.
 - c) The state Department of Social Services.
 - d) The California Housing Finance Agency.
 - e) The state Department of Health Care Services.
 - f) The state Department of Veterans Affairs.
 - g) The state Department of Corrections and Rehabilitation.
 - h) The California Tax Credit Allocation Committee.

- i) The Victim Services Program in the Office of Emergency Services.
- j) A formerly homeless person who lives in California.
- k) A formerly homeless youth who lives in California.
- l) Two representatives of local agencies or organizations that participate in the US Department of Housing and Urban Development's Continuum of Care (CoC) Program.
- m) State advocates or other members of the public or state agencies, at the Governor's discretion.
- n) Two different stakeholder organizations, appointed by the Senate Rules Committee and the Assembly Speaker.

This bill:*General*

- 1) Requires the HCFC to develop and administer, subject to funding availability, a grant program (program) to support young people experiencing homelessness and efforts to prevent and end youth homelessness. Authorizes the HCFC to enter into an interagency agreement with another department or agency to administer the program.
- 2) Requires the HCFC to solicit annual progress reports from grant recipients; annually review programs developed by grant recipients; conduct monitoring visits to grant recipients to provide technical assistance as needed; collect and report data; and adopt guidelines.
- 3) Requires grants to be awarded in three-year grant cycles and, subject to availability, to be funded from the Youth Education, Prevention, Early Intervention and Treatment Account; funds appropriated by the Legislature to the HCFC for this purpose; and gifts and donations made to the HCFC for this purpose. Prohibits these funds from being used for HCFC administrative purposes.

Eligible applicants

- 1) Provides that private, nonprofit agencies with a demonstrated record of success and experience in delivery of services to youth experiencing homelessness or at-risk youth, or CoCs with a demonstrated record of success, are eligible to apply for a grant to operate a homeless youth program.
- 2) Requires preference to be given to entities that demonstrate the following:

- a) Involvement of a network of youth-serving agencies in the delivery of services to young people experiencing homelessness.
 - b) Participation in a local CoC.
 - c) Utilization of the Homeless Management Information System (HMIS).
 - d) Participation in development of a local, youth-centered, coordinated entry system (CES), including diversion.
 - e) Intent to work with other entities to develop or implement a local plan to reduce homelessness among homeless youth.
- 3) Requires efforts to award grants to entities that propose to provide services in a geographic area where similar homeless youth services are not provided despite a demonstrated need. Requires these entities to demonstrate both of the following:
- a) A record of success and experience in the delivery of services similar or transferable to services that are beneficial for youth experiencing homelessness or at-risk youth.
 - b) A commitment to all of the following: participation in a network of youth-serving agencies in the delivery of services to young people experiencing homelessness, to the extent those services exist locally; participation in the local CoC; utilization, if feasible, of HMIS; and participation in the development of a local, youth-centered, CES.

Application requirements

- 1) Requires the grant application to include all of the following:
 - a) Evidence that services will be provided within the positive youth development framework and that the applicant's policies and procedures address cultural competence, as specified.
 - b) A letter from the relevant local CoC or county identifying whether the applicant participates in the local planning process for addressing homelessness.
 - c) An explanation of how the funded services will address substance abuse disorders or the risk of substance abuse among the target population and how it intends to ensure that participating youth receive education, prevention, early intervention, and timely treatment services.

Eligible expenditures

- 1) Requires a grant recipient to use grant funds to provide a wide array of supportive services including, at a minimum, all of the following:

- a) Drug abuse education, prevention, and treatment services.
 - b) Transitional living plan and services.
 - c) Access to education and employment assistance, including literacy and vocational training.
 - d) Independent living skill development, economic stability, and mobility services.
 - e) Counseling and case management services.
 - f) Screening, assessment, and treatment or referral of behavioral and physical healthcare services.
 - g) Services for pregnant and parenting youth.
 - h) Services for LGBTQ youth.
 - i) Legal services.
 - j) Family support, including family reunification, when safe and appropriate, and engagement and intervention, when appropriate.
 - k) Family finding services to identify appropriate family members.
 - l) Adequate supervision of minors and availability of services for all applicants
 - m) Outreach to young people experiencing homelessness.
 - n) Aftercare and follow-up services, including relapse prevention.
 - o) Housing navigation services.
- 2) Requires a grant recipient to use grant funds to establish or expand one or more of the following programs, which utilizes evidence-based housing and services models, for homeless youth or youth at risk of homelessness:
- a) Rental assistance.
 - b) Non-time-limited supportive housing.
 - c) Transitional housing.
 - d) Post-transitional housing assistance.
 - e) Rapid rehousing.
 - f) Flexible rental subsidies.
 - g) Host homes.
 - h) A licensed runaway and homeless youth shelter.
 - i) Shelters for homeless youth.
- 3) Requires a shelter program established with grant funds to provide certain outreach, screening, and other services, and, if appropriate for specific youth, certain drug abuse education, prevention, and treatment services, and either a drug abuse treatment program or referral to a drug abuse treatment program. Allows a subcontractor to be used to meet these requirements.
- 4) Limits expenditures for establishment, expansion, or operation of a shelter program to 40% of grant funds.

- 5) Limits administrative expenses to 10% of grant expenditures.

Grant recipient requirements

- 1) Requires a grant recipient to develop a plan in collaboration with a youth to meet the youth's housing needs.
- 2) Requires grant recipients to submit data and annual progress reports to the HCFC and agree to meet continuous quality improvement goals, accept technical assistance if available, and submit to site monitoring visits by the HCFC.
- 3) Requires a grant recipient that intends to service minors to provide annual training, as specified, to employees who are mandated reporters under the Child Abuse and Neglect Reporting Act.

Data and reporting

- 1) Requires the HCFC to collect data from grant recipients and utilize HMIS data, to the extent possible, to ensure that appropriate and high-quality services are being delivered to youth experiencing homelessness. Requires this data to include, but not be limited to:
 - a) The number of youth served each year by the grant recipient.
 - b) The dependency status, delinquency status, housing status, family reunification status, and runaway status of youth served each year by the grant recipient.
 - c) The type and number of services utilized by the youth served by the grant recipient.
 - d) The types of housing assistance accessed by the youth served.
 - e) The time period during which each youth receives services.
 - f) Any available outcome data for the youth served, including but not limited to housing stabilization; duration and number of homeless episodes prior to, during, and after receiving family reunification services; educational achievement; skills acquisition; and employment status.
- 2) Requires the HCFC to report to the Legislature by January 10, 2021 and annually thereafter, on the data received from grant recipients.

Other

- 1) Stipulates that receipt of housing or support services funded pursuant to this bill does not constitute the provision of support to a minor for purposes of determining whether a minor has been left without provision for support and further prohibits the receipt of services from preventing the minor from being adjudged a dependent of the court.
- 2) Provides that grant funds received pursuant to this bill shall be used to supplement existing levels of service and shall not be used to supplant existing local, state, or federal funding.

COMMENTS

- 1) *Purpose of the bill.* The author states that more than half of youth experiencing homelessness in the nation are located in California. This alone demonstrates that the state's efforts in combating youth homelessness are woefully inadequate. It is imperative that California invest in programs that are successful in lifting our youth, our future, out of homelessness with appropriate supportive services. This bill will provide adequate funding for the HCFC to fulfill its mission by supporting local entities to assist youth experiencing homelessness.
- 2) *Who are California's homeless youth?* A homeless youth is defined as a minor younger than 18 or a young adult between 18 and 24 years old who is living individually without shelter. According to the US Department of Housing and Urban Development (HUD), California accounted for one-third of the nation's homeless youth in 2018 (12,396 of 36,361 individuals). In addition, California accounted for 54% (9,920) of all unsheltered homeless youth. These numbers may undercount the actual homeless youth population; the National Alliance to End Homelessness notes that homeless youth are particularly difficult to count as they may be afraid or unwilling to enter shelters, and communities typically have few resources, beds, and units dedicated to youth. In addition, youth are often not engaged in traditional homeless assistance programs and congregate in different areas than older individuals experiencing homelessness.

While between 5% and 10% of the general population identify as LGBTQ, LGBTQ youth comprise up to 40% of the homeless youth population. Studies by the US Administration on Children, Youth, and Families found that nearly 78% of homeless youth had at least one prior interaction with law enforcement, 62% of homeless youth had been arrested at least once, and nearly 44% had

been in a juvenile detention center; in addition, 33.9% of all homeless youth are African American and 24.4% are Hispanic.

- 3) *Impacts of homelessness on youth.* Youth who experience homelessness are at a higher risk for poorer health outcomes, including hepatitis, diabetes, sexually transmitted infections, influenza, and dental problems, among others. Fear of interaction with law enforcement, lack of health insurance, and concerns about confidentiality exacerbate these issues for young people experiencing homelessness. Homeless youth also experience mental health issues such as post-traumatic stress, depression, anxiety, and psychosis resulting from the stress of living and surviving on the streets. Studies also demonstrate that the rate of psychiatric disorders is twice as high among homeless youth as it is among youth who do not experience housing insecurity. Studies show that between 70% and 90% of homeless youth engage in substance use, and many youth on the streets engage in “survival sex” in exchange for shelter and food; nearly 1 in 5 homeless youth have participated in survival sex activities.
- 4) *State programs for homeless youth.* California’s largest direct funding stream for homeless youth programs comes through the state’s Office of Emergency Services (OES). OES is provided around \$1 million annually for the Homeless Youth and Exploitation program. In 2016, the Legislature provided \$10 million to fund Homeless Youth Emergency Services Pilot projects in four counties to provide crisis intervention and stabilization services. An additional \$10 million was provided in the 2017 budget to conduct a Homeless Youth Emergency Services and Housing pilot project in four counties, which may include rapid rehousing, rental assistance, transitional housing, and supportive housing.
- 5) *HCFC and homeless youth.* SB 1380 (Mitchell, 2016) established the HCFC and tasked it with collaborating with all state agencies to ensure they revise or adopt guidelines and regulations that incorporate the core components of Housing First, if they do not already do so. Recent legislation (SB 918, Wiener, 2017) expanded the role of the HCFC by requiring it to set and measure progress toward goals to prevent and end homelessness among California’s youth. Last year, the HCFC was further tasked with administering the newly created Homeless Emergency Assistance Program (HEAP) to provide localities with flexible block grant funds to address their immediate homelessness challenges; a minimum of 5% of HEAP funds are directed to establishment of expansion of services meeting the needs of homeless youth or youth at risk of homelessness.
- 6) *Funding for a new program.* This bill provides for a homeless youth grant program under the HCFC to be funded, as made available, from the Youth

Education, Prevention, Early Intervention and Treatment Account (Account); legislative appropriations, and gifts and donations. The Account was created pursuant to Proposition 64, approved by California voters in 2016. Proposition 64 legalized marijuana and imposed taxes on the retail sale of cannabis and cannabis products. The Account supports youth programs related to substance use disorder education, prevention, and treatment, and prioritizes programs directed towards homeless youth and out-of-school youth with substance use disorders.

- 7) *Trying again.* SB 918 (Wiener, 2017) included a grant program focused on homeless youth similar to the one in this bill. However, the provisions relating to the grant program were taken out of that bill in the Assembly Appropriations Committee.
- 8) *Administrative expenses.* This bill provides that a grant recipient may spend no more than 10% of grant funds for administrative purposes. However, most housing programs, including HEAP, limit administrative expenditures to 5% in order to ensure that the maximum amount of funds possible are directed to services. In addition, SB 918 included a 5% cap on administrative expenditures. Moving forward, the author may wish to consider amending this bill to impose a cap of 5% on administrative expenditures.
- 9) *Double-referral.* This bill was also referred to the Human Services Committee, which approved it on a 6-0 vote on June 24th.

RELATED LEGISLATION:

SB 687 (Rubio, 2019) — increases the number of HCFC members appointed by the Governor from 17 to 20, requiring the Governor to additionally appoint a formerly homeless college student, a formerly homeless veteran, and a formerly homeless parent. *This bill is in the Assembly Housing Committee.*

SB 333 (Wilk, 2019) — requires the HCFC, by July 1, 2021, to develop and implement a statewide strategic plan for addressing homelessness in the state. The bill also requires the HCFC, by January 1, 2021, to implement strategic plans to assist Continuums of Care (CoCs) to better implement HUD recommended activities and/or better meet federal HUD requirements. *This bill is in the Assembly Housing Committee.*

SB 573 (Chang, 2019) — continuously appropriates \$250 million General Fund per year to HEAP. *This bill is in the Assembly Housing Committee.*

AB 58 (Luz Rivas, 2019) — adds a representative from the state Department of Education to the HCFC. *This bill will be heard in this committee today.*

AB 67 (Luz Rivas, 2019) — requires HCD, in coordination with the HCFC, to create a state homeless integrated data warehouse, as specified. *This bill will be heard in this committee today.*

AB 1702 (Luz Rivas, 2019) — requires BCSH to create additional staff positions at the HCFC and requires the HCFC to make recommendations to the Legislature on streamlining homeless programs and service delivery. *This bill will be heard in this committee today.*

SB 918 (Wiener, Chapter 841, Statutes of 2017) — establishes the Homeless Youth Act of 2018 to better serve the state's youth population and requires the HCFC to take on additional related responsibilities focused on addressing the needs of youth experiencing homelessness.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

California Coalition for Youth (Co-Sponsor)
Corporation for Supportive Housing (Co-Sponsor)
Equality California (Co-Sponsor)
Housing California (Co-Sponsor)
John Burton Advocates for Youth (Co-Sponsor)
Tipping Point Community (Co-Sponsor)
Alliance For Children's Rights
Aspiranet
Bay Area Community Resources
Bill Wilson Center
Cal State Student Association
California Alliance Of Child And Family Services
California Apartment Association
California Opportunity Youth Network
Center For Human Services
Children Now
City Of Santa Monica
County Of Los Angeles Board Of Supervisors

County Of Sacramento
County Of San Bernardino
Covenant House California
CSU Bakersfield'S Guardian Scholars Program
David & Margaret Youth And Family Services
Disability Rights California
Economic Roundtable
Environmental Alternatives
Episcopal Community Services Of San Francisco
Family Assistance Program
Fastenau & Associates
First Place For Youth
Goodwill Southern California
Hillsides
Home Start
Imperial Valley Regional Occupational Program
Kamali'I Foster Family Agency
Kids In Common
Kings/Tulare Homeless Alliance
Larkin Street Youth Services
LGBT Community Center Of The Desert
Long Beach Conservation Corps
Los Angeles Conservation Corps
Los Angeles County Office Of Education
Los Angeles Homeless Services Authority
Los Angeles LGBT Center
Mental Health America Of California
National Association Of Social Workers, California Chapter
National Center For Youth Law
Non-Profit Housing Association Of Northern California
Our Children La
Pacific Palisades Task Force On Homelessness
Public Counsel
Redwood Community Action Agency's Youth Service Bureau
Sacramento LGBT Community Center
Safe Place For Youth
San Bernardino City Unified School District
San Bernardino; County Of
San Diego LGBT Community Center
San Diego Youth Development Office
San Diego Youth Services
San Francisco Lesbian Gay Bisexual Transgender Community Center

San Jose Conservation Corps & Charter School
Santa Monica; City Of
St. Joseph Center
Stonewall Democratic Club
The Community College Foundation
TLC Child And Family Services
Trinity County Office Of Education
Uplift Family Services
Urban Conservation Corps Inland Empire
Urban Strategies Council
Wild Rivers Community Foundation
YMCA Of San Diego County, Youth And Family Services
Youth For Change
Youth Policy Institute

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No: AB 386 **Hearing Date:** 7/2/2019
Author: Eduardo Garcia
Version: 3/5/2019
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Agricultural Working Poor Energy Efficient Housing Program

DIGEST: This bill establishes the Agricultural Working Poor Energy Efficient Housing Program and requires it to be administered by the Department of Community Services and Development (CSD).

ANALYSIS:

Existing law:

- 1) Establishes the Joe Serna Jr. Farmworker Housing Grant Program, which authorizes the Department of Housing and Community Development (HCD) to provide financing for new construction, rehabilitation, and acquisition of owner-occupied and rental units for agricultural workers, with priority given to low income households.
- 2) Tasks CSD with implementing several types of federal assistance to help low-income households meet their energy needs, including:
 - a) The Low-Income Home Energy Assistance Program, which provides one-time financial assistance to help offset an eligible applicant's energy costs;
 - b) The Energy Crisis Intervention Program, which provides assistance to low-income households that are in a crisis situation due to receiving a termination notice or an energy-related life-threatening emergency, such as a malfunctioning heater; and,
 - c) The Weatherization Assistance Program, which provides free energy efficiency upgrades to low-income households.

