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

Bill No:	SB 440	**Hearing Date:**	4/18/2023
Author:	Skinner		
Version:	3/20/2023		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Regional Housing Finance Authorities

DIGEST: This bill authorizes two or more local governments to establish a regional housing authority for purposes of raising, administering, and allocating funding and provide technical assistance at a regional level for affordable housing development, as specified.

ANALYSIS:

Existing law:

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

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

3) Establishes the Los Angeles County Affordable Housing Solutions Agency (LACAHSA), and authorizes LACAHSA to utilize specified local financing tools to fund renter protections and the preservation and production of housing units affordable to households earning up to 80% of the area median income (AMI).

This bill:

1) Authorizes two or more local governments to establish a regional housing authority (Authority) for purposes of raising, administering, and allocating funding and provide technical assistance at a regional level for affordable housing development.

2) Requires the Authority to be a separate legal entity from the local governments that establish the Authority.

3) Exempts BAHFA and LACAHSA from creating an Authority.

Governance Structure

4) Requires the Authority to be governed by a board of directors (Board) with at least three directors who are elected or appointed officials representing the cities, special districts or counties that are members of the authority. The Authority shall consist of members appointed by each of the cities, special districts, or counties that are members of the authority in proportion to the population served by the member locality.

5) Requires the Authority to engage in a public participation process, which includes an outreach process to specified stakeholders, holding at least one public meeting regarding any plan or proposals under consideration by the Authority, and a process for public notifications.

6) Requires the Board to form an advisory committee (Advisory Committee) composed of nine representatives with knowledge and experience in the areas of affordable housing finance, development, and management, including rental and owner-occupied affordable housing. The advisory committee shall assist in the development of funding guidelines and the overall implementation of the provisions in this bill.

7) Requires the Advisory Committee to provide consultation and make recommendations to the Board.

Authority Powers

8) Authorizes the authority to do all of the following:

   a) Place a measure on the ballot to raise revenue and allocate funds throughout the jurisdiction of the authority.
   b) Establish any of the following:

      i. An infrastructure finance district (IFD);
      ii. An enhanced infrastructure finance district (EIFD);
      iii. An affordable housing authority (AHA);

iv. A climate resilience district.

c) Apply for and receive grants or loans from public and private entities.
d) Solicit and accept gifts, fees, grants, loans, and other allocations from public and private entities.
e) Sue or be sued.
f) Enter into and perform all necessary contracts.
g) Allocate and deploy capital and generated fees or income in the form of grants, loans, equity, interest rate subsidies, and other financing tools to the cities, counties and other public agencies within the jurisdiction of the authority, and private affordable housing developers to finance affordable housing development, and preserve and enhance existing affordable housing pursuant to this title.
h) Acquire, hold, and manage or cause to be managed existing buildings for the purpose of attaching long-term affordability restrictions on the housing units to protect against displacement.
i) Land banks, assemble parcels, and lease, purchase, or otherwise acquire land for purpose of housing development or redevelopment and associated infrastructure.
j) Accept excess or surplus property from the state and accept public land and buildings from any governmental entity within the jurisdiction, as specified.
k) Collect data on housing production and monitor progress on meeting regional and state housing goals.
l) Provide support and technical assistance to local governments in relation to production and preserving affordable housing.
m) Incur and issue bonds and other indebtedness, and otherwise incur liabilities or obligations, as specified.

Financial Provisions

9) Requires, if an authority proposes a measure to generate revenues and requires voter approval, the board of supervisors of the county or counties in which the authority has determined to place the measure on the ballot can call a special election on the measure.

10) Requires each county to include in the ballot measure a summary of the expenditure plan, including: (a) a description of the purpose and goals of the measure, (b) a description of the number of affordable housing units to be built or preserved, and a description of any specific projects planned to be funded, (c) an estimate of the number of affordable housing units to be built or preserved, and a description of any specific projects planned to be funded, (d) an estimate of minimum funding levels to be provided to different expenditure categories

by county, and (e) an overview of decision making and oversight provisions applicable to the funds.

