California State Assembly

HOUSING AND COMMUNITY DEVELOPMENT

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CHRISTOPHER M WARD
CHAIR

AGENDA

Wednesday, April 24, 2024
9 a.m. -- State Capitol, Room 437

HEARD IN FILE ORDER

1.	AB 2022	Addis	Mobilehome parks: emergency preparedness.
2.	AB 2247	Wallis	Mobilehome Parks Act: notice of violations: Manufactured Housing Opportunity and Revitalization (MORE) Program.
3.	AB 2291	Alanis	Mobilehomes.
4.	AB 2338	Jones-Sawyer	Statewide Homelessness Coordinator.
6.	AB 2399	Rendon	Mobilehome park residences: rental agreements: Mobilehome Residency Law Protection Program.
7.	AB 2433	Quirk-Silva	California Private Permitting Review and Inspection Act: fees: building permits.
8.	AB 2479	Haney	Housing First: core components.
9.	AB 2488	Ting	Downtown revitalization and economic recovery financing districts: City and County of San Francisco.
10.	AB 2498	Zbur	Housing: the California Housing Security Act.
11.	AB 2506	Lowenthal	Property taxation: local exemption: possessory interests: publicly owned housing. (Tax Levy)
17.	AB 2712	Friedman	Preferential parking privileges: transit-oriented development.
18.	AB 2729	Joe Patterson	Residential fees and charges.
19.	AB 2881	Lee	The Social Housing Act.
21.	AB 2909	Santiago	Historical property contracts: qualified historical property: adaptive reuse.
22.	AB 2926	Kalra	Planning and zoning: assisted housing developments: notice of expiration of affordability restrictions.
24.	AB 2945	Alvarez	Reconnecting Communities Redevelopment Act.
26.	AB 3035	Pellerin	Agricultural employee housing: streamlined, ministerial approval: Counties of Santa Clara and Santa Cruz.

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CONSENT

5.	AB 2373	Rendon	Mobilehomes: tenancies.
12.	AB 2533	Juan Carrillo	Accessory dwelling units: junior accessory dwelling units: unpermitted developments.
13.	AB 2553	Friedman	Housing development: major transit stops: vehicular traffic impact fees.
14.	AB 2570	Joe Patterson	Department of Housing and Community Development: annual report: Homeless Housing, Assistance, and Prevention program.
15.	AB 2579	Quirk-Silva	Inspections: exterior elevated elements.
16.	AB 2593	McCarty	Joint Exercise of Powers Act: Sacramento County Partnership on Homelessness.
20.	AB 2903	Hoover	Homelessness.
23.	AB 2934	Ward	Residential developments: building standards: review.
25.	AB 3012	Grayson	Development fees: fee schedule template: fee estimate tool.
27. *	AB 3057	Wilson	California Environmental Quality Act: exemption: junior accessory dwelling units ordinances.
28.	AB 3276	Ramos	Mitigation Fee Act: reports.
29.	AJR 14	Ward	Federal homelessness funding.

* Pending Receipt

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2022 (Addis) – As Introduced January 31, 2024

SUBJECT: Mobilehome parks: emergency preparedness

SUMMARY: Adds new requirements to the emergency preparedness plan and emergency procedures that mobilehome park owners or operators must adopt and comply with, to take effect July 1, 2025. Specifically, **this bill**:

1) Requires there to be a person or designee in every park with 50 or more units who resides in the park and has knowledge of emergency procedures relative to utility systems, including, but not limited to, gas lines, hydrant accessibility, water systems, and electrical components, and access to park entrances and exits, in addition to existing law requirements related to the person being familiar with common facilities and the emergency preparedness plans for the park.

2) Requires, on or before July 1, 2025, an owner or operator of an existing park adopt an emergency preparedness plan in accordance with the requirements of this bill prior to or at the time of submission of the renewal of its permit to operate.

3) Requires, for a park constructed after July 1, 2025, a park owner or operator adopt a plan in accordance with this bill prior to the issuance and renewal of its permit to operate.

4) Requires a park owner or operator to comply with 2) or 3), as applicable, by adopting an emergency preparedness plan that includes all of the following:

    a) An attestation by a park owner or manager, under penalty of perjury, of compliance with this bill, a copy of which must be attached to its request to obtain or renew a permit to operate;

    b) Identification of all accessible points of park entry or exit;

    c) Identification of an agent of park management, a park manager, or a volunteer designee resident who will be available to residents to ensure points of entry and exit are not locked or otherwise obstructed in the event of an emergency;

    d) A copy of the Private Fire Hydrant Test and Certification Report and an attestation that all hydrants are operable and accessible to emergency personnel in the event of an emergency;

    e) An attestation that a viable agency or individual has inspected the gas system within the park and that such system is in working order and accessible to emergency personnel and park management or a volunteer designee resident at all times in the event gas shut off is necessary; and

    f) Identification of an agent of park management, a park manager, or volunteer designee resident who will be available to help facilitate evacuation according to the standards set forth in the emergency plan.

5) Requires a park owner or operator to provide notice annually to all existing residents of how to access the emergency preparedness plan and information on individual emergency preparedness contained therein and how to obtain the plan in a language other than English.