This bill:

- 1) Directs CSD to develop and administer the Agricultural Working Poor Energy Efficient Housing Program by expending moneys appropriated by the Legislature to improve energy efficiency in farmworker housing.
- 2) Specifies that program funds are to be used to fund energy-efficient projects including, but not limited to, the following:
 - a) Weatherization of homes and other residences;
 - b) Replacement of energy inefficient appliances with Energy Star-certified appliances;
 - c) Replacement of lighting with light-emitting diode, commonly known as LED, lighting;
 - d) Installation of photovoltaic solar panels and solar water heating systems and bringing farmworker housing into compliance to allow installation of those systems;
 - e) Installation of battery backups.
- 3) Directs CSD, when distributing program funding, to give preference to an association of federally designated farmworker organizations and other organizations that have a proven track record of assisting farmworkers.
- 4) Establishes a number of program requirements, including that CSD consult with the California Public Utilities Commission (CPUC) and the California Energy Commission (CEC) in developing the program to avoid duplication with the energy-efficiency programs supervised by those commissions, and that CSD submit a report to the Legislature on program performance, as specified.

COMMENTS

- 1) *Purpose of the bill.* According to the author, "Agriculture is a large part of the economy throughout many parts of California. While at one time farmworker populations were characterized by their mobility, today they have become much more stable and permanent in the agricultural regions of the state. People can often be living in close quarters with extended family and more than often do not have the quality of infrastructure to support the health of the community. With new funding for farmworker housing becoming available, it will be important to ensure older farmworker housing is not left behind in making energy efficient improvements."

- 2) *CSD energy assistance programs.* CSD administers three low-income energy assistance programs: the federal Low Income Home Energy Assistance Program (LIHEAP), the Weatherization Assistance Program (WAP), and the state-funded Low Income Weatherization Program (LIWP). Each of the three weatherization programs administered by CSD provides energy-efficiency services to eligible low-income households, both homeowners and renters, by installing a range of weatherization upgrades to reduce energy usage, improve resident comfort, and provide monetary savings to the residents. Residents are also educated on basic energy-efficiency practices and on the proper use and maintenance of the appliances and measures installed. In addition, with revenues from the Greenhouse Gas Reduction Fund, CSD also administers, through LIWP, funds for the installation of rooftop solar photovoltaic systems and solar water heaters in low-income single-family and multi-family households located within disadvantaged communities.

The CSD reports that it contracts with a network of private, nonprofit, and local government community-based organizations to provide for the local administration of grant programs and delivery of service to eligible low-income households. Each program has an income-eligibility requirement ranging from 60% state median income to 80% area median income, depending on the program.

- 3) *Additional state energy assistance programs.* In addition to the low-income energy assistance programs described above, HCD administers the Joe Serna, Jr. Farmworker Housing Grant program, which provides financing for the new construction, rehabilitation, and acquisition of owner-occupied and rental units for agricultural workers, with a priority for lower income households. Proposition 1, passed by the voters in November 2018, authorized the investment of \$300 million in general obligation bonds in this program.
- 4) *Improving farmworker housing conditions.* This bill proposes to create the Agricultural Working Poor Energy Efficient Housing Program, to be administered by CSD. The purpose of the new program is to improve energy efficiency in farmworker housing. The author reports that California's 800,000 low-income farmworkers cannot afford to reduce their reliance on carbon-intensive energy sources. In addition, energy consumption in homes owned by farmworkers is often higher than average, because there are generally larger numbers of individuals per household. This bill is intended to create a program specifically targeted towards making farmworker housing energy efficient.
- 5) *If at first you don't succeed.* This bill is substantially similar to AB 2715 (E. Garcia) from 2016. That bill was held in the Senate Appropriations Committee.

6) *Double-referral*. This bill is referred to the Energy, Utilities, and Communications Committee.

RELATED LEGISLATION:

AB 2715 (E. Garcia, 2016) — would have established the Agricultural Working Poor Energy Efficient Housing Program and requires it to be administered by the Department of Community Services and Development (CSD). *This bill was held in the Senate Appropriations Committee.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

La Cooperative Campesina de California (Sponsor)
American Federation of State, County and Municipal Employees, AFL-CIO
California Efficiency + Demand Management Council
Proteus Inc

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 411	Hearing Date:	7/2/2019
Author:	Mark Stone		
Version:	6/5/2019		
Urgency:	No	Fiscal:	Yes
Consultant:	Alison Hughes		

SUBJECT: Redevelopment: City of Santa Cruz: bond proceeds: affordable housing

DIGEST: This bill authorizes the City of Santa Cruz's redevelopment successor agency (SA) to use specified bond proceeds for affordable housing purposes, rather than defeasing or cancelling the bonds.

ANALYSIS:

Existing law:

- 1) Requires bond proceeds derived from bonds issued on or before December 31, 2010 by a former redevelopment agency (RDA) in excess of the amounts needed to satisfy approved enforceable obligations to be expended in a manner consistent with the original bond covenants. Any bond funds that cannot be spent consistent with the original bond covenants must be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.
- 2) Allows SAs to RDAs that have received a finding of completion from Department of Finance (DOF) to use some of the bond proceeds from bonds sold after January 1, 2011, as follows:
 - a) No more than 5% of the proceeds may be expended unless the SA meets the following criteria:
 - i) If the SA has an approved Last and Final Recognized Obligation Payment Schedule (ROPS), the agency may expend no more than 20% of the proceeds; and
 - ii) Creates a process that the earlier the bonds were issued in 2011, the more the SA is able to expend, ranging from 25% to 45%.

- b) If a SA provides the oversight board and DOF with documentation that proves that the bonds were approved by the former RDA prior to January 31, 2011, but the issuance of the bonds were delayed by the action of a third-party metropolitan regional transportation authority beyond January 31, 2011, the SA may expend the associated bond proceeds for a total of no more than 45%.
 - c) Any proceeds derived from bonds issued by former RDA after December 31, 2010, that were issued to refund or refinance tax-exempt bonds issued by former RDAs on or before December 31, 2010, and are in excess of the amount needed to refund or refinance may be expended by the SA for a total of no more than 45%. The SA must provide the oversight board and DOF the resolution by the former RDA approved the bonds.
- 3) Requires a SA to establish a Low and Moderate Income Asset Fund to manage existing affordable housing funds generated by RDAs. First, funds shall be used to pay for enforceable obligations. Funds unnecessary to pay enforceable obligations may be used for the following purposes:
- a) Monitoring and preserving affordable housing restrictions or covenants entered into by the RDA or its SA, and administering the remaining funds (up to 5% of the value of its housing assets).
 - b) Preventing homelessness and providing rapid rehousing of people who are or could become homeless (up to \$250,000 per year).
 - c) Developing affordable housing for households earning less than 80% of area median income (AMI). Of the amount available for development, at least 30% must be used for households earning no more than 30% AMI, and no more than 20% for households between 60% and 80% AMI.

This bill:

- 1) Allows the City of Santa Cruz (City) to use bond proceeds in excess of what is necessary to pay off remaining obligations for affordable housing, instead of using these proceeds to defease or cancel the bonds, with the approval of the SA's oversight board. Allows up to 10% of the bond proceeds to be used for affordable housing for moderate-income households. The City must spend the remainder of the bond proceeds consistent with the requirements of the Low and Moderate Income Asset Fund.
- 2) Requires that, if the City of Santa Cruz decides to use bond proceeds for affordable housing, the SA's last and final ROPS shall be adjusted so that the Property Tax Trust Fund pays off the remaining principal and interest on the bonds.

- 3) Requires the City to replace any affordable housing units lost as a result of the bill with the same number of units of an equivalent size for households of the same or lower-income categories than previously occupied the units.

COMMENTS

- 1) *Purpose of the bill.* According to the author, “[I]ike many cities across the state, Santa Cruz is facing a severe housing shortage. A 2017 report found that Santa Cruz is one of the least affordable areas in the nation and an individual working full-time would need to make \$35.15 an hour, or more than three times the minimum wage, in order to be able to afford rent at a 2-bedroom apartment at market rate. AB 411 will lift the 35% cap that currently prevents the City of Santa Cruz from expending the remainder of its 2011 redevelopment bond proceeds. Without the state-imposed limit on using redevelopment bond proceeds, the City of Santa Cruz would have access to an additional \$16 million for affordable housing and facilities for individuals experiencing homelessness. AB 411 represents a commonsense measure that will help the City move forward in its efforts to expand affordable housing and provide facilities for individuals experiencing homelessness.”
- 2) *Loss of Redevelopment Funds.* Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of RDAs to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment). Prior to Proposition 13 of 1978, very few RDAs existed; however, after its passage RDAs became a source of funding for a variety of local infrastructure activities. Eventually, RDAs were required to set-aside 20% of funding generated in a project area to increase the supply of low and moderate-income housing in the project areas. At the time RDAs were dissolved, the Controller estimated that statewide, RDAs were obligated to spend \$1 billion on affordable housing.
- 3) *RDA dissolution.* AB X1 26 (2011) established SAs to manage the process of unwinding former RDAs affairs. With the exception of seven cities, the city or county that created each former RDA now serves as that RDA’s SA. One of the SAs’ primary responsibilities is to make payments for enforceable obligations RDAs entered into, supported by property tax revenues that would have gone to RDAs, but are instead deposited in a Redevelopment Property Tax Trust Fund. Enforceable obligations include bonds, bond-related payments, some loans, payments required by the federal government, obligations to the state or imposed by state law, payments to RDA employees, judgements or

settlements, and other legally-binding and enforceable agreements or contracts. Any remaining property tax revenues that exceed these enforceable obligations return to cities, counties, special districts, and school and community college districts to support core services.

Each SA has an oversight board responsible for supervising and approving its actions. DOF can review and request reconsideration of an oversight board's decision. Once a SA takes over for an RDA, it reviews the RDA's outstanding assets and obligations, and develops a plan to resolve those obligations, also known as a Recognized Obligation Payment Schedule (ROPS). For DOF to agree to a SAs plan, the agency submits a series of ROPS. If DOF agrees with the plan, it issues a Finding of Completion. SAs issued a Finding of Completion can submit a Last and Final ROPS, meaning that (1) the remaining debt is limited to administrative costs and payments pursuant to enforceable obligations with defined payment schedules, (2) all remaining obligations have been previously listed on the ROPS and approved by DOF, and (3) the agency is not a party to outstanding or unresolved litigation.

- 4) *Managing bonds.* Many RDAs issued bonds before the dissolution ended their ability to issue new debt. According to a 2012 Legislative Analyst's Office report, *Unwinding Redevelopment*:

“In the first six months of 2011, RDAs issued about \$1.5 billion in tax allocation bonds, a level of debt issuance greater than during all 12 months of 2010 (\$1.3 billion). The increase in bond issuance from 2010 to 2011 was even more notable because it occurred despite RDAs being required to pay higher borrowing costs. Specifically, about two-thirds of the bond issuances in 2011 had interest rates greater than 7 percent—compared with less than one-quarter of bond issuances in 2010. In fact, RDAs issued more tax allocation bonds with interest rates exceeding 8 percent during the first six months of 2011 than they had in the previous ten years.”

Once dissolution was finalized, these local agencies had already issued bonds, but they could not necessarily move forward with projects these proceeds were intended for because AB X1 26 (2011) established a process for using these bond proceeds to resolve outstanding obligations. For bonds issued on or before December 31, 2010, SAs first have to spend proceeds in excess of the amounts needed to satisfy enforceable obligations in accordance with the original bond covenants. If there are bond proceeds in excess of this amount, SAs have to use these proceeds at the earliest possible date to defease the bond, or purchase outstanding bonds for cancellation. For bonds issued after January 1, 2011, SAs have to use bond proceeds in excess of the amounts needed to satisfy enforceable obligations consistent with original bond covenants, but

have some leeway in how they use those excess proceeds. If DOF has not issued the SA a final ROPS, then the SA may expend no more than 5% of bond proceeds. If DOF has issued the SA a final ROPS, then the SA can spend a greater proportion of bond proceeds depending on the month the RDA issued the bonds. If there are still bond proceeds remaining, SAs are required to use these proceeds at the earliest possible date to defease the bonds or purchase outstanding bonds for cancellation. When bond proceeds are defeased or cancelled, property tax revenue used to pay off bonds returns to the local agencies that generated the property tax revenue, as opposed to the Redevelopment Property Tax Trust Fund.

- 5) *Delaying dissolution.* AB X1 26 (Blumenfeld, Chapter 5, Rtatutes of 2011) created SAs to unwind RDAs obligations so that property tax revenues previously going to RDAs now flow back to the local agencies generating the revenue. The property tax revenue used to issue these bonds came not just from the SA, which is the city in many cases, but also the county, special districts, and school and community college districts, which impacts the state by way of the Proposition 98 minimum funding guarantee.

This bill allows the SA for the City of Santa Cruz to use the property tax revenue these taxing entities initially raised for affordable housing, rather than defeasing or cancelling the bonds. This bill provides that if any affordable units are demolished as a result of the remaining bond proceeds being used to build affordable housing, they shall be replaced with the same number of units of equivalent size.

- 6) *Similar legislation.* This bill is similar to SB 532 (Portantino), which was heard earlier this year by this committee. That bill allows the City of Glendale to use RDA bond proceeds for the purposes of increasing, improving, and preserving affordable housing in a manner similar to this bill.
- 7) *Double-referral.* This bill passed out of the Governance and Finance Committee on a vote of 5-1 on June 12th.

RELATED LEGISLATION:

SB 532 (Portantino, 2019) — authorizes the City of Glendale's redevelopment agency (RDA) SA to use specified bond proceeds for specified affordable housing purposes, rather than using those proceeds to defease the bonds. *This bill is pending in the Assembly Local Government Committee.*

AB 1732 (Flora, 2019) — authorizes the SA to Manteca's former redevelopment agency (RDA) to sell a property at less than fair market value to a nonprofit organization. *This bill will be heard in this Committee today.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

Affordable Housing Now
California YIMBY
Democratic Club Of North Santa Cruz County
Downtown Management Corporation of Santa Cruz
Santa Cruz County Chamber Of Commerce
Santa Cruz County Democratic Central Committee
Santa Cruz YIMBY
Santa Cruz; City Of

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No: AB 437

Hearing Date: 7/2/2019

Author: Wood

Version: 4/29/2019

Urgency: No

Fiscal: Yes

Consultant: Lizeth Perez

SUBJECT: Move-In Loan Program

DIGEST: This bill creates the Move-In Loan Program under the state Department of Housing and Community Development (HCD) to provide no-interest loans to help eligible renters with move-in costs.

ANALYSIS:

Existing law:

- 1) Establishes the California Emergency Solutions and Housing (CESH) program under HCD, which funds a variety of activities to assist persons experiencing or at risk of homelessness, including housing relocation and stabilization services.
- 2) Establishes the CalWORKs Housing Support Program (HSP) under the Department of Social Services to assist homeless families in quickly obtaining permanent housing by offering services including rental assistance, security deposits, utility payments, and moving costs.
- 3) Establishes the California Homebuyers Downpayment Assistance Program within the California Housing Finance Agency (CalHFA) that provides affordable mortgage financing and down payment assistance to first-time low- and moderate-income homebuyers.

This bill:

- 1) Establishes, subject to appropriation by the Legislature, the Move-In Loan Program (program) to provide grants to nonprofit organizations for the purpose of providing no-interest loans to eligible applicants to help fund the security deposit and first month's rent for a rental dwelling.

- 2) Requires recipients of this program to have a household income at or below the area median income in which the rental dwelling is located.
- 3) Requires nonprofit organization applicants to submit the following to HCD: a loan servicing plan and program guidelines, as specified; a maximum amount for a loan, loan document templates, underwriting guidelines, and evidence of sufficient organizational stability; and capacity to carry out a loan servicing program.