11) Authorizes the authority to raise and allocate new revenue through the following funding mechanisms:

   a) Special taxes subject to voter approval, as follows: a parcel tax, a gross receipts business license tax, a special business tax, a special parcel tax, or a documentary transfer tax.
   b) A commercial linkage fee.
   c) Issue general obligation bonds.

12) Authorizes any funding mechanism or combination of mechanisms that require voter approval to be placed on the ballot in the counties within the jurisdiction of the Authority.

13) Provides that it is the intent of the legislature that the funding measures distribute the responsibility for addressing the affordable housing needs of the region.

Use of the funds

14) Requires revenue generated shall be used for any of the following purposes:

   a) Development of affordable housing.
   b) Affordable housing preservation.
   c) Planning and technical assistance related to housing.
   d) For infrastructure to support housing.
   e) Any other purpose authorized by this section.

15) Requires the Board to adopt a regional expenditure plan for the use of housing revenue by July 1 of each year, as specified.

16) Requires the expenditure plan to set forth the share of revenue and estimated funding amount to be spent on each of the categories in (14) above. Beginning in the second year, the Authority shall include a report in the regional expenditure plan that provides its allocations and expenditures to date of projects and programs funded and the households served by income level.

17) Authorizes the Authority to use up to 5% of the funds for administrative costs.

18) Requires, in the event that demolition or rehabilitation of housing units is required, all the following to apply:

   a) If the housing units are occupied at the date of acquisition, the development shall provide the same number of equivalent number of bedrooms to be made available at affordable rent or cost to and occupied by persons and families in the same or lower income category as those households in occupancy.
   b) If existing residents must be relocated due to demolition or rehabilitation needs, the developer must provide relocation benefits to the occupants.
   c) If existing residents must be relocated due to demolition or rehabilitation needs, the developer shall provide a first right of refusal for a comparable unit available in the new or rehabilitated housing development that is affordable to the household at an affordable rent, an affordable cost or a rent that is consistent with the maximum rent levels stipulated by the public program providing financing for the development.

Reporting and Auditing

19) Requires the Authority, five years from the approval of any ballot measure, to review the implementation of the measure, including an analysis of the expenditures to date, and the number of affordable housing units produced and preserved at different household levels.

20) Requires the Board to provide for regular audits of the authority's accounts and records and shall maintain accounting records and shall report accounting transactions in accordance with generally accepted accounting principles.

21) Requires the Board to provide for annual financial reports, which shall be made available to the public.

22) Requires the Authority to submit an annual report to the Legislature, which includes a description of projects funded and their status and the households served by income level.

COMMENTS:

1) *Author's statement.* "As California's housing crisis has continued to grow increasingly severe, it has become clear that no one policy can solve it. Instead, the state needs a multifaceted approach to reduce hurdles to housing construction and address the unique housing needs of different regions. SB 440 empowers communities to address their own affordable and missing middle

housing shortages by allowing regions to create finance agencies that can fund the construction and preservation of affordable housing. This will help ensure that the local entities who are stepping up to do their part to solve our housing crisis have the tools they need to get straight to work making sure everyone in their community has a home."

2) *California's Housing Crisis*. 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 $793,3003. To keep up with demand, the state Department of Housing and Community Development (HCD) estimates that California must plan for the development of more than 2.5 million homes over the next eight years, and no less than one million of those homes must meet the needs of lower-income households (more than 640,000 very low-income and 385,000 low-income units are needed). For decades, not enough housing was constructed to meet need, resulting in a severe undersupply of housing.

   As a result of the severe housing shortage, millions of Californians, who are disproportionately lower-income and people of color, must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation—one in three households in the state don't earn enough money to meet their basic needs. 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.

3) *Affordable housing finance generally*. Developing housing that is affordable to very low- and low-income families requires some amount of public investment. The high cost of land and construction, as well as regulatory barriers, in California generally makes it economically impossible to build new housing that can be sold or rented at prices affordable to those households. The private sector sometimes provides financial subsidies or land donations mandatorily through inclusionary zoning policies or voluntarily through density bonus ordinances. In most cases, however, some amount of public financial subsidy is needed from federal, state, and/or local governments.