6) Requires the notice in 5) to be provided to all new residents upon approval of tenancy.

7) Requires the notice in 5) to be accomplished in a manner that includes, but is not limited to, distribution of materials to each household on an annual basis, posting notice of the plan in the most accessible common area in the park that is open and available to all residents, and providing information on how to access the plan and request a written copy via the internet.

8) Requires an enforcement agency to determine whether park management is in compliance with this bill, and requires them to ascertain compliance with this bill by receipt of a copy of the plan during its review of the application for or renewal of a park's permit to operate, site inspections conducted in response to complaints of alleged violations, or for any other reason.

9) Provides, notwithstanding any other provisions of the Mobilehome Parks Act (MPA), that a violation of this bill shall constitute an unreasonable risk to life, health, or safety and must be corrected by park management within 60 days of the notice of violation.

10) Provides that if the violation under 9) is not corrected within 60 days of notice of the violation, the enforcement agency shall refuse to issue or renew a permit to operate and impose formal penalties.

11) Provides that the bill will take effect July 1, 2025.

EXISTING LAW:

1) Establishes the MPA, which requires the Department of Housing and Community Development (HCD), or a city, county, or city and county that assumes responsibility for the enforcement of the MPA, to enter and inspect mobilehome parks, with a goal of inspecting at least 5% of the parks per year, to ensure enforcement of the MPA and subsequent regulations. (Health and Safety Code (HSC) Section 18400.1)

2) Requires every mobilehome park to have a person available by telephonic or like means, including telephones, cellular phones, telephone answering machines, answering services or pagers, or in person who is responsible for, and who shall reasonably respond in a timely manner to emergencies concerning, the operation and maintenance of the park. (HSC 18603(a))

3) Requires every mobilehome park with 50 or more units to have the person described in 2) or their designee reside in the park, and requires them to have knowledge of emergency procedures relative to utility systems and common facilities under the ownership and control of the owner of the park, and to be familiar with the emergency preparedness plans for the park. (HSC 18603(a))

4) Requires an owner or operator of an existing park to adopt an emergency preparedness plan by September 1, 2010, and for a park constructed after September 1, 2010, requires a park owner or operator to adopt a plan prior to issuance of the permit to operate. (HSC 18603(b))

5) Allows a park owner or operator to comply with 4) by either of the following methods:

    a) Adopting the emergency procedures and plans approved by the Standardized Emergency Management System Advisory Board on November 21, 1997, entitled "Emergency Plans for Mobilehome Parks," and compiled by the Office of Emergency Services (OES) in compliance with the Governor's Executive Order W-156-97, or any subsequent version; or

    b) Adopting a plan that is developed by the park management and that is comparable to the procedures and plans specified in a). (HSC 18603(b)(3))

6) Requires a park owner or operator to do both of the following in every park:

    a) Post notice of the emergency preparedness plan in the park clubhouse or in another publicly accessible area within the mobilehome park; and

    b) Provide notice annually to all existing residents of how to access the plan and information on individual emergency preparedness contained therein and how to obtain the plan in a language other than English. Requires this notice to also be provided to all new residents upon approval of tenancy. Allows the provision of notice to be accomplished in a manner that includes, but is not limited to, distribution of materials and posting notice of the plan or information on how to access the plan via the internet (HSC 18603(c))

7) Requires an enforcement agency to determine whether park management is in compliance with 2)-6) and allows the agency to ascertain compliance by receipt of a copy of the emergency preparedness plan during site inspections conducted in response to complaints of alleged violations, or for any other reason. (HSC 18603(d))

8) Provides that, notwithstanding any other provision of the MPA, a violation of 2)-6) shall constitute an unreasonable risk to life, health, or safety and must be corrected by park management within 60 days of notice of the violation. (HSC 18603(e))

9) Authorizes the officers or agents of an enforcement agency to enter and inspect all parks, wherever situated, and inspect all accommodations, equipment, or paraphernalia used in connection with the park, including the right to examine any registers of occupants to secure the enforcement of the MPA. (HSC 18400)

10) Requires an enforcement agency, if it determines upon inspection that a mobilehome park is in violation of any provision of the MPA or any rule or regulation adopted under the MPA, to promptly issue a notice to correct the violation to the park owner or operator and to the responsible person, as defined. (HSC 18420(a)(1))

11) Requires service of the notice of violation to be effected either personally or by first-class mail. Requires each notice of violation to be in writing and to describe with particularity the nature of the violation in as clear language as the technicality of the violation will allow the average layperson to understand what is being cited, including a reference to the statutory provisions or regulation alleged to have been violated, as well as any penalty provided by law for failure to make timely correction. (HSC 18420(c)(1))

12) Declares it unlawful for any person to do any of the following unless they have a valid permit issued by an enforcement agency:

    a) Construct a mobilehome park;

    b) Construct additional buildings or lots, or alter buildings, lots, or other installations in an existing park;

    c) Operate, occupy, rent, lease, sublease, let out, or hire out for occupancy any lot in a park that has been constructed, reconstructed, or altered without having obtained a permit as required by the MPA; or

    d) Operate a park or any portion thereof. (HSC 18500)