COMMENTS

- 1) *Purpose of the bill.* According to the author, “There is a growing need for housing assistance for individuals that can meet the month to month needs of renting or owning a home, but the cost to get started is unattainable due to the rising cost of healthcare, student loan debt burden, stagnant wages, and other factors. This bill is one way to address the affordability of renting and provide an avenue to individuals to avoid homelessness by creating an interest free loan program that would cover the burdensome start-up cost associated with renting that can prevent individuals and families from securing rental housing.”
- 2) *Background.* The cost of housing in California is the highest of any state in the nation. Over half of all renters in the state are rent-burdened, including 80% of low-income renters, meaning they pay over 30% of their income towards rent. According to the Public Policy Institute of California (PPIC), California has the second lowest homeownership rate in the nation and renters pay 43% above the nationwide median. The lack of affordable housing has generated some of the highest rents in the country. Generally, renters are required to provide a deposit as well as first and last month’s rent before obtaining a rental unit. This bill seeks to create a loan program to aid renters with these move-in costs, which can prevent individuals and their families from securing rental housing.
- 3) *Related programs.* There are several state programs that offer rental and homeowner assistance. CalHFA offers a down payment assistance program that helps low and moderate income households purchase homes. That program offers a subordinate loan on which payments are deferred until the home is sold, refinanced or paid in full, thereby helping keep monthly mortgage payments affordable; CalHFA currently serves approximately 10,000 homebuyers per year under this program. This bill proposes a counterpart to CalHFA’s homebuyer program with the aim of helping potential renters afford the move-in costs for a rental dwelling.

The CESH program under HCD offers assistance to people experiencing or at risk of homelessness; services offered under CESH include housing relocation and stabilization services, as well as rental assistance. HSP under the Department of Social Services assists homeless CalWORKs families (families with children who meet specific criteria) obtain permanent housing by offering financial assistance and services including rental assistance, security deposits, utility payments, as well as moving costs. This bill differs from CESH and HSP in its target population; this bill would target individuals that can finance the monthly cost of renting, but struggle to come up with the start-up costs such as security deposits, or first and last month's rent that is required by many landlords in order to obtain an apartment lease. In addition, program eligibility is targeted to at or below the area median income of the location where the rental unit is located, and recipients would not have to be homeless or at risk of homelessness in order to qualify.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

California Apartment Association
California YIMBY
Fort Bragg; City of
Humboldt; County of
Mendocino; County of
Santa Monica; City of

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No: AB 684

Hearing Date: 7/2/2019

Author: Levine

Version: 6/12/2019

Urgency: No

Fiscal: Yes

Consultant: Erin Riches

SUBJECT: Building standards: electric vehicle charging infrastructure

DIGEST: This bill requires the state Department of Housing and Community Development (HCD) and the California Building Standards Commission (CBSC) to propose building standards for the installation of electric vehicle (EV) charging infrastructure for parking spaces for existing multifamily and non-residential developments.

ANALYSIS:

Existing law:

- 1) Establishes the CBSC within the Department of General Services and requires any building standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC prior to codification into the California Building Standards Code.
- 2) Requires HCD to propose the adoption, amendment, or repeal of building standards to the CBSC for residential buildings including hotels, motels, lodging houses, apartment houses, dwellings, buildings, and structures.
- 3) Requires the CBSC to publish the California Green Building Standards Code (CALGreen) in its entirety once every three years, as part of the California Building Standards Code.
- 4) Establishes building standards for EV charging infrastructure in new residential development and new non-residential development.
- 5) Requires HCD to actively consult with interested parties including but not limited to, investor-owned utilities, municipal utilities, manufacturers, local building officials, commercial building and apartment owners and the building industry, in developing proposed standards for EV charging infrastructure.

This bill:

- 1) Requires HCD and the CBSC to research, develop, and propose for adoption building standards, including thresholds below which the standards would not apply, for the installation of EV charging infrastructure for parking spaces for existing multifamily dwellings and non-residential development on or before July 1, 2022, or in the next interim code cycle, whichever is sooner.
- 2) Includes community choice aggregators, EV manufacturers, and EV supply equipment manufacturers in the list of interested parties that HCD and the CBSC must consult in developing EV charging infrastructure standards.
- 3) Requires HCD and the CBSC to review the standards for multifamily dwellings and non-residential development every 18 months and update the standards as needed.

COMMENTS

- 1) *Purpose of the bill.* The author states that this bill aims to facilitate the installation of EV charging stations in existing multifamily housing and commercial dwellings. Requiring EV charging infrastructure to be added when other construction is already occurring takes advantage of cost savings that result from addressing multiple construction needs at the same time. In addition, requiring HCD and the CBSC to review EV charging infrastructure standards every 18 months will facilitate the creation of a robust and reliable EV charging infrastructure.
- 2) *GHG goals.* AB 32 (Nunez and Pavley, 2006) requires the Air Resources Board (ARB) to determine the 1990 statewide GHG emissions level and approve a statewide GHG emissions limit that is equivalent to that level, to be achieved by 2020, and to adopt GHG emission reduction measures by regulation. In 2015, Governor Brown issued an executive order setting a statewide GHG emission reduction target of 80% below 1990 levels by 2050 and an interim target of 40% below 1990 levels by 2030. SB 32 (Pavley, 2016) codified the 2030 target.

According to ARB, the transportation sector is responsible for roughly 40% of GHG emissions in California. Accordingly, Executive Order B-16-12 of 2012 established a goal of 1.5 million ZEVs on California's roads by 2025. SB 1275 (De León, Chapter 530, Statutes of 2014) built on this goal by establishing the Charge Ahead California Initiative, which aims to place one million electric cars, trucks, and buses on California's roads by 2023. In addition, the ZEV

regulation, commonly known as the ZEV mandate, sets a goal for ZEVs and near-ZEVs to comprise 15% of new cars sold in California by 2025. If a manufacturer fails to meet its ZEV requirement, it is subject to financial penalties. Finally, Executive Order B-48-18, signed by Governor Brown in January 2018, establishes a new target of five million ZEVs in the state by 2030. The executive order also proposed an eight-year, \$2.5 billion budget initiative to help bring 250,000 vehicle charging stations and 200 hydrogen fueling stations to California by 2025.

There are currently about 500,000 light-duty EVs on California's roads. According to the New Car Dealers Association, market share for hybrid and electric vehicles increased from 9.4% in 2017 to 12% in 2018.

- 3) *Background: building standards and CALGreen.* The California Building Standards Code (Title 24) serves as the basis for the design and construction of buildings in the state. California's building codes are published in their entirety every three years; intervening code adoption cycles produce supplement pages halfway (18 months) into each triennial period. Amendments to California's building standards are subject to a lengthy and transparent public participation process throughout each code adoption cycle. Through this process, relevant state agencies propose amendments to building codes, which the CBSC must then adopt, modify, or reject. HCD is the relevant state agency for residential building codes.

Since 2008, the CBSC has maintained a separate chapter of the California Building Standards Code known as CalGreen. CALGreen includes the first mandatory green building standards code in the country and is intended to help meet the state's GHG reduction goals. In addition to the mandatory standards, CALGreen provides "tiers" of voluntary green building standards as a model for cities and counties. The CBSC is authorized to propose CALGreen standards for non-residential structures that include, but are not limited to, new buildings or portions of new buildings, additions and alterations, and all occupancies where no other state agency has the authority to adopt green building standards applicable to those occupancies.

- 4) *Next steps.* CALGreen requires new multifamily buildings with 17 or more units to install EV charging infrastructure in at least 3% of parking spaces. CALGreen also requires at least 10% of total parking spaces in a new non-residential development to be designated for low-emitting, fuel-efficient, and carpool/vanpool vehicles, including EVs. Incorporating charging facilities into plans for new construction can help reduce the costs of such infrastructure. However, since only new developments fall under this requirement, it has

limited impact. Thus, this bill requires HCD and the CBSC to propose building standards for EV charging infrastructure in existing multifamily dwellings and non-residential developments. Retrofitting existing developments for EV charging infrastructure will likely pose significantly higher costs.

- 5) *Stakeholders.* Existing law requires HCD to consult with interested parties, including investor-owned utilities (IOUs), municipal utilities, manufacturers, local building officials, commercial building and apartment owners, and the building industry, when developing proposed standards for EV charging infrastructure. This bill clarifies that “manufacturers” means EV manufacturers and EV supply equipment manufacturers, and adds community choice aggregators (CCAs) to the list. CCAs are entities, such as MCE and Sonoma Clean Power, where cities or counties elect to buy or generate electricity on behalf of local residents while using the IOU’s transmission and distribution infrastructure. While IOUs have existed for nearly a century, CCAs are a more recent entity. Today there are 19 CCAs operating in the state with a dozen more communities exploring the formation of a CCA.
- 6) *Trying again.* This bill is similar to AB 1239 (Holden, 2018), which was vetoed last year. In his veto message, Governor Brown stated that AB 1092 (Levine, 2013) already requires the CBSC to adopt mandatory standards for installation of EV charging stations in new multifamily dwellings and non-residential buildings and that the California Public Utilities Commission (CPUC) is working on a comprehensive plan to determine where IOUs can install charging stations around the state. The veto message further stated that increasing transportation electrification will require coordination and collaboration with the Energy Commission, the CPUC, and various other departments. The message stated that the Governor was directing the Government Operations Agency to work with all key parties to identify barriers to construction of charging stations in existing buildings. This work is currently underway.

RELATED LEGISLATION:

AB 1239 (Holden, 2017) — would have required HCD and the CBSC to research and propose for adoption mandatory building standards regarding the installation of EV-capable parking spaces in existing multifamily housing projects and non-residential buildings when those buildings are being reconstructed, as specified. *This bill was vetoed.*

AB 1236 (Chiu, Chapter 598, Statutes of 2015) — required each city and county to adopt an ordinance to streamline and expedite the permitting process for EV charging stations.

AB 2565 (Muratsuchi, Chapter 529, Statutes of 2014) — required an owner of a commercial or residential property to approve the installation of an EV charging station, as specified, and makes a term in a lease of a commercial property that is executed, renewed, or extended on or after January 1, 2015, void and unenforceable if it prohibits or unreasonably restricts the installation of an EV charging station in a parking space.

AB 1092 (Levine, Chapter 410, Statutes of 2013) — required the CBSC, as part of the next building code adoption cycle, to include mandatory building standards for the installation of electric vehicle charging infrastructure in multifamily dwellings and non-residential development.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

California Electric Transportation Coalition
CALSTART
Center For Climate Protection
Chargepoint
Electric Vehicle Charging Association
Peninsula Clean Energy
San Diego; County Of
Sonoma Clean Power
Southern California Edison
Tesla Motors

OPPOSITION:

None received.

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No: AB 957 **Hearing Date:** 7/2/2019
Author: Committee on Housing and Community Development
Version: 4/22/2019
Urgency: No **Fiscal:** Yes
Consultant: Lizeth Perez

SUBJECT: Housing Omnibus

DIGEST: This bill makes non-controversial changes to sections of law relating to housing.

ANALYSIS:

According to the Legislative Analyst’s Office, the cost of producing a bill in 2001-2002 was \$17,890. By combining multiple matters into one bill, the Legislature can make minor changes to law in the most cost-effective manner.

Proposals included in this housing omnibus bill must abide by the Senate Housing Committee policy on omnibus bills. The proposals have to be non-controversial and non-policy changes to various committee-related statutes. The proponent of an item submits proposed language and provides background materials to the Committee for the item to be described to legislative staff and stakeholders. Committee staff provides a summary of the items and the proposed statutory changes to all majority and minority consultants in both the Senate and Assembly, as well as all known or presumed interested parties. If an item encounters any opposition and the proponent cannot work out a solution with the opposition, the item is omitted from or amended out of the bill. Proposals in the bill must reflect a consensus and be without opposition from legislative members, agencies, and other stakeholders.

This bill, as proposed to be amended, makes non-controversial and non-policy changes to sections of law relating to housing. Specifically, this bill includes the following provisions, with the proponent of each provision noted in brackets:

- 1) *Housing element law.* There are two versions of Government Code Section 65583.2 in statute, one currently operative and one that triggers on Jan 1, 2029. The two statutes do not align. This proposal reconciles differences between the two. [Western Center on Law and Poverty]

- 2) *Dilapidated properties.* Health and Safety Code Section 17980.7 allows local enforcement agencies to petition the court to appoint a receiver to remedy dilapidated properties in their jurisdiction. This proposal would create a logical path for noticing of dilapidated properties by allowing for the posting of a 3-day notice on the substandard property and first-class mailing to all persons with a recorded interest. [City of Sacramento City Attorney]

- 3) *Housing for a Healthy California.* The Housing for a Healthy California program funds supportive housing for chronically homeless Medi-Cal recipients through both operating reserve grants and capital loans to developers, and grants to counties for capital and operating assistance. Current law requires counties to use the grants for both construction and operation of supportive housing, whereas some counties only need the funding for one of those. Project-based subsidies should not be based on renewal grants, since grants are one-time funding. This proposal makes technical changes and clarifies that counties are not required to use grants for both construction and operating costs of supportive housing units, but can use the grants for one or both. This proposal also specifies that operating subsidies are not subject to renewal grants and clarifies that counties can use the grants for long term rental assistance to support supportive housing. [Assembly Housing and Community Development Committee, Department of Housing and Community Development]

- 4) *No Place Like Home.* The No Place Like Home Program was established by the 2016 budget and dedicates up to \$2 billion in bond proceeds to invest in the development of permanent supportive housing for persons who are in need of mental health services and are experiencing homelessness, chronic homelessness, or who are at risk of chronic homelessness. Technical corrections are necessary to more completely convey the ways in which the state may not act in adverse interest to bondholders. The amendments also contain an urgency clause due to the pending sale of No Place Like Home bonds. [Assembly Housing and Community Development Committee]

COMMENTS

- 1) *Purpose of the bill.* The purpose of omnibus bills is to include technical and non-controversial changes to various committee-related statutes into one bill. This allows the legislature to make multiple, minor changes to statutes in one bill in a cost-effective manner. If there is no consensus on a particular item, it cannot be included. There is no known opposition to any item in this bill.

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

POSITIONS: (Communicated to the committee before noon on Wednesday,
June 26, 2019.)

SUPPORT:

None received.

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 1010	Hearing Date:	7/2/2019
Author:	Eduardo Garcia		
Version:	5/16/2019		
Urgency:	No	Fiscal:	Yes
Consultant:	Alison Hughes		

SUBJECT: Housing programs: eligible entities

DIGEST: This bill makes the governing body of Indian reservations and Rancherias eligible to receive funding from various state affordable housing programs.

ANALYSIS:

Existing state law:

- 1) States that for the purposes of determining the eligibility of an applicant for funding under a program under the California Department of Housing and Community Development (HCD), references to a local public entity, nonprofit corporation, nonprofit housing sponsor, or governing body of an Indian reservation or Rancheria in any statute included in, or in any regulation promulgated to implement a housing program under HCD shall be deemed to include a tribally designated housing entity.
- 2) Existing federal law defines the terms “tribally designated housing entity” and “housing entity” to have the following meaning:
 - a) For existing Indian housing entities with respect to any Indian tribe that has not taken action under subparagraph (b), and for which an Indian housing authority:
 - i. was established for purposes of the United States Housing Act of 1937 before October 26, 1996, that meets the requirements under the United States Housing Act of 1937;
 - ii. is acting on October 26, 1996, as the Indian housing authority for the tribe; and,
 - iii. is not an Indian tribe.

- b) Other entities with respect to any Indian tribe that, pursuant to this chapter, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this chapter for affordable housing for Indians, which entity is established:
 - i. by exercise of the power of self-government of one or more Indian tribes independent of State law, or
 - ii. by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska,

This bill:

- 1) Requires, rather than authorizes HCD to provide technical assistance to tribal housing authorities, housing sponsors, and governmental agencies on reservations, Rancherias, and on public domain to facilitate the planning and orderly development of suitable, decent, safe, and sanitary housing for American Indians residing in those areas.
- 2) Defines "local public entity" for purposes of the Joe Serna, Jr. Farmworker Housing Program and Special User Housing Rehabilitation Program to include the duly constituted governing body of an Indian reservation or Rancheria or a tribally designated housing entity, as defined.
- 3) Defines "nonprofit corporation" for purposes of the Joe Serna, Jr. Farmworker Housing Program, Predevelopment Loan Program, and CalHOME Program to include, but not be limited to, a tribally designated housing entity, as defined.
- 4) Defines "local governmental agencies" for purposes of the Predevelopment Loan Program and CalHOME Program to include, but not be limited to, the duly constituted governing body of an Indian reservation or Rancheria or a tribally designated housing entity, as defined.
- 5) Defines "local public agencies" or "local government agencies" for purposes of the CalHOME program to include, but not be limited to, the duly constituted governing body of an Indian reservation or Rancheria or a tribally designated housing entity, as defined.
- 6) Allows HCD to award matching grant funds from the Local Housing Trust Fund Program to the duly constituted governing body of an Indian reservation or Rancheria.

