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

Bill No: SB 20 **Hearing Date:** 5/2/2023
Author: Rubio
Version: 4/13/2023
Urgency: No **Fiscal:** No
Consultant: Aiyana Cortez

SUBJECT: Joint powers agreements: regional housing trusts

DIGEST: This bill allows local agencies to create regional housing trusts, as specified, without special legislation.

ANALYSIS:

Existing law:

- 1) Authorizes, under the Joint Exercise of Powers Act, two or more public agencies to use their powers in common if they sign a joint powers agreement. Such an agreement may create a new, separate government called a joint powers agency or joint powers authority (JPA). Agencies that may exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, federally recognized Indian tribes, and even other JPAs.
- 2) Authorizes public agencies to use the JPA law and the related Marks-Roos Local Bond Pooling Act to form bond pools to finance public works, working capital, insurance needs, and other public benefit projects. Bond pooling saves money on interest rates and finance charges, and allows smaller local agencies to enter the bond market. Because a JPA is an entity separate from its members, bonds issued by JPAs do not have to be approved by voters.
- 3) Establishes the Local Housing Trust Fund (LHTF) Program under the Department of Housing and Community Development (HCD), which provides matching grants (dollar for dollar) to local housing trust funds that are funded on an ongoing basis from private or public sources.

This bill:

- 1) Defines local agency to mean a city, county, or council of governments.

- 2) Authorizes the creation of a regional housing trust (trust) between two or more local agencies by entering into a joint powers agreement. The trust must operate to fund housing to assist the homeless population and persons and families of extremely low-, very low-, and low-income within their jurisdictions, as defined.
- 3) Requires the trust to be governed by a board of directors (board) composed as follows:
 - a) A minimum of five directors.
 - b) At least three members shall be elected members from a local agency party to the joint powers agreement.
 - c) At least two members shall be experts in homeless or housing policy that are not elected, to be selected by majority vote of the other members of the board.
 - d) Additional members must meet these requirements.
 - e) At least a majority of the board must remain elected officials from the local agencies party to the joint powers agreement.
- 4) Requires that members of the board must:
 - a) Serve without compensation.
 - b) Receive reimbursements only for approved expenses.
 - c) Serve two-year terms.
 - d) Appoint a replacement to fill any vacancy for the remainder of the term.
- 5) Allows the trust to:
 - a) Fund the planning, acquisition, and construction of housing of all types and tenures for the homeless population and persons and families of extremely low-, very-low, and low-income.
 - b) Receive public and private financing and funds.
 - c) Authorize and issue bonds, certificates of participation, or any other debt instrument repayable from funds and financing received and pledged by the trust.
- 6) Requires the trust to incorporate into its joint powers agreement annual financial reporting and auditing requirements to maximize transparency and show how the funds have furthered the purposes of the trust.

- 7) Requires the trust to comply with regulatory guidelines of each state funding source received.
- 8) Clarifies that this bill does not prohibit a local agency from requesting a special statute that provides exemptions if unique local circumstances exist.

COMMENTS:

- 1) *Author's statement.* “We have an affordable housing crisis across California. The high cost of housing and the low production of units affect all areas of the state, even in formerly affordable communities. According to the PPIC, we have experienced decades of undersupply throughout the state and new housing construction fails to keep up with current demand. Furthermore, the lack of housing stock has been identified as a factor exacerbating the homelessness crisis in many localities. SB 20 will provide local governments with an important tool to speed up the construction of new housing. Modeled after the successful San Gabriel Valley Regional Housing Trust that has supported the construction of hundreds of new units in a relative short period of time, SB 20 will establish a statewide standard to allow interested localities to collaborate and create their own regional housing trusts, eliminating the need for legislation to approve each regional housing trust. Additionally, a statewide standard will provide consistency across California as more regional housing trusts are created and provide needed clarity between neighboring regional housing trust efforts.”
- 2) *Help!* According to the most recent point in time (PIT) count, 171,521 people were experiencing homelessness in California—representing 30% of the nation’s homeless population. Two-thirds of the homeless population in California is unsheltered. Over half (51%) of all unsheltered people in the US were in California. California has the largest concentration of severely unaffordable housing markets in the nation and the statewide average home value reached a new record in June 2022 at \$793,300. Over three quarters (78%) of extremely low-income households in California are paying more than half of their income on housing costs compared to just 6% of moderate-income households.