13) Allows an enforcement agency to suspend a permit if any person who holds a permit to operate violates the permit or the MPA. Requires the enforcement agency to issue and serve upon the permittee a notice setting forth in what respect the provisions of the permit or the MPA have been violated, and must notify them that unless these provisions have been complied with within 30 days after the date of notice, the permit shall be subject to suspension. (HSC 18510 and 18511)

14) Requires the enforcement agency to reinstate the permit or issue a new permit to operate upon compliance by the permittee with the provisions of the MPA and of the notice. (HSC 18518)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "In recent years, our communities have faced unprecedented storms and wildfires that have caused devastating damage and loss of life. This was especially the case for residents in mobilehome parks and those living in high risk flood zones. AB 2022 is an essential, preventative measure to ensure that our communities and neighbors can react, respond, and find safety during emergencies. Requiring these emergency preparedness plans to take the specific needs of mobilehome park residents into account will help save the lives of some of our most vulnerable citizens."

Background: More than 1 million people live in California's approximately 4,500 mobilehome parks. Mobilehomes are not truly mobile, in that it is often cost prohibitive to relocate them. The cost to move a mobilehome ranges from $2,000 to upwards of $20,000 depending on the size of the home and the distance traveled. A mobilehome owner whose home is located in a mobilehome park does not own the land the unit sits on, and must pay rent and fees for the land and any community spaces to their parkowner, unless the park is collectively owned by the residents, in which case the resident organization operates like a homeowners association.

The Mobilehome Residency Law (MRL) extensively regulates the relationship between landlords and homeowners who occupy a mobilehome park. A limited number of provisions also apply to residents who rent, as opposed to own, their mobilehome. The MRL has two parts: Articles 1 through 8 apply to most mobilehome parks and Article 9 applies to resident-owned parks or parks which are established as a subdivision, cooperative or condominium. The

provisions cover many issues, including, but not limited to: 1) the rental and lease contract terms and specific conditions of receipt and delivery of written leases, park rules and regulations, and other mandatory notices; 2) mandatory notice and amendment procedures for mobilehome park rules and regulations; 3) mandatory notice of fees and charges, and increases or changes in them; and 4) specified conditions governing mobilehome park evictions. A dispute that arises regarding the MRL generally must be resolved in a civil court of competent jurisdiction.

HCD oversees several areas of mobilehome law, including health and safety standards, registration and titling of mobilehomes and parks, and, through the Mobilehome Ombudsman, assists the public with questions or problems associated with various aspects of mobilehome law. The Mobilehome Ombudsman provides assistance by taking complaints and helping to resolve and coordinate the resolution of those complaints. However, the Ombudsman does not have enforcement authority for the MRL, and cannot arbitrate, mediate, negotiate, or provide legal advice on mobilehome park rent disputes, lease or rental agreements, but may provide general information on these issues. The Mobilehome Residency Law Protection Program at HCD also intakes resident complaints regarding alleged violations of the MRL and refers complaints to legal service providers.

Mobilehome Parks Act: The MPA requires HCD to regulate mobilehome parks to assure protection of the health, safety, and general welfare of all mobilehome park residents. Local agencies have the option of assuming enforcement authority of the MPA within their jurisdiction through agreement with HCD. Among these enforcement duties is performing health and safety inspections of parks.

The MPA also requires each mobilehome park to pay an annual fee and obtain a permit to operate from either HCD or the local enforcement agency. Operating permits last for a year and the enforcement agency has the ability to suspend an operating permit in the event of substandard conditions at the park or other violations of the MPA. If a mobilehome park or an individual park resident is found to be in violation of the MPA, the law requires the enforcement agency to promptly issue a notice to correct the violation or violations identified in the agency's inspection to the park owner or operator, or to the registered owner of the mobilehome.

If the park owner or operator does not correct the violations or otherwise violates the terms of their operating permit, the enforcement agency must notify the permit holder of the specific terms or provisions they are violating, and provide a 30-day window for the permittee to come into compliance. If the 30 days elapses with no compliance, the enforcement agency can suspend the permit to operate. Current law declares it unlawful for any person to operate a park or collect rents without a valid permit.

Emergency Planning in Mobilehome Parks: Since a series of dangerous fires in 2008, and the subsequent adoption of SB 23 (Padilla), Chapter 551, Statutes of 2009, mobilehome park owners have been required to adopt emergency preparedness plans. The plan can either mimic an existing emergency plan compiled by OES,[1] or can be a separate plan that is developed by park management but is comparable to the OES plan. The plan must be posted in the park clubhouse or in a public area in the park, and park management must provide the plan to all new residents and provide notice each year to existing residents of how to access the plan, including in a

[1] https://www.caloes.ca.gov/wp-content/uploads/Preparedness/Documents/05-FEAT-EmergencyPlansforMobile-Home-ParksFEAT-doc.pdf

language other than English. Existing law deems a violation of these provisions an unreasonable risk to life, health, or safety and requires violations to be corrected by park management within 60 days of the notice of violation. The law also requires there to be a person in every park available by phone or in person who must reasonably respond in a timely manner to emergency concerning the operation and maintenance of the park. In parks with 50 or more units, the person must reside in the park and have knowledge of emergency procedures relative to the park's utility systems and common facilities, and they must be familiar with the emergency preparedness plan.