- 7) Clarifies that to qualify for funding for various HCD programs, a duly constituted governing body of an Indian reservation or Rancheria is not required to have an adopted a compliant housing element.

COMMENTS

- 1) *Purpose of the bill.* According to the author, "In September of 2011, Governor Brown issued Executive Order B-10-11 which reflected an administrative change to encourage communication and consultation with California Tribes. In line with this [directive,] HCD adopted a Tribal Consultation policy which sought to 'foster and promote consultation and collaboration between HCD and federally-recognized California Indian Tribes and non-federally recognized tribes.' While California Indian tribes have not been eligible for and competitive for most state housing and community development program grants in the past, the California Tax Credit Allocation Committee (TCAC) changed this in 2014 with their first round of awards being made for tribal housing within its rural set-aside. Eight projects have been funded since. Additionally, beginning in 2016, the HCD proposed regulation changes addressing tribal access to the Home Investment Partnerships program (HOME). Ultimately this proposal became successful after public input and the State HOME program became eligible to tribes and recently awarded its first-ever grant for a tribal project in Mendocino County. While tribes are explicitly eligible for some state housing programs, the terminology used to refer to tribes is inconsistent and confusing. Other programs omit tribes and tribal entities as eligible applicants altogether. California has the largest Native American population in the nation with nearly 360,500 Californians identifying in whole or part as "American Indian." Currently California has 109 federally recognized tribes which include nearly 100 small reservations and Rancherias spread across the state. Additionally, the rate of tribal poverty is more than twice that of the rest of California's population and one third of tribal residents live below the federal poverty rate. California also differs from other states in that only a small percentage of California tribes' land is held in trust by the U.S. government."
- 2) *Funding for Indian reservations and Rancherias.* HCD used to operate a program to provide technical assistance to Indian reservations and Rancherias to provide assistance in planning for affordable housing. That program stopped being funded in 2006, likely to instead fund other housing programs. This bill requires, rather than authorizes, HCD to provide technical assistance to tribal housing authorities, housing sponsors, and governmental agencies on reservations, Rancherias, and on public domain to facilitate the planning and orderly development of suitable, decent, safe, and sanitary housing for American Indians residing in those areas, and names the program the "G. David

Singleton California Indian Assistance Program." G. Dave Singleton passed away in September of 2018. According to his obituary, he "served as a human rights advocate for Native American, Latino, and African American communities for over 60 years in New York, Alabama, and California."

- 3) *HCD grant and loan programs.* This bill would make the governing board of an Indian reservation or Rancheria eligible to receive funding from the Joe Serna, Jr. Farmworker Housing Program, the Predevelopment Loan Program, Local Housing Trust Fund Program, the CalHOME program, and the Special User Housing Rehabilitation Program. Each of these programs has new funding available from housing bonds approved by the voters through Proposition 1 in 2018.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

Burbank Housing
 California Coalition For Rural Housing
 County Of Tuolumne Housing Policy Committee
 EAH Housing
 Mono County Board Of Supervisors
 Mountain Housing Council Of Tahoe Truckee
 Mutual Housing California
 Neighborworks Homeownership Center Sacramento Region
 North Fork Rancheria Indian Housing Authority
 North Valley Housing Trust
 Northern Circle Indian Housing Authority
 Pueblo Unido CDC
 Redwood Valley Little River Band Of Pomo Indians
 Rural Community Assistance Corporation
 The Cahto Tribe Of The Laytonville Rancheria
 Tuolumne County Board Of Supervisors
 Wilton Rancheria
 Yocha Dehe Wintun Nation

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 1255	Hearing Date:	7/2/2019
Author:	Robert Rivas		
Version:	4/11/2019		
Urgency:	No	Fiscal:	Yes
Consultant:	Erin Riches		

SUBJECT: Surplus public land: database

DIGEST: This bill requires each city and county to include an inventory of surplus lands in its housing element and annually report the inventory to the state Department of General Services (DGS), and requires DGS to create a searchable database of this information.

ANALYSIS:

Existing law:

- 1) Requires DGS, when disposing of surplus state real property, to first offer it to local agencies, then to non-profit affordable housing sponsors, prior to offering it for sale to private entities or individuals.
- 2) Requires DGS to maintain a list of surplus state real property on its website. DGS shall provide local agencies and, upon request, members of the public with electronic notification of updates to this list.
- 3) Requires any local agency, when disposing of surplus land, to first offer it for sale or lease for the purpose of developing low- and moderate-income housing. First priority must be given to affordable housing for lower-income seniors or disabled persons or households, and other lower-income households.
- 4) Requires each local agency, on or before December 31 of each year, to make an inventory of all lands it holds, owns, or controls, including a description of each parcel found to be in excess of its needs.
- 5) Defines “surplus land” as land owned by any local agency that is determined to be no longer necessary for the agency’s use, except property being held by the agency for the purpose of exchange or property meeting other exemptions.

- 6) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.

This bill:

- 1) Requires a local government to include in its housing element an inventory of surplus land owned by the city or county that separately identifies sites that qualify as infill under the California Environmental Quality Act and high-density sites, defined as sites zoned to allow at least 24 housing units per acre.
- 2) Requires each city or county to submit the list of sites identified in (1) to DGS by December 31st of each year.
- 3) Requires DGS to create a database of the sites identified in (1) and to make it available and searchable by the public through its website.

COMMENTS

- 1) *Purpose of the bill.* The author states that Californians face a debilitating housing crisis that requires an all-of-the-above approach to increase the state's housing stock. While the state considers policy changes on how best to zone for and build new housing, communities can work to stimulate local collaboration, identify housing opportunities, and bridge unexpected partnerships. By simply identifying these overlooked, underdeveloped areas, there is tremendous potential for local leaders and developers to collaborate and build smart affordable housing in dense, transit-rich areas to better serve the needs of their communities.
- 2) *Affordable housing gets right of first refusal on surplus lands.* Under the state Surplus Land Act, if land is no longer needed or is not being held for exchange, a local agency must follow certain procedures prior to disposal of this "surplus" land. Prior to disposing of surplus land, local agencies must make a written offer to sell or lease surplus land for the purpose of developing low- or moderate-income housing to "housing sponsors" upon written request, as well as any local public entity within the jurisdiction where the surplus land is located.

- 3) *Housing element inventory of adequate sites.* Existing law requires every city and county to prepare a housing element as part of its general plan. This is done every eight years by local governments located within the territory of a metropolitan planning organization (MPO), and every five years by local governments in rural non-MPO regions. Each community's fair share of housing is determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (1) the Department of Finance and HCD develop regional housing needs estimates; (b) councils of government (COGs) allocated housing within each region based on the estimates; and (c) cities and counties incorporate their allocations into their housing elements. The housing element must contain an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period and are sufficient to provide for the locality's share of the regional housing need for all income levels.
- 4) *Governor's Executive Order.* The Governor's Proposed Budget noted that the state has identified many excess state properties that are suitable for housing development. The Governor issued an executive order in January that, among other things, directed DGS, HCD, and the California Housing Finance Agency (CalHFA) to work together to prioritize affordable housing development for these parcels. On April 11, 2019, the Governor announced that the Administration has completed an initial review of state-owned property. HCD and DGS have developed a screening tool to further evaluate these properties, and will work with other state agencies to determine the viability of specific parcels for affordable housing development. The Administration will partner with local cities to release at least three Requests for Proposals (RFPs) for new housing construction within a year, with the first parcel identified and an RFP issued by September 30, 2019. The Administration has partnered with the mayors of Chico, Fresno, Oakland, Sacramento, San Diego, and San Francisco to work on expedited development of housing on state-owned properties in those areas.
- 5) *Next steps.* This bill would require a city or county to include an inventory of surplus properties that qualify as infill sites and high-density (24 units to the acre) in its housing element inventory of sites. This bill also requires localities to send a surplus sites inventory to DGS on December 31 each year. However, as noted above, local governments only produce a housing element every five or eight years. Alternatively, the Surplus Land Act requires local governments to adopt an inventory of all lands it holds, owns, or controls, including sites identified as surplus, by December 31 of each year. *Moving forward, the author may wish to consider removing the housing element provisions from this bill and instead amending the Surplus Land Act to require each local*

government to submit its surplus lands inventory to DGS each year when it is adopted.

6) *How many databases do we need?* In addition to this bill, the Legislature is currently considering a number of bills requiring HCD to either create a statewide database or to collaborate with another agency to create one, including:

AB 67 (L. Rivas/Chiu) Amended 5/17/19	AB 1255 (R. Rivas) Amended 4/11/19	AB 1483 (Grayson) Amended 6/24/19	AB 1486 (Ting) Amended 6/27/19	SB 6 (Beall/McGuire) Amended 4/23/19
Requires HCD, in collaboration with the Homeless Coordinating and Financing Council, to create a statewide integrated data warehouse.	Requires DGS to create a database of local surplus lands, including infill sites and high-density sites, as reported to DGS in a format prescribed by HCD and included in housing elements.	Requires HCD, or another state entity designated by HCD, to create a statewide parcel geographic database from information submitted in APRs.	Requires HCD to maintain an inventory of all publicly owned or controlled lands and their present uses.	Requires DGS to create a database of sites identified in local housing elements submitted to HCD, along with state surplus land sites.

At minimum, the authors of the bills creating databases for surplus lands may wish to consider aligning their bills to avoid duplication.

RELATED LEGISLATION:

SB 6 (Beall, 2019) — requires DGS, in coordination with HCD, to create a database of state and local surplus lands available for residential development as identified by local governments in their housing elements. *This bill is in the Assembly Accountability and Administrative Review Committee.*

AB 1483 (Grayson, 2019) — adds a number of requirements to APRs; requires HCD or another state entity to establish a statewide parcel geographic database; requires cities and counties to post specified housing-related information on their websites; and requires HCD to develop a strategy and standards for state housing data. *This bill will also be heard in this committee today.*

AB 1484 (Grayson, 2019) — requires cities and counties to post information about all fees imposed on a housing development project on their websites. *This bill is in the Governance and Finance Committee.*

AB 1486 (Ting, 2019) — expands Surplus Land Act requirements for local agencies, requires local governments to include specified information relating to surplus lands in their housing elements and APRs, and requires HCD to establish a database of surplus lands, as specified. *This bill will be heard in this committee today.*

SB 1296 (Glazer, 2018) — would have required local governments and special districts to annually report their fees on new developments to HCD, and for HCD to collect and publish the data in a database. *This bill was held on suspense in the Senate Appropriations Committee.*

AB 2065 (Ting, 2018) — would have revised and expanded provisions of the Surplus Land Act. *This bill was held on the Assembly Appropriations Committee suspense file.*

AB 2135 (Ting, Chapter 677, Statutes of 2014) — required that surplus local government land sold under preference for affordable housing provide at least 25% of the units at affordable housing cost to low-income households. Required that such land sold outside the preference system for residential use provide at least 15% of the units at affordable housing cost to low-income households.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

California Apartment Association
California Association Of Realtors
Morgan Hill; City Of
Salinas; City Of

OPPOSITION:

None received.

SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 1483	Hearing Date:	7/2/2019
Author:	Grayson		
Version:	6/24/2019 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Erin Riches		

SUBJECT: Housing data: collection and reporting

DIGEST: This bill adds a number of requirements to the annual progress reports (APRs) that cities and counties are required to submit to the state Department of Housing and Community Development (HCD); requires HCD or another state entity to establish a statewide parcel geographic database; requires cities and counties to post specified housing-related information on their websites; and requires HCD to develop a strategy and standards for state housing data.

ANALYSIS:

Existing law:

- 1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.
- 2) Requires each city and county to submit an annual progress report (APR) to HCD and the Office of Planning and Research that includes all of the following:
 - a) Progress in meeting its share of regional housing needs.
 - b) Local efforts to remove governmental constraints to the maintenance, improvement, and development of housing.
 - c) Actions taken by the city or county towards completing programs contained within the housing element and the status of compliance with deadlines in the housing element.
 - d) Number of housing development applications received in the prior year.
 - e) Number of units included in all housing development applications in the prior year.

- f) Number of units approved and disapproved in the prior year.
 - g) A list of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the housing element's site inventory, and any additional sites that may be necessary to accommodate the city's or county's share of regional housing need.
 - h) The number of net new units of housing, with a unique site identifier including but not limited to the parcel number, including both rental housing and for-sale housing, that have been issued a completed entitlement, building permit, or a certificate of occupancy in the housing element cycle, and the income category that each unit of housing satisfies.
 - i) The number of SB 35 (Wiener, Chapter 366, Statutes of 2017) applications submitted and the location and the total number of developments approved, the number of building permits issued, and the total number of units including both rental and for-sale housing by area median income, through the SB 35 process.
- 2) Creates a streamlined, ministerial approval process for specified infill developments in localities that have failed to meet their RHNA numbers, authorized by SB 35 (Wiener, 2017).
- 3) Establishes, under the Mitigation Fee Act, specific requirements a city must follow in establishing or imposing development fees and sets forth a process by which a developer may challenge the imposition of a fee.

This bill:*APR requirements*

- 1) Requires cities and counties to include all of the following additional information in the APR, for each housing development project:
- a) Applicant name.
 - b) The date the application was received and the date it was deemed complete or incomplete.
 - c) A list of entitlements, building permits, conditional use permits, and zoning variances the project has received.
 - d) The local public bodies that have approved the project and the dates that permits were issued by those bodies.
 - e) The additional public bodies required to review the project application before it can be deemed complete.

- f) Entitlements, building permits, conditional use permits, and zoning variances that have been issued, or will be reviewed, under a ministerial process.
 - g) Additional entitlements, building permits, conditional use permits, and zoning variances needed to obtain a certificate of occupancy for the project.
 - h) Whether the project has been or will be subject to environmental review under the California Environmental Quality Act (CEQA).
 - i) Whether the parcel or parcels qualify as an infill site under CEQA.
 - j) Whether the application was submitted under accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU) law.
 - k) Building permits issued pursuant to ADU and JADU law.
 - l) Whether the project is seeking any bonus, concession, or waiver under density bonus law.
 - m) Local density bonus ordinances, inclusionary zoning ordinances, rent stabilization or anti-rent-gouging ordinances, ADU ordinances, and any local ordinance that establishes local requirements or incentives for the development or preservation of affordable or rent-controlled housing.
 - n) Information that is useful to enforce state and local housing law and policy, including specified statutes.
 - o) Any other information HCD deems necessary or useful to further safe, secure, sustainable, abundant, or affordable housing for all Californians and to meet overall state housing needs.
- 2) Also requires the following to be included in the APR:
- a) A current schedule of fees applicable to a proposed project, in a manner that clearly identifies the fees that apply to each parcel.
 - b) All zoning ordinances and development standards, specifying which apply to each parcel.
 - c) The list required to be compiled under existing law of projects located within military use airspace or low-level flight path.
- 3) Authorizes HCD to assess the accuracy of the information submitted in the APR and authorizes HCD, if it determines that an APR contains inaccurate information, to require inaccuracies to be corrected.
- 4) Requires HCD to provide technical assistance relating to APR requirements to any city or county that requests it.

Parcel-level database

- 1) Requires cities and counties to submit as part of their APRs beginning January 1, 2021, parcel boundaries, the number of residential units on each parcel, and other data for each parcel collected by county assessors, as determined by HCD.
- 2) Requires HCD, with input from county assessors, to set standards, forms, and definitions for the collection of the data pursuant to (5) and to establish a five-year exemption policy for counties with a population under 100,000.
- 3) Requires HCD, or another state entity designated by HCD, to collect the parcel data submitted pursuant to (5) and publish it in a statewide parcel geographic database. Authorizes HCD to anonymize ownership information of individual parcels if it determines a legitimate threat to a property owner in doing so.
- 4) Requires HCD, in relation to the parcel data, to:
 - a) Track parcel boundary changes, mergers, and subdivisions in the database.
 - b) Determine the frequency and format that counties must submit parcel boundary changes and other parcel data that occur between APRs.
 - c) Archive the database at least annually and make the archives publicly available.
 - d) Ensure that the database connects as many different housing data sets as feasible.

Local government websites

- 1) Requires each city and county to make all of the following available on its website, using standards, forms, and definitions adopted by HCD:
 - a) A current schedule of fees applicable to a proposed housing development project, in a manner that clearly identifies the fees that apply to each parcel.
 - b) All zoning ordinances and development standards, specifying which apply to each parcel.
 - c) The list required to be compiled under existing law, of projects located within military use airspace or low-level flight path.
- 2) Requires a city or county to update the information required in (9) within two business days of the changes and requires a city or county to forward updated information within one month of the changes to HCD and the applicable metropolitan organization (MPO) and council of governments (COG).