4) *Publicly available funds for affordable housing.* Prior to 1974, the federal government invested heavily in affordable housing construction. When those units began to deteriorate, the Housing Community and Development Act ended most new construction of public housing and the Housing Choice Voucher Program (Section 8) was created in its place. This new program allowed eligible tenants to pay only a portion of their rent (based on their income) and shifted funds from public housing authorities to the private sector. The goal was to eliminate concentrations of low-income people in housing developments. In 1981, the Reagan administration dismantled federal affordable housing funding. From 1978 to 1983, the funding for low- to moderate-income housing decreased by 77%. In 1970, there were 300,000 more low-cost rental units (6.5 million) than low-income renter households (6.2 million). By 1985, however, the number of low-cost units had fallen to 5.6 million, and the number of low-income renter households had grown to 8.9 million, a disparity of 3.3 million units. Federal investments have not gone back up to pre-1978 levels.

   At the state level, California has invested significantly in affordable housing construction and rehabilitation in recent years through the passage of one-time discretionary actions in the budget and the passage of voter approved bonds. It should be noted that of these investments, only funds from the Affordable Housing and Sustainable Communities program (AHSC), federal and state low income housing tax credits, and funds from SB 2 (Atkins, Chapter 364, Statutes of 2017), are ongoing sources of funding. Additionally, investments provided by voter approved general obligation bonds have been fully allocated. These investments, while critical, have not made up for decades of disinvestment from the federal level. Significant ongoing investments are necessary to meet the current undersupply of housing affordable to lower-income families.

5) *Redevelopment Agencies (RDA) and TIF tools.* In 1945, the Legislature authorized local governments to create redevelopment agencies (RDAs) to address economic development in local communities. RDAs were formed by a city or county that would declare an area "blighted" and in need of urban renewal. After this declaration, most of the growth in property tax revenue from the "project area" was distributed to the city or county's RDA as "tax increment revenues" instead of being distributed as general purpose revenues to other local agencies serving the area. By 2008, redevelopment was redirecting 12% of property taxes statewide away from schools and other local taxing entities and into community development and affordable housing. In fiscal year 2009-10, RDAs collectively deposited $1.075 billion of property tax increment revenues into their low and moderate-income housing funds.

In 2011, facing a severe budget shortfall, the Governor proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Ultimately, the Legislature approved and the Governor signed two measures, AB 26 X1 (Blumenfield, Chapter 5, Statutes of 2011-12 First Extraordinary Session), and AB 27 X1 (Blumenfield, Chapter 6, Statutes of 2011-12 First Extraordinary Session), that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA) and the League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to AB 26 X1. However, the Court did grant the petition with respect to AB 27 X1. As a result, all RDAs were required to dissolve as of February 1, 2012.

Beginning in 2015, the Legislature created several tax increment tools to replace RDAs. For a variety of reasons, however, these tools have not been implemented widely at the local level. According to a report published by the Office of Planning and Research, as of December 29, 2020, only seven TIFs had been created (and an additional three had been proposed).

6) *Existing regional housing authorities* (BAHFA and LACAHSA). In 2019, the Legislature passed and the Governor signed AB 1487 (Chiu, Chapter 598), which created a new regional option to address the lack of affordable housing in the San Francisco Bay Area. Specifically, that bill provided the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) – acting as the BAHFA – with new tools to raise billions of dollars to fund the production, preservation, and protection of affordable housing. That bill was formulated in partnership with the Bay Area's local elected leaders and other regional leaders and set forth the governing structure and powers of the board, allowable financing activities, and allowable uses of the revenues generated. Its purpose was to raise, administer, and allocate funding and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production.

   BAHFA is gearing up to place its first regional housing bond on the ballot in November 2024 to raise tens of billions of dollars to deliver housing affordability at scale. In preparation for deploying the bond revenues, BAHFA is testing innovative large-scale pilot programs to address the region's toughest housing challenges (including a region-wide online portal designed to simplify the process of finding and applying for an affordable housing unit). The anticipated regional bond will allow BAHFA to scale-up its pilots and deliver other new production, preservation, and tenant protection tools for Bay Area communities.