This bill would expand these requirements in multiple ways, including:

- Requiring the reasonably available person in parks with 50 or more units to also have knowledge of emergency procedures relative to gas lines, hydrant accessibility, water systems, and electrical components, and access to park entrances and exits.

- Requiring the adoption of both the OES plan and a new, expanded emergency preparedness plan by July 1, 2025 and prior to or at the time of submission of the issuance or renewal of the park's permit to operate.

- Requiring the new, expanded emergency preparedness plan to include all of the following:

    - An attestation by a park owner or manager, under penalty of perjury, of compliance with the bill, a copy of which must be attached to its request to obtain or renew a permit to operate;

    - Identification of all accessible points of park entry or exit;

    - Identification of an agent of park management, a park manager, or volunteer designee resident who will be available to residents to ensure points of entry and exit are not locked or otherwise obstructed in the event of an emergency;

    - A copy of the Private Fire Hydrant Test and Certification Report and an attestation that all hydrants are operable and accessible to emergency personnel in the event of an emergency;

    - An attestation that a viable agency or individual has inspected the gas system within the park and that such system is in working order and accessible to emergency personnel and park management or a volunteer designee resident at all times in the event gas shut off is necessary; and

    - Identification of an agent of park management, a park manager, or volunteer designee resident who will be available to help facilitate evacuation according to the standards set forth within the park emergency plan.

- Increases penalties for noncompliance with this bill by requiring an enforcement agency to refuse to issue or renew a permit to operate and to impose formal penalties on park management if they have not corrected a violation within 60 days of notice of the violation.

Arguments in Support: According to the Golden State Manufactured-home Owners League (GSMOL), "The disaster landscape in California has dramatically changed. And like many

Californians, mobilehome residents have suffered through numerous fires, floods, storm events, and earthquakes. Since the Sonoma Complex Fires in 2017, mobilehome residents have continued to witness loss of life and property within their mobilehome parks. Despite these life-threatening emergencies, mobilehome residents continue to live in parks without access to locked points of entry or exit to the park, without working fire hydrants, without access to gas shut off valves when management is off site, and without meaningful evacuation plans. AB 2022 would improve safety in times of emergency by improving evacuation planning requirements and ensuring residents annually receive a copy of the evacuation plan."

Arguments in Opposition: According to the Western Manufactured Housing Communities Association (WMA), "WMA is concerned about many provisions, including a provision in a new section of code…that would require a responsible party have 'knowledge of emergency procedures relative to utility systems, including but not limited to, gas lines, hydrant accessibility, water systems, and electrical components.' This new section seems to require a mobilehome park's responsible party or on-site manager to be skilled and qualified to evaluate the functionality of all these systems that are often better understood by local utility companies and local first responders working on behalf of fire departments and other emergency services."

Committee Amendments: Staff recommends the bill be amended as follows:

- Change the operative date of the bill to January 1, 2025, and require adoption of the new emergency plan on a rolling basis beginning June 1, 2025, to provide sufficient lead time for parks to understand the changes in the law and be ready to adopt the new plans when their permit renewal is due;

- Strike the requirement that an attestation of compliance with the bill be made under penalty of perjury, and instead authorize the enforcement agency to require violators of the bill to adopt future plans under penalty of perjury when formal penalties are issued;

- Specify that the agent, park manager, or volunteer designee resident who must be identified in the emergency plan must be available to residents by the means described in existing law (i.e. via telephone or in person) and must reasonably respond in a timely manner, to allow for a reasonable standard of response given there might be instances where the person is legitimately away from the park or otherwise inaccessible due to phone or travel outages and in those instances it would not be feasible to expect them to be able to meet these obligations (or fair to expose them to liability risk);

- Specify that a person with professional knowledge or expertise, rather than a viable agency or individual, must have inspected the gas system within the park;

- Clarify that the agent, park manager, or volunteer designee resident will help assist in an evacuation that has been ordered by emergency personnel, rather than facilitate or otherwise be responsible for managing or anticipating how and when to call an evacuation. Only emergency personnel should be responsible for directing or ordering evacuations. In addition, specify that the agent, manager, or volunteer shall not be held responsible for physically evacuating residents from their homes during an emergency.

- Authorize, rather than require, an enforcement agency to impose formal penalties in cases of violations that are not corrected within 60 days. If penalties are imposed, then a

subsequent attestation of compliance with the bill's provisions must be made under penalty of perjury in the revised emergency plan before the enforcement agency can issue or renew the park's permit to operate.

Related Legislation:

AB 2247 (Wallis) of the current legislative session would extend the sunset date on the MPA from January 1, 2025 to January 1, 2030, and require a notice of violation to include information about the Manufactured Housing Opportunity and Revitalization (MORE) Program. This bill is currently pending before this committee.

SB 23 (Padilla), Chapter 551, Statutes of 2009: Required an owner or operator of a mobilehome park or a recreational vehicle park to adopt and post notice of an emergency preparedness plan.