- 3) Requires each city and county, beginning January 1, 2020, to maintain and annually update a publicly accessible archive of its zoning ordinances and development standards.

Other local government data requirements

- 1) Authorizes an MPO, by a majority vote of its governing board, to submit a request to HCD to require a jurisdiction to provide housing production data, using standards, forms, and definitions developed by HCD. Requires HCD to grant such a request if it determines that all of the following apply:
 - a) The request is justified on the basis of furthering safe, secure, sustainable, abundant, or affordable housing and helps the state meet its overall housing needs.
 - b) The MPO has collaborated with the county or city to establish the scope of the requested data.
 - c) The scope of the request does not create an undue burden on the staff of the city or county.
 - d) The MPO has agreed to provide, or has proposed to enter into an agreement with HCD to provide, technical assistance to the city or county to fulfill the request.

HCD data strategy

- 1) Requires HCD, as part of its next revision of the statewide housing plan on or after January 1, 2020, and each revision thereafter, to include a 10-year housing data strategy that identifies the data useful to enforce existing housing laws and inform state housing policymaking. In developing this strategy, HCD shall establish a workgroup, as specified. The strategy shall include the following:
 - a) An evaluation of data priorities.
 - b) A strategy for how to achieve more consistent terminology for housing data across the state.
 - c) An evaluation of costs and benefits of, and the ways HCD could support, a more integrated digital land use management system, building permit application management system, and other tools that would minimize resources needs for jurisdictions to submit required data.
 - d) Information that should be reported in APRs, as specified.
 - e) An assessment of the quality of data submitted in the APRs, recommended changes to APR requirements, and technical assistance needed.

- f) An assessment of the nature and cost of staffing and technology necessary for HCD and local governments to meet data goals and requirements over the 10-year strategy period.

State housing data requirements

- 1) Requires all housing data reported to the state or created by the state, including but not limited to APRs, to be reported with a statewide parcel unique identifier to the extent feasible.
- 2) Requires HCD to publish all data, data policies, and data standards, on its website and on the California Open Data Portal.
- 3) Requires HCD, in collaboration with the Department of Technology and other stakeholders, to establish open data standards that require data provided to HCD by local jurisdictions, HCD contractors, or HCD grantees, and data produced by HCD, to comply with a number of specified requirements relating to format, accessibility, transparency, searchability, and downloadability.

COMMENTS

- 1) *Purpose of the bill.* The author states that California needs robust data for evidence-based housing policymaking. The Legislature has committed significant financial resources and new authorities to tackle the housing crisis over the last several years; these resources should be targeted to the places, populations, and strategies that deliver real solutions. Policymakers lack data needed to adequately understand housing problems and to make and track progress on solutions. Too much of the housing data that is currently collected is not accessible, standardized, or organized in a manner that leverages our current data investments. California has a rich community of housing researchers and advocates that support data-driven solutions – they could contribute far more if data were readily available. Better information is needed to guide action by cities, metropolitan planning organizations, elected officials, developers, community groups, academic researchers, and voters. This bill will make the housing development data pipeline open and available, leveraging California’s dedicated community of housing researchers and advocates to implement smart, effective solutions to our housing affordability crisis.
- 2) *Housing elements and APRs.* Existing law requires every city and county to prepare a housing element as part of its general plan. This is done every eight years by local governments located within the territory of an MPO and every five years by local governments in rural non-MPO regions. Each community’s

fair share of housing is determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (1) the Department of Finance and HCD develop regional housing needs estimates; (b) councils of government (COGs) allocate housing within each region based on the estimates; and (c) cities and counties incorporate their allocations into their housing elements. The housing element must contain an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period and are sufficient to provide for the locality's share of the regional housing need for all income levels. Each jurisdiction must submit an APR to HCD documenting its progress toward meeting its RHNA allocation and the plans outlined in its housing element.

This bill adds a significant number of requirements to the data and information that must be contained in the APR, including parcel-level data, detailed information about the process and types of approvals that projects must undergo, and specified information relating to fees, ordinances, and development standards that apply to each project (see "This bill," comments #1, 2, and 5).

- 3) *Development fees.* Development fees serve many purposes and can be broadly divided into two categories: service fees and impact fees. Service fees cover staff hours and overhead, and are used to fund the city's role in the development process such as paying for plan reviews, permit approvals, inspections, and any other services related to a project moving through city departments. Impact fees refer generally to fees that offset the public costs of new infrastructure incurred by the larger community. In the wake of the passage of Proposition 13 in 1978 and the loss of significant property tax revenue, local governments have also turned to development fees as a means to pay for new infrastructure. According to a March 2018 report by the UC Berkeley Turner Center for Housing Innovation, entitled *It All Adds Up: The Cost of Housing Development Fees in Seven California Cities*, between 2008 and 2015, California fees rose 2.5%, while the national average decreased by 1.2%. The report points to studies that have found that fees can comprise 17% of the total development costs of new housing; in California, development fees were nearly three times the national average in 2015.

As part of the 2017 Housing Package, the Legislature passed AB 879 (Grayson, Chapter 374), which requires HCD to complete a study to evaluate the reasonableness of local fees charged to new developments. The study, which is due to the Legislature by June 30th, 2019, will include findings and recommendations to substantially reduce fees for residential development.

This bill requires local governments to report specified fee-related data and information to HCD in their APRs and to post it on their websites (see “This bill,” #1, 2, and 9).

- 4) *How much data do we need?* This bill requires local governments to report, and HCD to collect, a very large amount of very detailed data. While more data may be helpful in informing solutions to the state’s housing crisis, it is unclear that such a large amount of data is required to serve that purpose. *Moving forward, the author may wish to consider working with stakeholders and HCD to examine current data gaps that need to be filled and narrowing the requirements of this bill accordingly.*
- 5) *How many databases do we need?* In addition to this bill, the Legislature is currently considering a number of bills requiring HCD to either create a statewide database or to collaborate with another agency to create one, including:

AB 67 (L. Rivas/Chiu) Amended 5/17/19	AB 1255 (R. Rivas) Amended 4/11/19	AB 1483 (Grayson) Amended 6/24/19	AB 1486 (Ting) Amended 6/27/19	SB 6 (Beall/McGuire) Amended 4/23/19
Requires HCD, in collaboration with the Homeless Coordinating and Financing Council, to create a statewide integrated data warehouse.	Requires DGS to create a database of local surplus lands, including infill sites and high-density sites, as reported to DGS in a format prescribed by HCD and included in housing elements.	Requires HCD, or another state entity designated by HCD, to create a statewide parcel geographic database from information submitted in APRs.	Requires HCD to maintain an inventory of all publicly owned or controlled lands and their present uses.	Requires DGS to create a database of sites identified in local housing elements submitted to HCD, along with state surplus land sites.

At minimum, the authors of the bills creating databases for surplus lands may wish to consider aligning their bills to avoid duplication.

- 6) *HCD workload.* It is important to note that in 2017, the Legislature passed and the Governor signed a package of 15 housing bills as a comprehensive package. Together, this package provided an ongoing source of funding for affordable housing construction, a \$4 billion housing bond to provide an immediate infusion of funds into housing for veterans, and low- and moderate-income families, as well as several streamlining and land use measures designed to facilitate and foster opportunities for increased housing production. In order to

implement that package, the Legislature has provided HCD with a large number of new staff, which it is still in process of hiring.

This bill requires HCD to collect a large amount of additional data and help create and maintain a statewide database, a task that will likely require a significant use of public resources and time.

- 7) *Local workload.* While expanding housing-related data requirements could help inform efforts to provide more housing across California, it also raises concerns about imposing a significantly increased workload on local governments. Both SB 35 (Wiener, 2017) and AB 879 (Grayson, 2017), which went into effect last year, added significant requirements to the housing element and APR; this bill, as noted above, adds a number of new requirements to the APR. In addition, some of the information called for in this bill will require cities to coordinate across multiple departments and with multiple special districts, which will likely take significant time and resources. It is essential that localities focus on getting more housing built, an effort that could be slowed or stymied by overly burdensome report requirements. *Moving forward, the author may wish to consider narrowing the requirements this bill imposes on local jurisdictions.*
- 8) *Drafting errors.* The author notes two drafting errors in the most recent set of amendments, in relation to information that must be posted on a city's or county's website (Section 2 of this bill). First, the requirement to post "a current schedule of fees" should read "a current schedule of exactions." Secondly, the provision specifying that "this section shall be construed to alter the existing authority of a city or county to adopt or impose an exaction" should read "shall not be construed." The author plans to correct these errors in Governance and Finance Committee.
- 9) *Double-referral.* This bill was also referred to the Governance and Finance Committee, which will hear it on July 10th.

RELATED LEGISLATION:

SB 6 (Beall, 2019) — requires DGS, in coordination with HCD, to create a database of state and local surplus lands available for residential development as identified by local governments in their housing elements. *This bill is in the Assembly Accountability and Administrative Review Committee.*

AB 1255 (R. Rivas, 2019) — requires local governments to include an inventory of surplus lands in their housing elements and annually report the inventory to

DGS, and requires DGS to create a searchable database of this information. *This bill will also be heard in this committee today.*

AB 1484 (Grayson, 2019) — requires cities and counties to post information about all fees imposed on a housing development project on their websites. *This bill is in the Governance and Finance Committee.*

AB 1486 (Ting, 2019) — expands Surplus Land Act requirements for local agencies, requires local governments to include specified information relating to surplus lands in their housing elements and APRs, and requires HCD to establish a database of surplus lands, as specified. *This bill will be heard in this committee today.*

SB 1296 (Glazer, 2018) — would have required local governments and special districts to annually report their fees on new developments to HCD, and for HCD to collect and publish the data in a database. *This bill was held on suspense in the Senate Appropriations Committee.*

AB 2065 (Ting, 2018) — would have revised and expanded provisions of the Surplus Land Act. *This bill was held on the Assembly Appropriations Committee suspense file.*

AB 879 (Grayson, Chapter 374, Statutes of 2017) — required local governments to include an expanded analysis of nongovernmental constraints on housing development in their housing elements.

SB 35 (Wiener, Chapter 366, Statutes of 2017) — created a streamlined, ministerial approval process for infill developments in localities that have failed to meet their RHNA numbers. Also required additional information to be included in the APR.

AB 2135 (Ting, Chapter 677, Statutes of 2014) — required that surplus local government land sold under preference for affordable housing provide at least 25% of the units at affordable housing cost to low-income households. Required that such land sold outside the preference system for residential use provide at least 15% of the units at affordable housing cost to low-income households.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

Association of Bay Area Governments
Building Industry Association Of The Bay Area
California Apartment Association
California Association Of Realtors
California Building Industry Association
California Community Builders
California YIMBY
Chan Zuckerberg Initiative
Enterprise Community Partners, Inc.
Facebook, Inc.
Hamilton Families
LeadingAge California
Metropolitan Transportation Commission
Non-Profit Housing Association Of Northern California
North Bay Leadership Council
Pico California
Related California
Silicon Valley Community Foundation
SPUR
TMG Partners
Transform
Working Partnerships USA

OPPOSITION:

American Planning Association, California Chapter
California State Association Of Counties
League Of California Cities
Urban Counties Caucus

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 1486	Hearing Date:	7/2/2019
Author:	Ting		
Version:	6/27/2019 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Erin Riches		

SUBJECT: Surplus land

DIGEST: This bill expands Surplus Land Act requirements for local agencies, requires local governments to include specified information relating to surplus lands in their housing elements and annual progress reports (APRs), and requires the state Department of Housing and Community Development (HCD) to establish a database of surplus lands, as specified.

ANALYSIS:

Existing law under the Surplus Land Act:

- 1) Requires DGS, when disposing of surplus state real property, to first offer it to local agencies, then to non-profit affordable housing sponsors, prior to offering it for sale to private entities or individuals.
- 2) Requires DGS to maintain a list of surplus state real property on its website. DGS shall provide local agencies and, upon request, members of the public with electronic notification of updates to this list.
- 3) Requires any local agency, when disposing of surplus land, to first offer it for sale or lease for the purpose of developing low- and moderate-income housing. First priority must be given to affordable housing for lower income seniors or disabled persons or households, and other lower income households.
- 4) Requires each local agency, on or before December 31 of each year, to make an inventory of all lands it holds, owns, or controls, including a description of each parcel found to be in excess of its needs.
- 5) Defines "surplus land" as land owned by any local agency that is determined to be no longer necessary for the agency's use, except property being held by the agency for the purpose of exchange or property meeting other exemptions.

Existing housing element law:

- 1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.
- 2) Requires each city and county to submit an annual progress report (APR) to HCD and the Office of Planning and Research that includes specified information relating to progress in meeting the jurisdiction's share of regional housing needs pursuant to its housing element.

This bill:*Surplus Lands Act*

- 1) Clarifies the public agencies to which the Surplus Land Act applies and revises the definition of "surplus land."
- 2) Expands the list of exemptions from the Surplus Land Act to include, among other things, surplus land that is put out to open, competitive bid by a local agency for either:
 - a) A housing development that restricts 100% of units to low- or moderate-income households, with at least 75% of units restricted to low-income, for at least 55 years, with a maximum affordable sales price or rent level that does not exceed 20% below median market rents or sales prices for the neighborhood in which the development is located.
 - b) A mixed-use development that includes at least 300 units and restricts at least 25% of the units to lower-income households, with an affordable sales price or rent level, for at least 55 years.
- 3) Requires a local agency that is disposing of surplus land for purpose of developing low- and moderate-income housing to send a notice of availability, as specified, to housing sponsors that have notified HCD (rather than the appropriate council of governments) of their interest. Requires HCD to maintain a list of all notices of availability on its website.
- 4) Prohibits the negotiations between a disposing agency and interested entities to determine price and terms to:

- a) Disallow residential use of the site as a condition of its sale or lease.
- b) Reduce the allowable number of residential units or the maximum lot coverage below what may be allowed by zoning or general plan requirements.
- c) Require as a condition of sale or lease, any design standards or architectural requirements that would have a substantial adverse effect on the viability or affordability of a housing development for very low-, low-, or moderate-income households, other than the minimum standards required by general plan, zoning, and subdivision standards and criteria.

Surplus land database

- 1) Requires, rather than authorizes, each local agency to make a central inventory of all its surplus land on or before December 31st of each year, as specified.
- 2) Requires each local agency to report to HCD by April 1st of each year, beginning in 2021, a description of each surplus land parcel, in a form prescribed by HCD.
- 3) Requires each local agency to, upon request, provide a list of its surplus lands free of charge.
- 4) Requires HCD to create by September 30, 2021, and to maintain, and annually update, a searchable and downloadable public inventory on its website of all publicly owned or controlled lands, and their present uses, as reported to HCD.

Surplus Land Act violations

- 1) Requires a local agency, prior to agreeing to the terms for the disposition of surplus land, to provide specified information about its disposition process to HCD. Requires HCD to submit to the local agency, within 30 days, written findings of any process violations that have occurred. Provides the local agency at least 30 days to either correct the violations or adopt a resolution with findings explaining why the process is not in violation.
- 2) Provides that a local agency that disposes of land in violation of this bill following a notification from HCD is liable for a penalty of up to 50% of the final sale price. Penalty assessments shall be deposited into a local housing trust fund, the state Building Homes and Jobs Fund, or the Housing Rehabilitation Loan Fund, as specified.

- 3) Adds Surplus Land Act violations to the list of violations HCD may notify the Attorney General about.

Housing element and APR requirements

- 1) Requires a housing element's site inventory to include, for non-vacant sites that are owned by the city or county, a description of whether there are plans to dispose of the property during the planning period and how the city or county will comply with the Surplus Lands Act. Sunsets this provision on Dec. 31, 2028.
- 2) Requires a local agency's APR to include a list of sites owned by the city or county, and included in its housing element inventory, that have been sold, leased, or otherwise disposed of in the prior year. The list shall include the entity to whom each site was transferred and the intended use for the site.