Last year, the Legislature authorized the County of Los Angeles to establish the Los Angeles County Affordable Housing Solutions Agency (LACAHSA) through the passage of SB 679 (Kamalager, Chapter 661). That bill, similar to AB 1487, authorized LACAHSA to utilize specified local financing tools (taxes and bonds) to fund renter protections and the preservation and production of housing units affordable to households earning up to 80% of the area median income (AMI). The LACAHSA Board will be established by April 1, 2023, and will convene for the first time in May 2023. Discussions are underway locally to put a measure on the November 2024 ballot.

7) *New Authorities: key differences with existing authorities.* This bill authorizes two or more local governments to establish an Authority for purposes of raising, administering, and allocating funding and provide technical assistance at a regional level for affordable housing development, as specified. The Authority is granted specific powers, establishes a governance structure, and imposes reporting and auditing requirements. It also spells out the specific types of funding streams that may be collected, and that they may be used for affordable housing development and preservation, and infrastructure necessary for those developments.

   While this bill is modeled on BAHFA and LACAHSA, this bill would grant new authorities additional powers not bestowed. These authorities, in addition to the authority to managing existing buildings, could hold and acquire existing buildings for purposes of attaching affordability requirements. For any property acquired, these authorities, unlike BAHFA and LACAHSA, will have the power to set the land use and development parameters for such property, including setting the request for proposal criteria and selection process for a development partner. Lastly, these authorities are focused on the preservation and construction of housing. BAHFA and LACAHSA also authorized funds to be used for renter protections and renter supports.

8) *Lifting up regions as a whole.* All of the powers that this bill provides at the regional level are tools that local agencies already have at the local level. In recent years, many local governments, generally larger more coastal communities, have passed taxes and bond measures to raise local funds for affordable housing. However, not every jurisdiction in a region has two-thirds of voters willing to impose a new tax on property or businesses within their jurisdiction. By shifting the tax questions to a regional level, this bill would shift the question whether to raise taxes in the hands of voters across multiple

local agencies or even counties, collectively. On the one hand, jurisdictions with larger populations would have more voting power than smaller jurisdictions, which could result in some cities and counties paying taxes they would not approve if left up to their own devices. On the other hand, cities and counties have had the ability to use these tools to raise revenue for affordable housing.

9) *Greater accountability*. **Given the myriad of funding streams available at the state and federal level, the author agrees to require the Authority to show how the funds raised would complement existing housing resources available, and fill necessary gaps. Additionally, the Authority should account for how expenditures and projects will meet specific housing needs within the jurisdiction of the Authority. Due to time constraints, should this bill pass out of this committee, the author will take these amendments in the next committee as author's amendments.**

10) *Opposition.* The California Taxpayers Association (CalTax) is opposed to this bill because it would allow an additional housing agency to have taxing authority already provided to local governments. CalTax proposes a sunset on special taxes and for the creation of a citizens' oversight committee with investigative powers over the taxes collected by the Authorities in this bill.

11) *Double referral.* This bill was also referred to the Senate Governance and Finance Committee.

RELATED LEGISLATION:

SB 679 (Kamlager, Chapter 661, Statutes of 2022) — established the Los Angeles County Affordable Housing Solutions Agency (LACAHSA), and authorizes LACAHSA to utilize specified local financing tools to fund renter protections and the preservation and production of housing units affordable to households earning up to 80% of the area median income (AMI).

AB 1487 (Chiu, Chapter 598, Statutes of 2019) — established the San Francisco Bay Regional Housing Finance Act and enables the Bay Area voters to raise money for affordable housing.

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

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

SUPPORT:

California Housing Consortium (Sponsor)
California Housing Partnership
East Bay YIMBY
Grow the Richmond
How to ADU
Mountain View YIMBY
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
People for Housing - Orange County
Progress Noe Valley
San Francisco YIMBY
San Luis Obispo YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
South Bay YIMBY
Southside Forward
Ventura County YIMBY
YIMBY Action

OPPOSITION:

California Taxpayers Association

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