REGISTERED SUPPORT / OPPOSITION:

Support

Golden State Manufactured-home Owners League (Sponsor)
James Gore, Supervisor, 4th District Sonoma County
Justice in Aging
Petaluma Estates Homeowners Association
Western Center on Law & Poverty
Individuals - 94

Opposition

California Mobilehome Parkowners Alliance
Western Manufactured Housing Communities Association

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2247 (Wallis) – As Amended March 21, 2024

SUBJECT: Mobilehome Parks Act: notice of violations: Manufactured Housing Opportunity and Revitalization (MORE) Program

SUMMARY: Extends the sunset date on the Mobilehome Parks Act (MPA) from January 1, 2025 to January 1, 2030, and requires a notice of violation to include information about the Manufactured Housing Opportunity and Revitalization (MORE) Program. Specifically, **this bill**:

1) Extends the sunset date of the MPA from January 1, 2024, until January 1, 2030.

2) Requires the Department of Housing and Community Development (HCD) to develop a list of resident organizations, qualified nonprofit housing sponsors, and local public entities that have received a loan pursuant to the MORE Program.

3) Requires HCD to provide the list in 2) to registered owners or occupants of mobilehome parks who receive a notice of violation under the MPA and who reside in those jurisdictions that have rehabilitation or repair programs for which they may be eligible.

4) Requires a notice of violation to include information about the MORE Program, including the application process for loans and grants under that program.

EXISTING LAW:

1) Requires HCD, or a city, county, or city and county that assumes responsibility for the enforcement of the MPA, to enter and inspect mobilehome parks, with a goal of inspecting at least 5 percent of the parks per year, to ensure enforcement of the MPA and subsequent regulations. The enforcement agency's inspection must include an inspection of the exterior portions of individual manufactured homes and mobilehomes in each park inspected. (Health and Safety Code (HSC) 18400.1)

2) Authorizes the officers or agents of an enforcement agency to enter and inspect all parks, wherever situated, and inspect all accommodations, equipment, or paraphernalia used in connection with the park, including the right to examine any registers of occupants to secure the enforcement of the MPA. (HSC 18400)

3) Requires the enforcement agency, in developing its mobilehome park maintenance inspection program, to inspect the mobilehome parks that the agency determines have serious health and safety complaints. (HSC 18400.1)

4) Requires an enforcement agency, if it determines upon inspection that a mobilehome park is in violation of any provision of the MPA or any rule or regulation adopted under the MPA, to promptly issue a notice to correct the violation to the park owner or operator and to the responsible person, as defined. (HSC 18420(a)(1))

5) Requires an enforcement agency, if it determines upon inspection that a manufactured home, mobilehome, accessory building or structure, or lot is in violation of specified MPA

provisions, to promptly issue a notice to correct the violation to the registered owner of the manufactured home or mobilehome, and with a copy to the occupant thereof, if different from the registered owner. (HSC 18420(b)(1))

6) Requires service of the notice of violation to be effected either personally or by first-class mail. Requires each notice of violation to be in writing and to describe with particularity the nature of the violation in as clear language as the technicality of the violation will allow the average layperson to understand what is being cited, including a reference to the statutory provisions or regulation alleged to have been violated, as well as any penalty provided by law for failure to make timely correction. (HSC 18420(c)(1))

7) Requires HCD to develop a list of local agencies that have home rehabilitation or repair programs for which registered owners or occupants of manufactured homes and mobilehomes residing in mobilehome parks may be eligible. Requires the list to be provided to registered owners or occupants who receive notices of violation and who reside in those jurisdictions that have rehabilitation or repair programs for which they may be eligible. (HSC 18420(c)(2))

8) Provides that the MPA shall remain in effect until January 1, 2025. (HSC 18424)

9) Establishes the MORE Program, under which HCD may make loans to resident organizations, qualified nonprofit housing sponsors, and local public entities for the purpose of financing mobilehome park acquisition, conversion, rehabilitation, reconstruction, and replacement, and for the purpose of assisting lower income homeowners to do any of the following:

    a) Make repairs to their mobilehomes;

    b) Make accessibility upgrades to their mobilehomes;

    c) Make enercy efficiency upgrades to their mobilehomes; or

    d) Replace their mobilehomes. (HSC 50783 and 50784)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "In the Summer of 2023 we had two serious fires in mobile home parks in my district. In meeting with residents who homes were lost and damaged in those fires, I learned that often residents don't know where to turn. Even when inspections find things wrong with their units they don't know that are places they can turn to receive assistance to repair their units so that they do not face the catastrophic losses that some of my constituents did. The state has invested significant resources in the MORE program, yet residents often don't know of its existence."