COMMENTS

- 1) *Purpose of the bill.* The author states that California is facing an affordable housing crisis and unused public land has the potential to promote affordable housing development throughout the state. This bill clarifies and strengthens provisions in the Surplus Land Act that will promote the use of public land for affordable housing projects.
- 2) *Affordable housing gets right of first refusal on surplus lands.* Under the state Surplus Land Act, if land is no longer needed or is not being held for exchange, a local agency must follow certain procedures prior to disposal of this "surplus" land. Prior to disposing of surplus land, local agencies must make a written offer to sell or lease surplus land for the purpose of developing low- or moderate-income housing to "housing sponsors" upon written request, as well as any local public entity within the jurisdiction where the surplus land is located.
- 3) *Housing element inventory of adequate sites.* Existing law requires every city and county to prepare a housing element as part of its general plan. This is done every eight years by local governments located within the territory of a metropolitan planning organization (MPO), and every five years by local governments in rural non-MPO regions. Each community's fair share of housing is determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (1) the Department of Finance and HCD develop regional housing needs estimates; (b) councils of government (COGs) allocated housing within each region based on the estimates; and (c)

cities and counties incorporate their allocations into their housing elements. The housing element must contain an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period and are sufficient to provide for the locality's share of the regional housing need for all income levels.

- 4) *Governor's Executive Order.* The Governor's Proposed Budget noted that the state has identified many state-owned properties that are suitable for housing development. The Governor issued an executive order in January that, among other things, directed DGS, HCD, and the California Housing Finance Agency (CalHFA) to work together to prioritize affordable housing development for these parcels. On April 11, 2019, the Governor announced that the Administration has completed an initial review of state-owned property. HCD and DGS have developed a screening tool to further evaluate these properties, and will work with other state agencies to determine the viability of specific parcels for affordable housing development. The Administration will partner with local cities to release at least three Requests for Proposals (RFPs) for new housing construction within a year, with the first parcel identified and an RFP issued by September 30, 2019. The Administration has partnered with the mayors of Chico, Fresno, Oakland, Sacramento, San Diego, and San Francisco to work on expedited development of housing on state-owned properties in those areas.
- 5) *Connecting surplus lands and housing production.* As noted above, the Surplus Land Act requires local agencies to prioritize affordable housing when disposing of surplus land. In 2014, the Act was amended (AB 2135, Ting) to require surplus land sold for affordable housing to provide at least 25% of the units at a cost affordable to low-income households. AB 2135 also required surplus land sold outside the housing preference system to provide at least 15% of the units at a cost affordable to low-income households. According to the author, local governments have attempted to circumvent this statute. These conflicts have delayed the sale of surplus sites and stunted affordable housing development. This bill aims to ensure that opportunities to create new affordable housing through surplus lands, are realized.
- 6) *How many databases do we need?* In addition to this bill, the Legislature is currently considering a number of bills requiring HCD to either create a statewide database or to collaborate with another agency to create one, including:

AB 67 (L. Rivas/Chiu) Amended 5/17/19	AB 1255 (R. Rivas) Amended 4/11/19	AB 1483 (Grayson) Amended 6/24/19	AB 1486 (Ting) Amended 6/27/19	SB 6 (Beall/McGuire) Amended 4/23/19
Requires HCD, in collaboration with the Homeless Coordinating and Financing Council, to create a statewide integrated data warehouse.	Requires DGS to create a database of local surplus lands, including infill sites and high-density sites, as reported to DGS in a format prescribed by HCD and included in housing elements.	Requires HCD, or another state entity designated by HCD, to create a statewide parcel geographic database from information submitted in APRs.	Requires HCD to maintain an inventory of all publicly owned or controlled lands and their present uses.	Requires DGS to create a database of sites identified in local housing elements submitted to HCD, along with state surplus land sites.

At minimum, the authors of the bills creating databases for surplus lands may wish to consider aligning their bills to avoid duplication.

- 7) *Opposition concerns.* Opponents state that this bill imposes onerous new requirements on the disposition of surplus land and does not take into consideration the unique needs of various local agencies and special districts.
- 8) *Triple-referral.* This bill was also referred to the Governance and Finance Committee, which passed it on a 4-3 vote on June 26th, and the Governmental Organization Committee, which will hear it next.

RELATED LEGISLATION:

SB 6 (Beall, 2019) — requires DGS, in coordination with HCD, to create a database of state and local surplus lands available for residential development as identified by local governments in their housing elements. *This bill is in the Assembly Accountability and Administrative Review Committee.*

AB 1255 (R. Rivas, 2019) — requires local governments to include an inventory of surplus lands in their housing elements and annually report the inventory to DGS, and requires DGS to create a searchable database of this information. *This bill will also be heard in this committee today.*

AB 1483 (Grayson, 2019) — adds a number of requirements to APRs; requires HCD or another state entity to establish a statewide parcel geographic database; requires cities and counties to post specified housing-related information on their websites; and requires HCD to develop a strategy and standards for state housing data. *This bill will also be heard in this committee today.*

AB 1484 (Grayson, 2019) — requires cities and counties to post information about all fees imposed on a housing development project on their websites. *This bill is in the Governance and Finance Committee.*

AB 2065 (Ting, 2018) — would have revised and expanded provisions of the Surplus Land Act. *This bill was held on the Assembly Appropriations Committee suspense file.*

AB 2135 (Ting, Chapter 677, Statutes of 2014) — required that surplus local government land sold under preference for affordable housing provide at least 25% of the units at affordable housing cost to low-income households. Requires that such land sold outside the preference system for residential use provide at least 15% of the units at affordable housing cost to low-income households.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

East Bay Housing Organizations (Co-Sponsor)
Non-Profit Housing Association of Northern California (Co-Sponsor)
Bay Area Council
Bay Area Housing Advocacy Coalition
Bay Area Regional Health Inequities Initiative
Building Industry Association Of The Bay Area
Burbank Housing Development Corporation
California Apartment Association
California Coalition For Rural Housing
California Community Builders
California Housing Consortium
California Housing Partnership
California Rural Legal Assistance Foundation
California YIMBY
Chan Zuckerberg Initiative
Community Legal Services In East Palo Alto
EAH Housing
East Bay Asian Local Development Corporation
Enterprise Community Partners, Inc.
Greenbelt Alliance
Habitat For Humanity California

Habitat For Humanity East Bay/Silicon Valley
Hamilton Families
Housing California
Midpen Housing
North Bay Leadership Council
Related California
San Diego Housing Federation
San Francisco Foundation
San Francisco Housing Action Coalition
Silicon Valley At Home
Silicon Valley Community Foundation
Southern California Association Of Nonprofit Housing
TMG Partners
Transform
Tenderloin Neighborhood Development
Urban Displacement Project, UC-Berkeley
Western Center On Law & Poverty, Inc.

OPPOSITION:

Association Of California Healthcare Districts
Association Of California Water Agencies
California Association Of Sanitation Agencies
California Municipal Utilities Association
California Special Districts Association
California State Association Of Counties
Cambria Community Services District
Central Contra Costa Sanitary District
Chino Valley Independent Fire District
Coachella Valley Water District
Costa Mesa Sanitary District
Crestline Sanitation District
Cucamonga Valley Water District
Denair Community Services District
Desert Recreation District
Dublin San Ramon Services District
East Contra Costa Fire Protection District
Eastern Kern County Resource Conservation District
El Dorado Hills Community Services District
Fallbrook Public Utilities District
Fresno Mosquito And Vector Control District
Garberville Sanitary District

Georgetown Divide Public Utility District
Goleta Sanitary District
Goleta West Sanitary District
Greenfield County Water District
Helix Water District
Humboldt Bay Municipal Water District
Ironhouse Sanitary District
Irvine Ranch Water District
Kern County Cemetery District
Leucadia Wastewater District
Mckinleyville Community Services District
Merced County Mosquito Abatement District
Mesa Water District
Montara Water And Sanitary District
Mt. View Sanitary District
North County Fire Protection District
North Tahoe Fire Protection District
Northern Salinas Valley Mosquito Abatement District
Oceano Community Services District
Ojai Valley Sanitary District
Orange County Cemetery District
Orange County Mosquito And Vector Control District
Orange County Water District
Palo Verde Cemetery District
Rainbow Municipal Water District
Reclamation District 1000
Rural County Representatives Of California
San Bernardino Valley Water District
San Juan Water District
San Marcos; City Of
San Ramon Valley Fire Protection District
Sanitation Districts of Los Angeles County
Santa Clara County
Santa Margarita Water District
Silveyville Cemetery District
Solano County
Solano Irrigation District
South Coast Water District
Stallion Springs Community Services District
Stege Sanitary District
Tahoe City Public Utility District
Templeton Community Services District

Three Valleys Municipal Water District
Town Of Discovery Bay Community Services District
Tulare Mosquito Abatement District
Tulare Public Cemetery District
Urban Counties Of California
Valley Center Municipal Water District
Ventura Port District
Visalia Public Cemetery District
Vista Irrigation District
West County Wastewater District
West Side Recreation & Park District
Yucaipa Valley Water District

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 1560	Hearing Date:	7/2/2019
Author:	Friedman		
Version:	6/25/2019 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Alison Hughes		

SUBJECT: California Environmental Quality Act: transportation: major transit stop

DIGEST: This bill redefines “major transit stop” to include “bus rapid transit,” as defined.

ANALYSIS:

Existing law, pursuant to the California Environmental Quality Act (CEQA):

- 1) Creates specified incentives for the implementation of the strategies, including CEQA exemption or abbreviated review for residential or mixed-use residential “transit priority projects,” if the project is consistent with the use designation, density, building intensity, and applicable policies specified for the project area in either an approved sustainable communities strategy or alternative planning strategy.
- 2) Requires a “transit priority project” to do all of the following:
 - a) Contain at least 50% residential use, based on the total building square footage and, if the project contains between 26% and 50% nonresidential uses, a floor area ratio of not less than 0.75.
 - b) Provide a minimum net density of at least 20 dwelling units per acre.
 - c) Be located within $\frac{1}{2}$ mile of a major transit stop or high-quality transit corridor included in a regional transportation plan.
- 3) Defines “major transit stop” as a site that contains any of the following:
 - a) An existing rail transit station.
 - b) A ferry terminal served by either a bus or rail transit service.
 - c) The intersection of at least two major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon

peak commute periods.

- 4) Defines “high-quality transit corridor” as a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.
- 5) Establishes state funding programs to fund affordable housing development near transit.

This bill:

- 1) Redefines “major transit stop” as a site containing an existing rail or bus rapid transit station or a ferry terminal served by either a bus or rail transit service.
- 2) Defines “bus rapid transit” as a public mass transit service provided by a public agency or a public-private partnership that includes all of the following features:
 - a) Peak period or full-time dedicated bus lanes or operation in a separate right-of-way dedicated for public transportation with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
 - b) Transit signal priority.
 - c) All-door boarding.
 - d) Off-board fare collection systems at the stations.
 - e) Defined stations.
- 3) Defines “bus rapid transit station” means a clearly defined bus station served by a bus rapid transit.

COMMENTS

- 1) *Purpose of the bill.* According to the author, “The current definitions of ‘transit priority area’ and ‘major transit stop’ fail to address use of on demand and first-mile, last-mile services that are essential to a vibrant transit community that is responsive to today’s technology and demands. As presently defined, there are a significantly limited number of transit priority areas as the definition of ‘major transit stop’ excludes many of the San Fernando Valley’s major bus lines. Consequently, large swaths of the San Fernando Valley are excluded from eligibility under the TOC Guidelines and under the CEQA exemption discussed above. AB 1560 revises the definition of ‘major transit stop’ to include a bus rapid transit station, as defined, to ensure housing incentives apply to as much high quality transit as possible.”

- 2) *Housing near transit.* Research has shown that encouraging more dense housing near transit serves not only as a means of increasing ridership of public transportation to reduce greenhouse gases (GHGs), but also a solution to our state's housing crisis. As part of California's overall strategy to combat climate change, the Legislature began the process of encouraging more transit oriented development with the passage of SB 375 (Steinberg, Chapter 728, Statutes of 2008). SB 375 is aimed at reducing the amount that people drive and associated GHGs by requiring the coordination of transportation, housing, and land use planning. The Legislature subsequently allocated 20% of the ongoing Cap and Trade Program funds to the Affordable Housing and Sustainable Communities Program, which funds land use, housing, transportation, and land preservation projects to support infill and compact development that reduce GHGs. At least half of the funds must support affordable housing projects.

A 2016 McKinsey Report, *A Toolkit to Close California's Housing Gap: 3.5 Million Homes by 2025*, found that increasing housing density around high-frequency public transit stations could build 1.2 – 3 million units within a half-mile radius of transit. The report notes that this new development would have to be sensitive to the character of a place, and recommends that local communities proactively rezone station areas for higher residential density to pave the way for private investments, accelerate land-use approvals, and use bonds to finance station area infrastructure.

Research has also demonstrated a positive relationship between income and vehicle miles traveled (VMT). A study by the Center for Neighborhood Technology, entitled *Income, Location Efficiency, and VMT: Affordable housing as a Climate Strategy*, created a model to isolate the relationship of income on VMT. This model found that lower-income families living near transit were likely to drive less than their wealthier neighbors. More specifically, in metro regions, home to two-thirds of California's population, identically composed and located low-income households were predicted to drive 10% less than the median, very low-income households 25% less, and extremely low-income households 33% less. By contrast, middle income households were predicted to drive 5% more and above moderate-income households 14% more. The patterns are similar for the other two regional contexts, although the differences are slightly reduced in rural areas. This research demonstrates the value of encouraging lower-income people to live near transit who are more likely to increase transit ridership.

- 3) *Major transit stops under CEQA.* The definition of "major transit stop" as it exists today was initially added by SB 1925 (Sher, Chapter 1039, Statutes of

2002). When enacted, the purpose of “major transit stop” was to provide incentives to developers for urban infill development near high-quality transit stops by way of a CEQA exemption. Since that time, the Legislature has passed several programs that provide exemptions under CEQA for projects that develop near major transit stops.

- 4) *Existing transit-oriented development programs.* The Affordable Housing and Sustainable Communities (AHSC) Program, administered by the Strategic Growth Council, furthers the purposes of AB 32 (Chapter 488, Statutes 2006) and SB 375 (Chapter 728, Statutes, 2008) by investing in projects that reduce GHG emissions by supporting more compact, infill development patterns, encouraging active transportation and transit usage, and protecting agricultural land from sprawl development. Funding for AHSC is provided from the Greenhouse Gas Reduction Fund (GGRF), an account established to receive Cap-and-Trade auction proceeds. AHSC provides grants and/or loans to projects that achieve GHG reductions and benefit disadvantaged communities, low-income communities, and low-income households through increasing accessibility of affordable housing connected to high quality transit. High quality transit includes bus rapid transit with a headway frequency of every 15 minutes or less and service seven days a week.

Additionally, the California Housing and Community Development Department (HCD) administers the Transit Oriented Development (TOD) Program. Its primary objectives are to increase the overall supply of housing, increase the supply of affordable housing, increase public transit ridership, and minimize automobile trips. The program seeks to accomplish these objectives by providing financial assistance for the development of housing and related infrastructure near public transit stations, including bus rapid transit.

- 5) *Existing land use program that tie housing to major transit stops.* While the definition of “major transit stop” is housed under CEQA, several land use housing incentives in recent years have tied housing developments to transit using the CEQA definition of “major transit stop” without providing the CEQA exemptions. Here are some examples:
- a) SB 961 (Allen, Chapter 559, Statutes of 2018) tied affordable housing within an enhanced infrastructure financing district to major transit stops.
 - b) AB 2372 (Gloria, Chapter 915, Statutes of 2018) authorized a city or county to establish a procedure by ordinance to grant a developer a floor area ratio bonus in lieu of a density bonus.

- c) AB 744 (Chau, Chapter 699, Statutes of 2015) reduced parking on density bonus projects that contain 100% affordable units and are near a major transit stop.

As evidenced in the “Related Legislation,” more and more the Legislature is incentivizing housing construction near transit using the “major transit stop” definition under CEQA. This bill expands the definition of “major transit stop” to include “bus rapid transit,” as defined, to reflect the policy contained within existing state-funded transit-oriented development programs. In effect, this bill expands the locations where existing and future transit oriented developments could be located.

- 6) *Double-referral*. This bill was heard in the Environmental Quality Committee and passed out on June 19th on a vote of 6-0.

RELATED LEGISLATION:

SB 4 (McGuire, 2019) — would have established a ministerial approval process for transit-oriented development and small multifamily developments that meet specified conditions. *This bill was pulled at the request of the author in the Senate Governance and Finance Committee.*

SB 50 (Wiener, 2019) — requires local governments to grant equitable communities incentives to jobs-rich housing projects and transit-rich housing projects that meet certain requirements, including proximity to a major transit stop, as specified. *This bill is pending in the Senate Appropriations Committee.*

SB 621 (Glazer, 2019) — applies expedited judicial review of CEQA cases that involve certain affordable housing projects that are in close proximity to a major transit stop. *This bill is pending in the Assembly Natural Resources Committee.*

AB 1717 (Friedman, 2019) — would have created the Transit-Oriented Affordable Housing Funding Program Act to use tax increment financing to fund multifamily housing either one-half mile of a major transit stop or one-quarter mile of a high-quality bus corridor. *This bill was held in the Assembly Appropriations Committee.*

AB 1763 (Chiu, 2019) — among other things, prohibits a city or county from imposing any maximum controls on density, and allows height and floor area ratio increases for housing developments if 100% of the units are restricted to lower-income households and if it is located within one-half mile of a major transit stop. *This bill is pending in the Senate Governance and Finance Committee.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday,
June 26, 2019.)