A lack of affordable housing is the biggest contributor to homelessness. As housing costs continue to rise, rent becomes less affordable for lower-income households, who are forced to live beyond their means (paying more than 30% of income on housing costs) or are pushed out of their homes, leading to rapid increases in homelessness. Variation in rates of homelessness cannot be explained by variation in rates of individual factors such as poverty or mental

illness, however, cities with higher rents and lower rental vacancy rates (i.e., tighter housing markets) are directly linked to higher per capita rates of homelessness. Additionally, the data show that many people experiencing homelessness are employed; the problem is that their income alone often isn't enough to maintain stable housing. This can result in financial insecurity, which is both a main cause and a prolonging factor of homelessness.

- 3) *Here, there, and everywhere.* Housing trust funds are distinct funds established by city, county, or state governments that receive ongoing dedicated sources of public funding to support the preservation and production of affordable housing, as well as increasing opportunities for families and individuals to access decent affordable homes. Housing trust funds shift affordable housing funds from budget allocations to the commitment of dedicated public revenue. While housing trust funds can also accept private donations, they are not public/private partnerships, nor are they endowed funds operating from interest and other earnings. According to the Center for Community Change, there are more than 700 state and local housing trust funds in 47 states and the District of Columbia, including 40 in California (29 city and 11 county trust funds). Housing trust funds dedicate over \$1 billion each year to help address critical housing needs throughout the country.
- 4) *Penny lane.* In November 2006, California voters approved Proposition 1C, the Housing and Emergency Shelter Trust Fund of 2006. Proposition 1C authorized \$2.85 billion in general obligation bonds for various housing programs, including \$100 million for the Affordable Housing Innovation Fund. Subsequently, SB 586 (Dutton, 2007) allocated this \$100 million to four separate programs, including \$35 million for the LHTF program.

Under existing law, the LHTF program matches contributions to local housing trust funds. If an awardee fails to continue funding and operating the local housing trust fund for at least five years, then it must repay HCD's award to the extent that the funds have not yet been legally encumbered to specific projects.

Proposition 1, approved by the voters in November 2018 with 56% approval, allocated \$300 million to the LHTF program. The most recent Notice of Funding Availability (NOFA) for the LHTF program, issued in 2023, announced the availability of approximately \$53 million in remaining funding for LHTF provided by Proposition 1.¹

- 5) *Come together.* In recent years, the Legislature has created five new JPAs for the purpose of funding the development of housing for homeless and low

¹ 2023 NOFA Release. HCD. <https://www.hcd.ca.gov/grants-and-funding/programs-active/local-housing-trust-fund>

income individuals and families:

- a) Orange County Housing Finance Trust (OCHFT). The Legislature created the OCHFT in 2018 as a JPA among the County of Orange and 23 of the 34 cities in the county (AB 448, Daly, 2018). According to the OCHFT, its members share the goal of creating 2,700 permanent supportive housing and affordable housing units by June 30, 2025. As of January 2022, OCHFT has completed or begun construction of 1,676 units, with another 961 awaiting sufficient funding. OCHFT funded these units by leveraging matching grant funds from the state's Local Housing Trust Fund (LHTF) program to issue deferred payment loans to developers.
 - b) San Gabriel Valley Regional Housing Trust (SGVRHT). The Legislature created the SGVRHT in 2019 as a JPA among some of the cities throughout the San Gabriel Valley (SB 751, Rubio, 2019). In February 2020, the member cities formed SGVRHT, which currently has 21 member cities. According to the SGVRHT, the trust received \$1 million in matching grant funds from the state's LHTF program for the construction of 71 affordable housing units across two projects in the cities of Claremont and Pomona scheduled for completion in 2022. Additionally, SGVRHT funded a non-congregate emergency shelter pilot program. The Budget Act of 2021 (SB 129, Skinner, 2021) allocated \$20 million to SGVRHT, and the Budget Act of 2022 (AB 178, Committee on Budget, 2022) allocated another \$10 million to the trust's affordable housing and homelessness projects.
 - c) Western Riverside County Housing Finance Trust (WRCHFT). In 2021, the Legislature created the WRCHFT (AB 687, Seyarto, 2021).
 - d) Burbank-Glendale-Pasadena Regional Housing Trust (BGPRHT). In 2022, the Legislature created the BGPRHT (SB 1177, Portantino, 2022) and allocated \$23 million to the trust for affordable housing projects (AB 178, Committee on Budget, 2022).
 - e) South Bay Regional Housing Trust (SBRHT). In 2022, the Legislature created the SBRHT (SB 1444, Allen, 2022), which includes the cities that are members of the South Bay Cities Council of Governments.
- 6) *With a little help from my friends.* The Joint Exercise of Powers Act (AB 1403, Maienschein, Chapter 188, Statutes of 2015) provided flexibility for local agencies to come together to form an agreement of its own design to carry out any power common to each of its members. Agreements specify a JPA's mission, structure, governing board, each member's financial obligations, and provisions for members to enter and exit the JPA, among other items. As such, local agencies do not need legislative authority for a JPA unless it requires powers not common to all its members, or when statutory certainty and specificity is preferable to the agreement's details. The power the local

agencies lack, in this case, is the ability to issue bonds repayable from public and private financing and funds received by the housing trust.

- 7) *Let it be.* This bill sets up a process for cities to create housing trust JPAs with a relatively loose governance structure, so long as they follow certain rules, including but not limited to:
- a) Only cities, counties, or councils of governments are allowed to form these specific JPAs, but not other local agencies.
 - b) A majority of members of the board must be elected officials so as to be able to be held accountable to voting constituents.
 - c) Provide annual financial reporting and auditing to maximize transparency and show how the funds have furthered the purposes of the trust.

As of now, no California regional housing trust has utilized their authority to issue bonds, the one power authorized by this bill not already provided by the Joint Exercise of Powers Act. Local agencies claim that statutory authorization provide competitiveness in grant applications. It is unclear whether local governments would utilize the authorization under this bill rather than seeking specialized legislation.

- 8) *Opposition.* The California Association of Realtors are oppose unless amended to restrict the authority of JPAs from purchasing parcels with existing single-family 1-4 residences. They argue that JPA bonding should only be authorized to construct new housing supply and not for acquisition and deed restriction of existing housing stock but have not elaborated as to why.
- 9) *Double referral.* This bill passed out of the Senate Governance and Finance Committee on April 12, 2023 with an 8-0 vote.

RELATED LEGISLATION:

SB 1444 (Allen, Chapter 672, Statutes of 2022) — authorized the establishment of the South Bay Regional Housing Trust.

SB 1177 (Portantino, Chapter 173, Statutes of 2022) — authorized the creation of the Burbank-Glendale-Pasadena Regional Housing Trust.

AB 687 (Seyarto, Chapter 120, Statutes of 2021) — authorized the creation of the Western Riverside County Housing Finance Trust.

SB 751 (Rubio, Chapter 670, Statutes of 2019) — authorized the creation of the San Gabriel Valley Regional Housing Trust.

AB 448 (Daly, Chapter 336, Statutes of 2018) — authorized the creation of the Orange County Housing Finance Trust.

AB 1403 (Maienschein, Chapter 188, Statutes of 2015) — authorized 2 or more public agencies to enter into an agreement to jointly exercise any power common to the contracting parties.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 26, 2023.)

SUPPORT:

California Contract Cities Association
CivicWell
East Bay YIMBY
Grow the Richmond
How to ADU
Leadingage California
Livable California
Mountain View YIMBY
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
People for Housing Orange County
Progress Noe Valley
San Francisco YIMBY
San Gabriel Valley Council of Governments (SGVCOG)
San Gabriel Valley Regional Housing Trust
San Luis Obispo YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
South Bay YIMBY
Southside Forward
Ventura County YIMBY
YIMBY Action

OPPOSITION:

California Association of Realtors
1 individual

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