Background: More than 1 million people live in California's approximately 4,500 mobilehome parks. Mobilehomes are not truly mobile, in that it is often cost prohibitive to relocate them. The cost to move a mobilehome ranges from $2,000 to upwards of $20,000 depending on the size of the home and the distance traveled. A mobilehome owner whose home is located in a

mobilehome park does not own the land the unit sits on, and must pay rent and fees for the land and any community spaces to their parkowner, unless the park is collectively owned by the residents, in which case the RO operates like a homeowners association. According to the Mobilehome Park Homeowners Alliance, California currently has 183 resident-owned parks, with an estimated 33,564 mobilehome spaces and another 1,300 recreational vehicle spaces.[1]

The Mobilehome Residency Law (MRL) extensively regulates the relationship between landlords and homeowners who occupy a mobilehome park. A limited number of provisions also apply to residents who rent, as opposed to own, their mobilehome. The MRL has two parts: Articles 1 through 8 apply to most mobilehome parks and Article 9 applies to resident-owned parks or parks which are established as a subdivision, cooperative or condominium. The provisions cover many issues, including, but not limited to: 1) the rental and lease contract terms and specific conditions of receipt and delivery of written leases, park rules and regulations, and other mandatory notices; 2) mandatory notice and amendment procedures for mobilehome park rules and regulations; 3) mandatory notice of fees and charges, and increases or changes in them; and 4) specified conditions governing mobilehome park evictions. A dispute that arises regarding the MRL generally must be resolved in a civil court of competent jurisdiction.

HCD oversees several areas of mobilehome law, including health and safety standards, registration and titling of mobilehomes and parks, and, through the Mobilehome Ombudsman, assists the public with questions or problems associated with various aspects of mobilehome law. The Mobilehome Ombudsman provides assistance by taking complaints and helping to resolve and coordinate the resolution of those complaints. However, the Ombudsman does not have enforcement authority for the MRL, and cannot arbitrate, mediate, negotiate, or provide legal advice on mobilehome park rent disputes, lease or rental agreements, but may provide general information on these issues. The Mobilehome Residency Law Protection Program at HCD also intakes resident complaints regarding alleged violations of the MRL and refers complaints to legal service providers.

Mobilehome Parks Act: The MPA requires HCD to regulate mobilehome parks to assure protection of the health, safety, and general welfare of all mobilehome park residents. Local agencies have the option of assuming enforcement authority of the MPA within their jurisdiction through agreement with HCD. Among these enforcement duties is performing health and safety inspections of parks.

The MPA also requires each mobilehome park to pay an annual fee and obtain a permit to operate from either HCD or the local enforcement agency. Operating permits last for a year and the enforcement agency has the ability to suspend an operating permit in the event of substandard conditions at the park or other violations of the MPA. If a mobilehome park or an individual park resident is found to be in violation of the MPA, the law requires the enforcement agency to promptly issue a notice to correct the violation or violations identified in the agency's inspection to the park owner or operator, or to the registered owner of the mobilehome.

If the park owner or operator does not correct the violations or otherwise violates the terms of their operating permit, the enforcement agency must notify the permit holder of the specific terms or provisions they are violating, and provide a 30-day window for the permittee to come into compliance. If the 30 days elapses with no compliance, the enforcement agency can suspend

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[1] https://mhphoa.com/ca/roc/

the permit to operate. Current law declares it unlawful for any person to operate a park or collect rents without a valid permit.

Legislative History of the MPM Inspection Program*:* HCD inspects parks and mobilehomes for health and safety issues. Under the Mobilehome Park Maintenance (MPM) program, HCD annually inspects 5% of parks for compliance with health and safety requirements under the MPA and Title 25 of the California Code of Regulations. The program is funded through a $4 fee, of which the property owner may charge half ($2) to the homeowners. In addition to the MPM program, HCD also responds to health and safety complaints under the MPA. With HCD's approval, a city or county can also act as a local enforcement agency and can request authority to enforce the MPA and perform inspection activities for mobilehome parks within its jurisdiction. In 2019, HCD reported that 63 local enforcement agencies in the state were responsible for enforcing the MPA for 860 mobilehome parks.

AB 925 (O'Connell), Chapter 1125, Statutes of 1990, created the MPM inspection program and required HCD or a local enforcement agency to inspect every mobilehome and every mobilehome park in the state once every five years. In 1999, SB 700 (O'Connell), Chapter 520, Statutes of 1999, extended the MPM inspection program until January 1, 2007, and made some changes to the program. In particular, SB 700 limited the inspection program to mobilehome parks that had a history of serious health and safety code violations and required these inspections at least once every seven years. SB 700 limited the inspections in part because of the limited funding provided by the $4 fee that supports the MPM program. About one-third of mobilehome parks in the state were inspected under the MPM program between 2000 and SB 700's sunset date of January 1, 2007. SB 700 also created the MPM inspection task force and required it to meet once a year. The task force includes mobilehome park owners, mobilehome owners, local enforcement agencies, and legislative representatives. HCD must report to the task force information on the number of parks and spaces that were inspected, the fees collected, the most common violations discovered, and the number of violations identified plus progress on correcting those violations.

SB 106 (Dunn) of 2005 would have deleted the 2007 sunset date on the MPM inspection program and increase the $4 fee to $6 for the inspections. Then-Governor Schwarzenegger vetoed SB 106 because of the fee increase, so in 2006, SB 1231 (Dunn), Chapter 644, Statutes of 2006, extended the sunset date on the MPM inspection program until January, 1, 2012, and increased the frequency of the MPM task force meetings to every six months, but did not increase the fee. Also in 2006, AB 2250 (Coto), Chapter 858, set the goal that 5% of parks would be inspected under the MPM program each year.