SUPPORT:

Valley Industry And Commerce Association (Sponsor)

BizFed

California Association of Realtors

California Building Industry Association

Civil Justice Association of California

Los Angeles Area Chamber of Commerce

Southern California Association of Nonprofit Housing

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No: AB 1702 **Hearing Date:** 7/2/2019
Author: Luz Rivas
Version: 4/22/2019
Urgency: No **Fiscal:** Yes
Consultant: Erin Riches

SUBJECT: Homeless Coordinating and Financing Council

DIGEST: This bill requires the Business, Consumer Services, and Housing Agency (BCSH) to create additional staff positions at the Homeless Coordinating and Financing Council (HCFC) and requires the HCFC to make recommendations to the Legislature on streamlining homeless programs and service delivery.

ANALYSIS:

Existing law:

- 1) Establishes the HCFC in BCSH, with the purpose of coordinating the state's response to homelessness by utilizing Housing First practices.
- 2) 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.
- 3) Requires BCSH to provide staff for the HCFC.
- 4) Requires the Governor to appoint up to 17 members to the HCFC. These include the Secretary of BCSH, or their designee, who shall serve as HCFC chair, and representatives of the following:
 - a) The state Department of Transportation.
 - b) The state Department of Housing and Community Development (HCD).
 - c) The state Department of Social Services.
 - d) The California Housing Finance Agency.
 - e) The state Department of Health Care Services.
 - f) The state Department of Veterans Affairs.

- g) The state Department of Corrections and Rehabilitation.
- h) The California Tax Credit Allocation Committee.
- i) The Victim Services Program in the Office of Emergency Services.
- j) A formerly homeless person who lives in California.
- k) A formerly homeless youth who lives in California.
- l) Two representatives of local agencies or organizations that participate in the US Department of Housing and Urban Development's Continuum of Care (CoC) Program.
- m) State advocates or other members of the public or state agencies, at the Governor's discretion.
- n) Two different stakeholder organizations, appointed by the Senate Rules Committee and the Assembly Speaker.

This bill:

- 1) Requires BCSH, commencing with the 2020-21 fiscal year, to create three new full-time staff positions for the HCFC and to convert three existing part-time staff positions to full-time, for a total of six new full-time positions.
- 2) Requires the HCFC, by January 1, 2021, to report to the Legislature its recommendations for statutory changes to streamline the delivery of services and effectiveness of homeless programs in the state.

COMMENTS

- 1) *Purpose of the bill.* The author states that according to a recent report by Los Angeles County, homelessness in LA County has increased by 12%, bringing the county's homeless population to 58,936. San Fernando Valley had a 4% increase, bring its total homeless population to 8,047. It is important to note that a significant portion of homeless individuals are children. LA County increased its efforts to combat homelessness and housed more than 21,000 people last year through various systems and interventions. While the county is housing people at a rapid rate, it is unable to keep pace with the amount of people becoming homeless. The homeless crisis has proven to be overwhelming. This bill gives the HCFC the resources it needs to operate and carry out its legislatively mandated duty to address the state's homeless crisis.
- 2) *Homelessness in California.* According to the HUD 2018 Annual Homeless Assessment Report to Congress, in January 2018 California had 24% of the nation's homeless population (about 129,972 individuals). California also contains 47% of the nation's unsheltered homeless population (89,543), including people living in vehicles, abandoned buildings, parks, or on the street.

Los Angeles contains the highest number of homeless people in the state, at 49,955, where 75% of those are unsheltered. People experiencing homelessness face a variety of challenges including food and income insecurity, as well as health problems; the homeless population faces a higher risk of exposure to communicable diseases such as influenza, strep throat, sexually transmitted diseases, Hepatitis C, HIV/AIDS, and tuberculosis, among others.

- 3) *The HCFC.* SB 1380 (Mitchell, 2016) created the HCFC to coordinate the state's response to homelessness with HCD. The HCFC is tasked with collaborating with all state agencies to ensure they revise or adopt guidelines and regulations that incorporate the core components of Housing First, if they do not already do so. Last year, the HCFC was further tasked with administering the newly created Homeless Emergency Assistance Program to provide localities with flexible block grant funds to address their immediate homelessness challenges.
- 4) *Staffing.* While the HCFC was originally established within HCD, last year's budget moved it to BCSH and provided for the allocation of several staff to the HCFC. This bill would provide six additional full-time staff positions at the HCFC by adding three new full-time positions and converting three part-time positions to full-time. Personnel decisions, however, are typically made through the budget process rather than the policy process, and in fact, the six positions are accounted for in the 2019-20 budget. Moving forward, the author may wish to consider removing the staffing provisions from this bill since they are duplicative of the budget.
- 5) *Streamlining programs.* This bill requires the HCFC to make recommendations to the Legislature for statutory changes to streamline the delivery of services and effectiveness of homeless programs in the state. This provision appears to be duplicative of what HCFC is already doing. Specifically, the HCFC was created with a number of goals, including, among others:
 - a) Creation of partnerships among state agencies and departments, local government agencies, CoCs, federal agencies, the U.S. Interagency Council on Homelessness, nonprofit agencies, homeless services providers, and the private sector, to work on specific strategies to end homelessness;
 - b) Promotion of systems integration to increase efficiency and effectiveness while focusing on designing systems to address the needs of people experiencing homelessness;
 - c) Coordination of existing funding and applications for competitive funding;
 - d) Making policy and procedural recommendations to legislators and other governmental entities;

- e) Brokering agreements between state agencies and departments, and between state agencies and departments and local jurisdictions, to align and coordinate resources, reduce administrative burdens of accessing existing resources, and foster common applications for services, operating, and capital funding.

Because this bill appears to be duplicative of the HCFC's existing mission, the author may wish to consider not moving it forward.

- 6) *Double-referral*. This bill was also referred to the Human Services Committee, which approved it on a 6-0 vote on June 24th.

RELATED LEGISLATION:

SB 687 (Rubio, 2019) — increases the number of HCFC members appointed by the Governor from 17 to 20 by requiring the Governor to additionally appoint a formerly homeless college student, a formerly homeless veteran, and a formerly homeless parent. *This bill is in the Assembly Housing Committee.*

SB 333 (Wilk, 2019) — requires the HCFC, by July 1, 2021, to develop and implement a statewide strategic plan for addressing homelessness in the state. Also requires the HCFC, by January 1, 2021, to implement strategic plans to assist Continuums of Care to better implement US Department of Housing and Urban Development (HUD) recommended activities and/or to better meet federal HUD requirements. *This bill is in the Assembly Housing Committee.*

AB 67 (Luz Rivas, 2019) — requires HCD, in coordination with the HCFC, to create a state homeless integrated data warehouse, as specified. *This bill will be heard in this committee today.*

AB 307 (Reyes, 2019) — requires the HCFC to develop a grant program to support homeless youth and to prevent and end homelessness among California's youth, as specified. *This bill will be heard in this committee today.*

SB 918 (Wiener, Chapter 841, Statutes of 2018) — established the Homeless Youth Act of 2018 to better serve the state's homeless youth population and requires the HCFC to take on additional related responsibilities that are focused on addressing the needs of youth experiencing homelessness.

SB 850 (Senate Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2018) — provided for over \$600 million in funding to various projects aimed at reducing homelessness. Also moved the HCFC from HCD to BCSH, authorized the creation of an HCFC Executive Director, and provided for the allocation of several staff members to HCFC.

SB 1380 (Mitchell, Chapter 847, Statutes of 2016) — established the HCFC to oversee implementation of the Housing First regulations and, among other things, identify resources, benefits, and services that can be accessed to prevent and end homelessness in California. It also required state agencies or departments that fund, implement, or administer state housing or housing-related services programs to adopt guidelines and regulations to include Housing First policies.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2019.)

SUPPORT:

California Coalition For Youth
Health Officers Association Of California
Housing California
Los Angeles County Board of Supervisors
Santa Monica; City Of

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 1732	Hearing Date:	7/2/2019
Author:	Flora		
Version:	5/29/2019 Amended		
Urgency:	No	Fiscal:	No
Consultant:	Alison Hughes		

SUBJECT: Redevelopment: successor agencies: asset disposal: City of Manteca

DIGEST: This bill allows the successor agency (SA) to the redevelopment agency (RDA) of the City of Manteca to dispose of a specified property for an amount less than fair market value provided that the SA requires that the property be used to provide resources to the homeless and low-income individuals.

ANALYSIS:

Existing law:

- 1) Requires SAs to, among other things, dispose of assets and properties of the former RDA as expeditiously as possible and in a manner aimed at maximizing value.
- 2) Requires all SAs to have an oversight board and requires specified actions to be approved by the oversight board, including if a city, county, or city and county wishes to retain any properties or other assets for future redevelopment activities, as specified.
- 3) Requires the oversight board to direct the SA to dispose of all assets and properties of the former RDA. The oversight board may instead direct the SA to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, parking facilities and lots dedicated solely to public parking, and local agency administrative buildings, to the appropriate public jurisdiction. Disposal shall be done expeditiously and in a manner aimed at maximizing value.

This bill:

- 1) Allows the successor agency to the RDA of the City of Manteca to dispose of the property located at 555 Industrial Park Drive in the City of Manteca for an amount less than fair market value provided that the agency requires that the property be used to provide resources to the homeless and low-income individuals.
- 2) Defines “dispose of” as to transfer or to sell the property described in (1) to a nonprofit organization that provides resources to homeless and low-income individuals.
- 3) Requires, if the property described in (1) ceases to be used as provided, the property shall revert to the successor agency or, if the successor agency has been dissolved or otherwise ceases to exist, to the City of Manteca.

COMMENTS

- 1) *Purpose of the bill.* According to the author, “AB 1732 would provide the City of Manteca the opportunity to utilize a building that has otherwise sat vacant for nearly 15 years to better provide critical resources to the homeless. This bill would provide the region the ability to combat homelessness and would ensure that homeless individuals have a central permanent location to go to for much needed assistance.”
- 2) *Loss of Redevelopment Funds.* Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of RDAs to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment). Prior to Proposition 13 of 1978, very few RDAs existed; however, after its passage RDAs became a source of funding for a variety of local infrastructure activities. Eventually, RDAs were required to set-aside 20% of funding generated in a project area to increase the supply of low and moderate-income housing in the project areas. At the time RDAs were dissolved, the Controller estimated that statewide, RDAs were obligated to spend \$1 billion on affordable housing.
- 3) *RDA dissolution.* AB X1 26 (2011) established SAs to manage the process of unwinding former RDAs affairs. With the exception of seven cities, the city or county that created each former RDA now serves as that RDA’s successor agency. One of the SAs’ primary responsibilities is to make payments for

enforceable obligations RDAs entered into, supported by property tax revenues that would have gone to RDAs, but are instead deposited in a Redevelopment Property Tax Trust Fund. Enforceable obligations include bonds, bond-related payments, some loans, payments required by the federal government, obligations to the state or imposed by state law, payments to RDA employees, judgements or settlements, and other legally-binding and enforceable agreements or contracts. Any remaining property tax revenues that exceed these enforceable obligations return to cities, counties, special districts, and school and community college districts to support core services.

Each SA has an oversight board responsible for supervising and approving its actions. DOF can review and request reconsideration of an oversight board's decision. Once a SA takes over for an RDA, it reviews the RDA's outstanding assets and obligations, and develops a plan to resolve those obligations, also known as a Recognized Obligation Payment Schedule (ROPS). For DOF to agree to a successor agencies plan, the agency submits a series of ROPS. If DOF agrees with the plan, it issues a Finding of Completion. Successor agencies issued a Finding of Completion can submit a Last and Final ROPS, meaning that (1) the remaining debt is limited to administrative costs and payments pursuant to enforceable obligations with defined payment schedules, (2) all remaining obligations have been previously listed on the ROPS and approved by DOF, and (3) the agency is not a party to outstanding or unresolved litigation. Within six months of receiving a Finding of Completion from DOF, SAs submitted a Long-Range Property Management Plan (LRPMP) to their oversight board and DOF for approval. These plans address how SAs plan to use or dispose of former RDAs' real properties.

- 4) *Disposal of Assets.* SAs can dispose of assets by selling them to other governments or interested parties, with both oversight board and DOF approval, provided that they are disposed of expeditiously and in a manner that maximizes value to the taxing entities. Maximizing value has generally been interpreted by DOF and successor agencies to mean the 2011 fair market value of the asset or property. The SA can also transfer ownership of assets that were constructed and used for a governmental purpose, such as police and fire stations, to the appropriate public jurisdiction. However, Community Redevelopment Law does not explicitly allow SAs to transfer ownership of assets that were constructed for non-governmental purposes, such as a motel or mobile home park. Rather than dispose of assets, a city, county, or city and county can retain a property currently owned by a SA for future redevelopment activities if it reaches compensation agreements with the taxing entities that stand to benefit from selling the property. These compensation agreements provide some revenue for these taxing entities that would not otherwise receive

any if the property was retained and not sold. Current law does not require DOF or another entity to verify whether assets were disposed of in a manner that maximizes value to taxing entities once approved by the respective oversight board.

- 5) *City of Manteca RDA dissolution.* The City of Manteca elected to serve as the SA to the RDA for its non-housing assets and functions, which began on February 1, 2012. The City received notice of its Finding of Completion from DOF on May 31, 2013, and received Oversight Board approval of its revised LRPMP on June 28, 2016 and submitted the LRPMP to DOF. Among other properties, the SA listed in its LRPMP a property that the RDA originally purchased the property to become the site for the city's new Police Station, with an estimated fair market value of \$1,500,000. However, that project was cancelled and there are currently no plans for future development of the property. Instead, police and fire use the facility for storage and training exercises, and some nonprofit organizations provide homeless services in the parking lot. The buildings have deteriorated during the long vacancy period, and will need repairs or a reduction in the purchase price to convey the property to a private party. The SA plans to sell or lease this property to a private party for development.

This bill would allow the successor agency to Manteca's former RDA to sell a specific property for an amount less than fair market value provided that the property is used to provide resources to homeless and low-income individuals. If the property is no longer used in this manner the property must be returned to the SA and sold at fair market value with any revenues distributed back to taxing entities on a pro rata basis.

- 6) *Double-referral.* This bill passed out of the Governance and Finance Committee on a vote of 7-0 on June 5th.

RELATED LEGISLATION:

AB 411 (Stone, 2019) — authorizes the City of Santa Cruz's SA to use specified bond proceeds for affordable housing purposes, rather than defeasing or cancelling the bonds. *This bill is being hearing in this committee today.*

SB 532 (Portantino, 2019) — authorizes the City of Glendale's SA to use specified bond proceeds for specified affordable housing purposes, rather than using those proceeds to defease the bonds. *This bill is pending in the Assembly Local Government Committee.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday,
June 26, 2019.)

SUPPORT:

Manteca; City of (Sponsor)

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AB 1783	Hearing Date:	7/2/2019
Author:	Robert Rivas		
Version:	5/17/2019		
Urgency:	No	Fiscal:	Yes
Consultant:	Alison Hughes		

SUBJECT: H-2A worker housing: state funding: streamlined approval process for agricultural employee housing development

DIGEST: This bill creates a streamlined, ministerial approval process for agricultural employee housing, as specified. This bill also prohibits specified state housing funds from being utilized for constructing housing for H-2A workers.

ANALYSIS:

Existing law:

- 1) Establishes several programs that fund the construction, preservation, and acquisition of housing affordable to low- and moderate-income households, including farmworkers.
- 2) Establishes the Employee Housing Act (EHA), which does the following:
 - a) Permits employee housing, consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for single family or household, to be deemed an agricultural land use and shall not require a conditional use permit, zoning ordinance, or other zoning ordinance. Agricultural employees may occupy the employee housing if they do not work on the property where the employee housing is located.
 - b) Exempts the employee housing from business taxes, local registration fees, use permit fees, or other fees to which agricultural activities in the zone are not otherwise subject. Local property taxes, fees for water services and garbage collection, fees for normal inspections, local bond assessments, and other fees, charges, and assessments to which other agricultural activities in the same zone are permitted.

