
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2023 - 2024 Regular

Bill No: SB 18 **Hearing Date:** 4/18/2023
Author: McGuire
Version: 3/22/2023
Urgency: No **Fiscal:** Yes
Consultant: Mehgie Tabar

SUBJECT: Housing programs: Tribal Housing Reconstitution and Resiliency Act

DIGEST: This bill creates a new tribal housing program, the Tribal Housing Grant Program (THGP), in the Department of Housing and Community Development (HCD) for the construction and rehabilitation of rental and for-sale housing.

ANALYSIS:

Existing law:

- 1) Authorizes HCD to modify or waive various requirements of any state financing being provided to a housing development by the department in specified situations, if tribal law, tribal governance, tribal charter, or difference in tribal entity or agency legal structure would cause a violation or not satisfy the requirements for the financing.

This bill:

- 1) Creates the Tribal Housing Grant Program Trust Fund (Fund), administered by HCD. The Fund, upon annual appropriation, allocates as follows:
 - a) 80% on an entitlement basis for a federally recognized Indian reservation or Rancheria, in the form of multipurpose block grants for housing and housing-related planning, program, project predevelopment, operating subsidies, staffing, and administrative activities, as specified;
 - b) 15% on a competitive basis for a federally recognized Indian reservation, Rancheria, or tribally designated housing entity for the construction, reconstruction, rehabilitation, or acquisition and rehabilitation of housing and infrastructure improvements, as specified; and

- c) 5% for technical assistance to eligible tribes and tribally designated housing entities for capacity building.
- 2) Requires recipients to submit an annual plan and report to HCD to track uses and expenditures.
- 3) Authorizes HCD to adopt guidelines to implement THGP.
- 4) Authorizes the funds to be allocated for the following purposes:
 - a) Housing and housing-related program services for affordable housing (*e.g.*, home buyer assistance, homeowner rehabilitation, housing and credit counseling, rental assistance, energy retrofits, wrap-around services, etc.)
 - b) Housing and community development project costs (*e.g.*, acquisition, new construction, reconstruction, rehabilitation, or conversion of affordable housing, site preparation, etc.)
 - c) Management services for affordable housing (*e.g.*, loan processing, inspections, tenant selection, etc.)
 - d) Administration costs
- 5) Requires the funds to be allocated only for Indian and essential families and individuals in an Indian area, or lower income households residing in an Indian area, as defined.
- 6) Requires award recipients to expend all program funds within 3 years from the date of execution of an agreement with HCD, and to expend all funds allocated to projects within 5 years from the date of execution of an agreement with HCD, unless granted an extension by HCD, as specified.
- 7) Requires moneys paid and deposited into the Fund be continuously appropriated on an annual basis for a 5-year period starting January 1, 2024, through December 31, 2028.

COMMENTS:

- 1) *Author's statement.* "For far too long California tribes weren't eligible for state funding despite the fact that tribes are disproportionately represented among the state's homeless and have higher rates of poverty, overcrowded and substandard homes, than any other population. Even now, tribal governments struggle to meet the requirements for housing grants because these programs are not set up to meet the needs of tribal communities. The golden state must

end this injustice and advance funding that is diversified and has the ability to address the unique needs of California tribal governments.”

- 2) *Background.* California has 109 federally recognized tribes including nearly 100 small reservations and Rancherias spread out across the state. Nearly 360,500 Californians identify in whole or part as American Indian and/or Native American.

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 because the U.S. government only holds a small percentage of California tribes' land in trust.

For decades, tribal communities have been excluded from benefiting from state-administered housing programs. Over time, this led to disparities in access to safe, affordable housing among tribal communities in California. To improve communication and consideration of the needs of tribes, Governor Edmund “Jerry” Brown issued Executive Order (EO) B-10-11 in 2011. This order established the Governor's Office of the Tribal Advisor and requires all state agencies and departments to encourage early consideration, communication, and consultation with tribes when developing legislation, guidelines, regulations, rules, or policies on matters that affect tribes and their communities.

In 2019, Governor Gavin Newsom issued EO N-15-19, which reaffirmed the previous executive order and added a formal apology to California’s First Nations for atrocities committed by the State against tribal communities during early statehood. This marked a major step forward in California's commitment to acknowledge past wrongdoings and build relationships with tribes. The work to document the historical relationship between California’s First Nations and the State as well as to recommend paths forward continues through the California Truth & Healing Council.

- 3) *Funding for Indian reservations and Rancherias.* HCD previously operated a program to provide technical assistance to Indian reservations and Rancherias in planning for affordable housing, but it was not funded beyond 2006.

A bill passed in 2019, AB 1010 (Eduardo Garcia, Chapter 660), required 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 tribes residing in those areas.

- 4) *The Problem.* Since 2014, only 13 out of 109 tribes have been awarded State funds for housing and housing-related services. Generally larger tribes have been awarded funds, as other tribes don't have the same resources—(*i.e.*, tribes typically do not have the staff capacity that other governments have and lack the financial resources in order to attract and retain long-term housing program and project staff with experience accessing the state's complex housing programs). These awards have funded the development of 441 homes.

Despite passage of AB 1010 (2019), which made tribes eligible for most state housing programs, tribes and tribally designated housing entities still face serious structural obstacles to accessing and competing in these programs, such as AHSC, which requires applicants to have at least 10 years of experience developing housing of a similar size. These state programs have only been available to tribes since 2019; therefore they cannot meet the experience requirements (most tribes access federally-funded housing programs which focus on single family housing and home ownership).

Existing housing programs also conflict with tribal sovereignty, laws, and culture, which requires time-consuming waivers from program rules. Current programs do not fit tribal needs and conditions.

This bill would address these challenges by creating a new and separate housing program specific to tribal needs. The Author is also working on a corresponding budget request of \$300 million to finance THGP.

- 5) *Double-referral.* This bill is also referred to the Senate Governmental Organization Committee.

RELATED LEGISLATION:

AB 371 (Eduardo Garcia, 2023) — creates a Tribal Housing Advisory Committee in the Business, Consumer Services, and Housing Agency. *This bill has been referred to the Committee on Assembly Housing and Community Development.*

AB 1010 (Eduardo Garcia, Chapter 660, Statutes of 2019) — made the governing body of Indian reservations and Rancherias eligible to receive funding from various state affordable housing programs.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 12, 2023.)

SUPPORT:

All Mission Indian Housing Authority
Big Pine Paiute Tribe of The Owens Valley
Big Valley Band of Pomo Indians
California Coalition for Rural Housing
California Housing Partnership Corporation
California Tribal Business Alliance
Campo Band of Mission Indians
Cher-Ae Heights Indian Community of The Trinidad Rancheria
Dry Creek Rancheria Band of Pomo Indians
Guidiville Rancheria of California
Habitat for Humanity, Merced/Stanislaus County
Housing California
Manchester Point Arena Band of Pomo Indians
Middletown Rancheria of Pomo Indians of CA
Mosaic Urban Development, LLC
North Fork Rancheria Indian Housing Authority
Northern Circle Indian Housing Authority
Rincon Band of Luiseño Indians
Rural Communities Housing Development Corporation
Rural Community Assistance Corporation
Scotts Valley Band of Pomo Indians
The Cahto Tribe of The Laytonville Rancheria
Wilton Rancheria
Yurok Tribe

OPPOSITION:

None received.

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