There have been three additional extensions of the sunset date in the MPA and MPM statutes since 2012, most recently last year with AB 319 (Connolly), Chapter 737, Statutes of 2023. This bill extends the MPA until 2030.

The committee may wish to consider amending the bill to ensure the MPM statute and the accompanying MPA fee is also extended to 2030.

Manufactured Housing Opportunity and Revitalization (MORE) Program: The MORE program helps fund a variety of activities intended to keep mobilehome parks a safe and affordable homeownership option. MORE funds can be used for the acquisition, conversion to Resident Ownership (RO), rehabilitation, reconstruction and replacement of mobilehome parks,

as well the remediation of health and safety items of both parks and individual mobilehomes. These organizations or entities can use loan funds to assist lower income homeowners to make repairs, accessibility upgrades, or energy efficiency upgrades to their mobilehomes, or to replace the mobilehome entirely.

Funding priorities from the most recent Notice of Funding Availability were given to resident-owned parks applying for loans to address serious health, safety, or code violations or suspended permits to operate, those with severe violations posing risks to life, health, and safety, and those with suspended permits to operate.[2]

Notices of Violation: If a mobilehome park or an individual park resident is found to be in violation of the MPA, the law requires the enforcement agency to promptly issue a notice to correct the violation or violations identified in the agency's inspection to the park owner or operator, or to the registered owner of the mobilehome. For violations issued to individual homeowners, and in recognition of the challenge many lower income mobilehome residents might face in paying for what could be costly repairs or code compliance efforts, the law requires HCD to develop a list of local agencies that have home rehabilitation or repair programs that the homeowner might be eligible for. The violation notice has to include the list of those programs to point homeowners toward resources that could possibly assist them in remedying the violation. If homeowners do not fix these violations within certain timeframes, park management may initiate eviction proceedings.

This bill would require HCD to also develop a list of any resident organizations, qualified nonprofits, and local public entities that have received funding from the MORE Program, and to deliver that list along with the home rehabilitation or repair programs list along with the violation notice. The notice will also have to include general information about the MORE Program, including the application processes for loans and grants. The author points out that after several fires in their community, many mobilehome park residents needed assistance making home repairs and were not aware of the MORE Program or resources that might be available.

Arguments in Support: According to the Western Manufactured Housing Communities Association (WMA), "WMA believes that the health and safety of residents in manufactured housing communities is of vital importance. Residents and mobilehome parks themselves should be able to more easily identify programs that can assist with correcting a violation of the Health and Safety Code. By requiring HCD and [local enforcement agencies] to develop lists of organizations and vendors available to correct violations through the MORE Program, residents and mobilehome park owners can work together to ensure manufactured housing communities remain a safe and attainable housing option for hundreds of thousands of people across the state."

Arguments in Opposition: None on file.

Committee Amendments: Staff recommends the bill be amended to also extend the MPM program statute and the MPA fee statute until 2030.

Related Legislation:

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[2] https://www.hcd.ca.gov/about-hcd/newsroom/california-issues-first-awards-pioneering-program-designed-to-preserve-mobilehomes-safe-quality-option-affordable-homeownership

SB 1108 (Ochoa Bogh) of the current legislative session would indefinitely extend provisions of the MPA relating to HCD enforcement authority of the health and safety standards for mobilehome parks, make changes requiring HCD to mail a copy of a first notice of violation for a resident's violation of the MPA or related regulations to the park's designated responsible person, increase the time allowed for correction of a violation from 60 to 90 days, and make HCD responsible for exhausting all administrative and legal recourse against a resident before requiring action by the mobilehome park. This bill is currently pending before the Senate Appropriations Committee.

AB 319 (Connolly), Chapter 737, Statutes of 2023: Extended the MPA and MPM inspection program until January 1, 2025.

SB 197 (Committee on Budget), Chapter 70, Statutes of 2022: Established the MORE Program.

SB 46 (Leyva), Chapter 835, Statutes of 2018: Extended the MPM inspection program until January 1, 2024.

SB 951 (Correa), Statutes of 2010: Extended the MPM inspection program until January 1, 2019.

AB 2250 (Coto), Chapter 858, Statutes of 2006: Set the goal that 5% of parks would be inspected under the MPM inspection program each year.

SB 1231 (Dunn), Chapter 644, Statutes of 2006: Extended the sunset date on the MPM inspection program until January, 1, 2012, and increased the frequency of the MPM task force meetings to every six months, but did not increase the fee.

SB 106 (Dunn) of the 2005-2006 Session would have deleted the 2007 sunset date on the MPM inspection program and increase the $4 fee to $6 for the inspections. This bill was vetoed by the Governor.

SB 700 (O'Connell), Chapter 520, Statutes of 1999: Extended the MPM inspection program until January 1, 2007, and made some changes to the program.

AB 925 (O'Connell), Chapter 1125, Statutes of 1990: Created the MPM inspection program and required HCD or a local enforcement agency to inspect every mobilehome and every mobilehome park in the state once every five years.