- c) Defines “employee housing,” as any portion of any housing accommodation or property upon which housing accommodations are located, if all of the following factors exist:
- i. The housing accommodations or property are located in any rural area.
 - ii. The housing accommodations or property are not maintained in connection with any work or workplace.
 - iii. The housing accommodations or property are provided by someone other than an agricultural employer.
 - iv. The housing accommodations or property are used by five or more agricultural employees of any agricultural employer or employers for temporary or permanent residency, as specified.
- d) Defines “agricultural employee” or “employee” as one engaged in agriculture. The term “agriculture” includes farming in all its branches.

This bill:

- 1) Establishes that the planning, developing, or operating of any housing for farmworkers holding federal H-2A visas shall be ineligible for state funding. For purposes of this section, "state funding" is defined to mean any provision of moneys or other financial assistance provided by the state or a state agency, including, but not limited to, grants, loans, and write-downs of land costs. This includes funding from Community Service Block Grants, Building Homes and Jobs Trust Fund, Joe Serna, Jr. Farmworker Housing Grant Program, and other programs for migratory workers, but does not include any allocation of federal or state low-income housing tax credits.
- 2) Provides that any employer or other recipient of state funding who utilizes the funds for housing for H-2A farmworkers shall reimburse the state or state agency that provided the funding.
- 3) Defines “agricultural employee housing” to mean housing occupied by an employee of an agricultural employer or by a farm labor contractor.
- 4) Provides that a tenant residing in agricultural employee housing has all the rights applicable to a person residing in employee housing, including:
 - a) The right to file a complaint with the Department of Fair Employment and Housing and allege a violation of housing discrimination or assert any other right under the California Fair Employment and Housing Act.

- b) Any protections under the Civil or Labor Code.
 - c) Any protection under the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975.
- 5) Creates a streamlined, ministerial approval process for agricultural employee housing if all of the following criteria are met:
- a) The land is zoned for agricultural uses;
 - b) The land is not located in environmentally unsafe or sensitive areas, including a coastal zone, wetlands, a high or very fire severity zone, a hazardous waste site, an earthquake fault zone, a flood plain or floodway, lands identified for conservation in an adopted natural community conservation plan, and lands under conservation easement;
 - c) The housing is not dormitory style housing;
 - d) The housing is maintained and operated by a qualified affordable housing organization, certified by the Department of Housing and Community Development (HCD). Such organizations include non-profits and public agencies with prior experience and current capacity to maintain and operate the housing. Except for local public housing agencies with elected legislative bodies, to be qualified the applicant cannot have a member among its officers or directorate with a financial interest in an agricultural employer or a farm labor contractor;
 - e) The housing must be affordable to lower income agricultural employees for at least 55 years; and
 - f) The housing is eligible for state funding.
- 6) Requires HCD to be the enforcement agency for agricultural employee housing.
- 7) Requires HCD to establish an application and review process for certifying that a person is an affordable housing organization qualified to operate agricultural employee housing. HCD shall review an application and certify that the person is a qualified affordable housing organization if the following is satisfied:
- a) The applicant has demonstrated relevant prior experience in California and current capacity as capable of operating the housing and related facilities for its remaining useful life, either by itself or through a management agent
 - b) The applicant is one of the following: a not-for-profit, as specified; a local public housing agency; a multicounty, state or multistate agency, as specified.
- 8) Requires HCD to establish and maintain a roster of all affordable housing organizations certified under (6).

- 9) Requires any landowner who fails to select an alternative certified person to operate and maintain the agricultural employee housing to be subject to an administrative penalty issued by HCD.
- 10) Requires that, if a certified person's permit expires or the certified person is otherwise unable or unwilling to continue to operate and maintain an agricultural employee housing approved ministerially by the provisions in this bill, the landowner who obtained that approval within 90 days shall select an alternative certified person to operate and maintain the agricultural employee housing.

COMMENTS

- 1) *Purpose of the bill.* According to the author, "California suffers from a severe shortage of quality and affordable housing that endangers farmworkers and their families and pushes them into homelessness. [This bill] creates an opt-in, streamlined process to build farmworker housing on surplus agricultural land, quality standards to ensure that the new housing is dignified and affordable, and safeguards to protect the environment. This bill would protect our farmworkers from housing instability and displacement by incentivizing farm owners and operators to build more affordable farmworker housing on their private lands. The goal is to ensure farmworker families have access to dignified, quality housing and are not forced to live in motels, garages, cars, or worse. [This bill] creates a new tool that is optional. Farm owners and operators who choose not to use the new tool would be free to pursue permits for other projects, just as they would under current law today."
- 2) *Need for farmworker housing.* Recently, California has seen an influx in agricultural workers due to the increased use of a federal temporary worker program known as H-2A. Section 218 of the Immigration and Nationality Act authorizes the lawful admission into the United States of temporary, nonimmigrant workers (H-2A workers) to perform agricultural labor or services of a temporary or seasonal nature. H-2A workers and domestic workers in corresponding employment must be paid special pay rates based on locality, provided housing and transportation from that housing to the job site, and must be guaranteed an offer of employment for a total number of hours equal to at least 75% of the work period specified in the contract.

According to the Economic Policy Institute, the U.S. Department of Labor (DOL) certified 165,700 jobs to be filled by H-2A workers in fiscal year 2016, up 14% from 145,900 in 2015. The H-2A program in 2016 is two-and-a-half

times larger than it was a decade ago in 2006, when 64,100 jobs were certified. The H-2A program has grown fastest in two states, one of which is California. In California, the number of jobs certified rose from 2,600 in 2006 to over 11,000 in 2016. This surge of H-2A workers has created a shortage of affordable housing in cities like Salinas, Watsonville, and elsewhere. Workers must live in crowded motels, mobilehome parks, apartment buildings, and single family homes, which displaces other low-wage workers who live year-round in these regions.

Demographically, H-2A workers tend to be younger, single men and by the nature of their work visa, require temporary housing. On the other hand, in Salinas, for example, data shows that among non-H-2A workers, 75% are married living with children that require permanent housing. The author states that the H-2A program is deeply flawed, and points to reports by Farmworker Justice and the Southern Poverty Law Center that document the mistreatment and abuses that guest workers face, including low wages and hostile living and working conditions.

- 3) *Streamlined approval for agricultural worker housing.* The Legislature enacted the EHA for the benefit of persons in privately owned and operated employee housing (typically farmworkers) to assure their health, safety, and general welfare, and to provide them a decent living environment. HCD's Employee Housing Program adopts and enforces statewide regulations for the construction, maintenance, use, and occupancy of privately owned and operated employee facilities providing housing.

The EHA permits the housing to be constructed by-right (*i.e.* ministerially, or without discretionary review by a local jurisdiction) so long as the housing is in a rural area, the housing accommodations or property are not maintained in connection with any work or workplace, the housing accommodations or property are provided by someone other than an agricultural employer, and the housing accommodations or property are used by five or more agricultural employees of any agricultural employer or employers for permanent or temporary residency. Employee housing may not contain more than 36 beds in a group quarters or 12 units or spaces designed for single family.

This bill would create a new streamlined, ministerial approval process for agricultural employee housing, that is not dormitory style housing, on land zoned for agricultural uses. This proposal is similar in nature to the EHA, except that the housing developments permitted under this bill are not limited to 36 beds or 12 units; the developments are not allowed in environmentally unsafe or sensitive areas, including a coastal zone, wetlands, a high or very fire

severity zone, a hazardous waste site, an earthquake fault zone, a flood plain or floodway, lands identified for conservation in an adopted natural community conservation plan, and lands under conservation easement; and the developments must be eligible for state funding.

- 4) *Limiting state housing funds.* This bill establishes that the planning, developing, or operating of any housing for farmworkers holding H-2A visas shall be ineligible for state funding. "State funding" means moneys or other financial assistance provided by the state or a state agency, including, but not limited to, grants, loans, and write-downs of land costs. This in effect includes funding from Community Service Block Grants, Building Homes and Jobs Trust Fund, Joe Serna, Jr. Farmworker Housing Grant Program, and other programs for migratory workers, but does not include any allocation of federal or state low-income housing tax credits.
- 5) *Prior attempts.* The primary occupants of employee housing utilizing the employee housing program includes farmworkers, however existing law only permits farmworkers to reside in the housing if they work off-site (*i.e.* another farm). The rationale is that a farmworker should not be placed in a position in which they depend upon their employer for their livelihood, as well as their housing. Farmers choose to provide employee housing under the existing program as a means to supplement their income with rents from their tenants.

In 2017, SB 530 (Vidak) was introduced and opposed by United Farmworker Union (UFW). The UFW noted that farmworkers are often in a vulnerable position due to their immigration status and language barriers. There was a concern with expanding the EHA to permit an employer to serve as a landlord because an employer could retaliate against their employees should they assert their labor rights, not only through loss of employment, but under the changes in that bill, through loss of a home and possibly deportation.

Last year, SB 829 (Wiener) sought to address these concerns by adding language that explicitly offered tenants in agricultural housing the benefits of existing California state tenant, fair employment and housing, and labor protections. In addition, it required the housing development to be maintained and managed by a qualified housing organization that is certified by HCD and subject to an annual permit by an enforcement agency. The HCD certification process would further prohibit a grower from serving on the board of any non-profit organization that serves as the manager of the housing project. Despite these added protections, UFW opposed the bill, and the bill did not move forward.

This bill builds upon SB 829 by instead creating a separate streamlined approval process for farmworker housing. In order to bifurcate the landlord/tenant and employer/employee relationship, this bill also requires any landowner who fails to select an alternative certified person to operate and maintain the agricultural employee housing to be subject to an administrative penalty issued by HCD. It further adds that if a certified person's permit expires or the certified person is otherwise unable or unwilling to continue to operate and maintain an agricultural employee housing approved ministerially by the provisions in this bill, the landowner who obtained that approval within 90 days shall select an alternative certified person to operate and maintain the agricultural employee housing. This bill also restricts state funding for farmworker housing to non-H-2A workers.

- 6) *Opposition.* Several farm bureau chapters, the Chamber of Commerce, and several growers associations are opposed to this bill. They state that the bill “incorrectly ties lessee/tenant housing rights to agricultural employee-provided housing rights. Existing employment contracts, including those in which housing is a condition of employment, provides discrimination protections, as appropriate. Therefore, making the reference within the new definition of “agricultural employee housing” is unnecessary. They also find the requirements to qualify for the streamlined approval process to be overly burdensome and unworkable for growers. They are opposed to the prohibition in use of funds for housing for H-2A workers.
- 7) *Double-referral.* This bill has also referred to the Governance and Finance Committee.

RELATED LEGISLATION:

SB 829 (Wiener, 2018) — would have expanded the Employee Housing Act, which permits ministerial, by-right approvals to agricultural employee housing that is owned and maintained by a qualified housing organization. *This bill was pulled at the request of the author in the Senate Judiciary Committee.*

SB 530 (Vidak, 2017) — would have required agricultural worker housing to be deemed an agricultural land use for purposes of the general plan and prohibited a locality from requiring a conditional use permit or other discretionary permit, except that the locality may apply height and setback requirements. *This bill failed in the Senate Transportation and Housing Committee.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday,
June 26, 2019.)

SUPPORT:

United Farm Workers (Sponsor)
California Coalition For Rural Housing
California Renters Legal Advocacy And Education Fund
California Rural Legal Assistance Foundation
California YIMBY
Community Housing Improvement Systems And Planning Association
Dolores Huerta Foundation
East Bay For Everyone
Food Empowerment Project
Gonzales Unified School District
Hollister; City Of
La Cooperativa Campesina De California
Mexican American Committee On Education Of San Benito County
Morgan Hill; City Of
Mutual Housing California
Salinas; City Of
San Benito County Lulac Council #2890
Santa Clara Valley Open Space Authority
Santa Cruz; County Of
Silicon Valley Community Foundation
Soledad; City Of

OPPOSITION:

Alameda County Farm Bureau
American Pistachio Growers
California Association Of Nurseries And Garden Centers
California Association Of Winegrape Growers
California Chamber Of Commerce
California Cherry Growers And Industry Association
California Cut Flower Commission
California Farm Bureau Federation
California Pear Growers
California Strawberry Commission
Family Winemakers Of California
Fresno County Farm Bureau

Grower-Shipper Association Of Central California
House Farm Workers!
Madera County Farm Bureau
Mendocino County Farm Bureau Federation
Orange County Farm Bureau
Riverside County Farm Bureau
San Benito County Farm Bureau
San Luis Obispo County Farm Bureau
Santa Clara County Farm Bureau
Sonoma County Farm Bureau
Stanislaus County Farm Bureau
Ventura County Farm Bureau
Western Growers Association

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SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

Bill No:	AJR 15	Hearing Date:	7/2/2019
Author:	Bloom		
Version:	4/3/2019		
Urgency:	No	Fiscal:	No
Consultant:	Lizeth Perez		

SUBJECT: Section 202 Supportive Housing for the Elderly Program

DIGEST: This joint resolution states the Legislature’s support for annual federal funding of the Section 202 Supportive Housing for the Elderly Program (Program) and calls on the President of the United States and the Secretary of Housing and Urban Development (HUD) to support significantly increased funding for the program.

ANALYSIS:

Existing law:

- 1) Establishes the Program at HUD with the purpose of funding the construction, rehabilitation, and acquisition of supportive housing for very low-income seniors.

This joint resolution:

- 1) States the Legislature’s support for annual federal funding of at least \$600 million per year for the Program to support the construction and operation of affordable housing.
- 2) Calls on the California Congressional Representatives, the President, and the HUD Secretary to support significantly increased funding for the Program.

COMMENTS

- 1) *Purpose of this joint resolution.* According to the author, “The [Supportive Housing for the Elderly Program] Program is vital to our lowest income older adults. The program serves more than 30,000 older adults in California, ensuring that those individuals have a safe and secure place to call home. However, the program has endured significant funding cuts since 2011,

preventing the creation of any new housing. Now, the demand for affordable senior housing is greatly outpacing the supply. There are more than 687,900 California households 65 years of age or older that are severely rent-burdened, often forcing them to choose between paying for housing, food, and medicine.

AJR 15 calls on the President and HUD to increase funding for the Program to at least \$600 million a year, to help meet the affordable housing needs of our older adults. An investment of \$600 million a year will equate to about 4,300 units annually.”

- 2) *Background.* California is experiencing a “graying” of its homeless and low-income population. Over half of all homeless individuals in the state are over the age of 55. Due to increased rents and stagnant wages, it is increasingly difficult for older adults to remain successfully housed. Older adults are particularly vulnerable to cost of living increases because they are more likely than their younger counterparts to live on fixed-incomes. According to the Joint Center for Housing studies of Harvard University’s Housing America’s Older Adults 2018, about 4.9 million older adults pay more than 50% of their income for housing due to the shortage of affordable units. For the lowest income seniors, this results in 70% less spending on health care and 53% less on food compared to seniors who are not burdened by housing costs. Additionally, the number of seniors without children will increase from 15% to 20% between 2012 and 2030. These projections indicate that older adults will be more likely to live alone and require supportive services.
- 3) *The Supportive Housing for the Elderly Program.* This program helps expand the supply of affordable housing acquisition through capital advances to finance the construction, rehabilitation, or acquisition of structures that will serve as supportive housing for very low-income seniors. It provides rent subsidies for the projects to help make them affordable, as well as helping to fund supportive services such as cleaning, cooking, and transportation.
- 4) *Federal budget cuts.* Federal funding for rental assistance has decreased sharply since 2011, when Congress enacted rigid spending caps on non-defense discretionary programs as part of the Budget Control Act (BCA). The BCA established budget caps through 2021 and mandated further reductions in spending through a process known as sequestration. This caused funding for the Program to decrease by over \$640 million annually; from 2012 to 2016, the budget for the Program was reduced to zero. In 2017, Congress appropriated \$105 million to the Program, less than a quarter of the funding the program received prior to the BCA. This joint resolution states the Legislature’s support for annual funding of at least \$600 million per year for the Program.

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

POSITIONS: (Communicated to the committee before noon on Wednesday,
June 26, 2019.)

SUPPORT:

LeadingAge California (Sponsor)
Christian Church Homes
Episcopal Communities & Services
Human Good
Menorah Housing
PEP Housing
Retirement Housing Foundation
Santa Clara Methodist Retirement Foundation
TELACU

OPPOSITION:

None received.

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