

Date of Hearing: April 29, 2015

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Ed Chau, Chair

AB 1403 (Maienschein) – As Amended April 7, 2015

SUBJECT: Housing: joint powers agreement

SUMMARY: Allows one or more private, non-profit 501 (c) (3) corporations that provide services to homeless persons for the prevention of homelessness to form a joint powers agency (JPA), or enter into a joint powers agreement, with one or more public agencies. Specifically, **this bill:**

- 1) Defines "frequent user coordinated care housing services" to mean housing combined with other supportive services for homeless persons identified by a city or county as the most costly, frequent users of publicly funded emergency services.
- 2) Defines "supportive services" as including, but not limited to, a combination of subsidized permanent housing, intensive case management, medical and mental health care, substance abuse treatment, employment services, and benefits advocacy.
- 3) Allows one or more private, non-profit 501 (c) (3) corporations that provide services to homeless persons for the prevention of homelessness to form a JPA or enter into a joint powers agreement with one or more public agencies.
- 4) Gives the JPA formed by the non-profit(s) and public agency(s) all the powers under the Joint Powers Authority Act except the newly formed agency will not have the power to incur debt.
- 5) Provides that the purpose of the JPA or joint powers agreement is to encourage and ease the sharing of information between public agencies and non-profit corporations necessary to identify the most costly, frequent users of publicly funded emergency services in order to provide frequent user coordinated care housing services to homeless persons or to prevent homelessness.
- 6) Provides that the JPA formed will be governed by a board of directors with the members determined by the participating public agency or agencies.
- 7) Provides that the representation of private nonprofit corporations on the JPA board will not be more than 50% of the membership.
- 8) Provides that a housing element analysis of any special housing needs may include an analysis of the need for frequent user coordinated care housing services.

EXISTING LAW:

- 1) The Joint Exercise of Powers Act authorizes two or more public agencies by agreement to jointly exercise any power common to the contracting parties, including, but not limited to, the authority to levy a fee, assessment, or tax, even though one or more of the contracting agencies may be located outside this state (Government Code 6502).

- 2) Requires every city and county to prepare and adopt a general plan containing seven mandatory elements, including a housing element (Government Code Sections 65300 and 65302).
- 3) Requires a jurisdiction's housing element to 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 (Government Code Section 65583).
- 4) Requires cities and counties located within the territory of a metropolitan planning organization (MPO) to revise their housing elements every eight years following the adoption of every other regional transportation plan. Cities and counties in rural non-MPO regions must revise their housing elements every five years (Government Code 65588).

FISCAL EFFECT: Unknown.

COMMENTS:

Background: The Joint Exercise of Powers Act provides the basic legal authority for public entities to create and use JPAs. A JPA is a new government entity created by the member agencies but is legally independent from them. Like a joint powers agreement in which one agency administers the terms of the agreement, a JPA exercises powers common to the member agencies and those powers are outlined in the joint powers agreement. Examples of areas where JPAs are commonly used include groundwater management, road construction, habitat conservation, airport expansion, stadium construction, mental health facilities construction, educational programs, employee benefit services, insurance coverage, and regional transportation projects.

JPAs are formed voluntarily by action of their member agencies and can exercise only those powers that are common to their member agencies. JPA meetings are open and are subject to the Ralph M. Brown Act. As a legally separate public agency a JPA can sue or be sued, hire staff, obtain financing to build public facilities, and manage properties.

Public agencies authorized to enter into joint powers agreements include the federal government or any federal department or agency, this state, another state or any state department or agency, a county, county board of education, county superintendent of schools, city, public corporation, public district, regional transportation commission of this state or another state, a federally recognized Indian tribe, or any joint powers authority. Special legislation can also authorize certain nongovernmental organizations to participate in joint powers agreements, even though they are not public agencies. For instance, to help nonprofit hospitals keep pace with changes in the health care industry, the Legislature has allowed them to enter joint powers agreements to provide health care services in Fresno, Contra Costa, Kings, Tuolumne, San Diego, and Tulare counties. Another enacted bill allowed mutual water companies to enter joint powers agreements with public water agencies.

AB 1403 would authorize a nonprofit corporation that provides services to homeless persons or for the prevention of homelessness to form a JPA or enter into a joint powers agreement with one or more public agencies. The purpose of the JPA or agreement would be to encourage and ease

information sharing between the public agencies and nonprofit corporations specifically to identify frequent users of publicly funded emergency services in order to provide those users coordinated care services.

Purpose of this bill: According to the author, AB 1403 is needed to ease the ability of local government agencies and interested private, nonprofits to share information amongst each other to identify the most costly homeless individuals and more easily provide the appropriate services necessary to reduce homelessness.

Differences between this new agency and a JPA: Under existing law, JPAs can issue debt and the member agencies could levy taxes or assessments and contribute those revenues to the JPA's operation. This bill would prohibit the new JPA formed under this bill from incurring debt. This bill also provides that the representation of private nonprofit corporations on the JPA board will not be more than 50% of the membership.

Housing element provisions: Every local government is required to prepare a housing element as part of its general plan. The housing element process starts when HCD determines the number of new housing units a region is projected to need at all income levels (very low-, low-, moderate-, and above-moderate income) over the course of the next housing element planning period to accommodate population growth and overcome existing deficiencies in the housing supply. This number is known as the regional housing needs assessment (RHNA). The Council of Governments (COG) for the region, or HCD for areas with no COG, then assigns a share of the RHNA number to every city and county in the region based on a variety of factors. In preparing its housing element, a city or county must show how it plans to accommodate its share of the RHNA. The housing element must include an inventory of sites already zoned for housing. A city or county is required to analyze any special housing needs for the elderly, persons with disabilities, large families, farmworkers, female head of households, and persons in need of emergency shelter.

AB 1403 would require the analysis to include the needs for frequent user coordinated care housing services. Frequent user coordinated care housing services is defined as housing combined with other supportive services for homeless persons that the city or county has identified as the most costly, frequent users of publicly funded emergency services. Supportive services could include but are not limited to a combination of subsidized permanent housing, intensive case management, medical and mental health care, substance abuse treatment, employment services, and benefits advocacy.

REGISTERED SUPPORT / OPPOSITION:

Support

Housing California
Easter Seals

Opposition

None on file

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085