REGISTERED SUPPORT / OPPOSITION:

Support

Western Manufactured Housing Communities Association

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2291 (Alanis) – As Amended March 4, 2024

SUBJECT: Mobilehomes

SUMMARY: Makes changes to the Department of Housing and Community Development's (HCD's) administration of the Mobilehome Residency Law Protection Program (MRLPP), and suspends the MRLPP fee until the program funds can only cover six months of expenditures. Specifically, **this bill**:

1) Requires a nonprofit legal services provider (LSP) contracted with HCD for the MRLPP to provide the department, in its role as the contract manager overseeing the performance of LSP contracts, with full access to information regarding the status of each case and the services provided to complainants.

2) Provides that laws relating to the attorney-client privilege or attorney work product doctrine that protect the confidentiality of communications or records shall not prevent disclosure under 1).

3) Provides that, to the extent any information disclosed to HCD includes confidential information subject to the attorney-client privilege or work product protection, disclosure under 1) shall not constitute a waiver of that privilege or protection.

4) Prohibits HCD from disclosing any confidential information received under 1) to anyone outside of HCD.

5) Requires HCD to conduct regular surveys of complainants referred to a LSP to determine whether the LSP is in regular communication with the complainants and whether complainants have any concerns about the services provided by the LSP.

6) Requires HCD to monitor updates from a LSP to detect any inappropriate denial of services and respond immediately to correct any denials.

7) Deletes the requirement for HCD to assess upon, and collect from, the management of a mobilehome park subject to the Mobilehome Residency Law (MRL) an annual registration fee of $10 for each permitted mobilehome lot within the park, and instead authorizes HCD to collect the $10 fee in the event that HCD and the Department of Finance agree that the Mobilehome Dispute Resolution Fund can only cover six months of expenditures.

8) Contains findings and declarations that the changes in 1)-6) impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest: "This act restricts public access to the personal information retained by HCD to maintain trust and confidentiality in attorney-client interactions."

EXISTING LAW:

1) Regulates, pursuant to the MRL, the rights, responsibilities, obligations, and relationships between mobilehome park management and park residents. (Civil Code (CC) Section 798, et seq.)

2) Establishes the Mobilehome Residency Law Protection Act (MRLPA). States the intent of the Legislature in enacting the MRLPA is to protect and safeguard the most vulnerable mobilehome homeowners by affording them an additional avenue to enforce violations of the MRL. (Health and Safety Code (HSC) Section 18800)

3) Establishes the MRLPP within HCD. Requires HCD to provide assistance in taking complaints, and helping to resolve and coordinate the resolution of those complaints, from homeowners related to the MRL. (HSC 18802)

4) Establishes the Mobilehome Dispute Resolution Fund in the State Treasury, and requires HCD, beginning January 1, 2019 and each subsequent year thereafter, to assess upon and collect from the management of a mobilehome park subject to the MRL an annual registration fee of $10 for each permitted mobilehome lot within the park, which must be collected at the same time as the annual operating permit fee. (HSC 18804)

5) Allows management to pass on all or a portion of the amount of the annual registration fee assessed under 4) to the homeowners within the mobilehome park, and allows management to collect the amount or portion thereof from the homeowner with the rent payment and other charges due, not to be aggregated within rent or to exceed $10 per mobilehome space annually. (HSC 18804)

6) Requires HCD, in administering the MRLPP, to contract with one or more qualified and experienced LSPs and refer complaints selected for evaluation and not resolved to those LSPs for possible enforcement action. (HSC 18803)

7) Requires HCD to only contract with a LSP that meets all of the following requirements:

    a) The LSP has experience in handling complaints, disputes, or matters arising from the provisions of the MRL or matters related to general landlord-tenant law;

    b) The LSP has experience in representing individuals in dispute resolution processes, state court proceedings, and appeals; and

    c) The LSP has sufficient staff and financial ability to provide for legal services to homeowners. (HSC 18803)

8) Requires a LSP contracted with under the MRLPP to maintain adequate legal malpractice insurance and to agree to indemnify and hold harmless the state from any claims arising from the legal services provided under the MRLPP. (HSC 18803)

9) Provides a LSP contracted with under the MRLPP the sole authority to determine which referred complaints will be addressed or pursued, based on the resources provided to it under the contract with HCD. (HSC 18803)

10) Requires the LSP to inform HCD of any complaints not handled due to a shortage of resources. (HSC 18803)

11) Prohibits a LSP contracted with under the MRLPP from charging any fees to a homeowner for any services performed in connection with a complaint referred to it by HCD. (HSC 18803)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "AB 2291 aims to promote fairness and affordability for California's mobilehome residents. By refining the Mobilehome Residency Law, it ensures that residents have better access to legal support, fostering an environment of justice and equity. The bill's structure, which modifies the current fee structure, illustrates a thoughtful approach to maintaining these services without imposing undue financial burdens on mobilehome residents. AB 2291 looks to create a more balanced and supportive legal framework, promoting accessibility and fiscal responsibility for California's mobilehome communities."

Background: More than 1 million people live in California's approximately 4,500 mobilehome parks. Mobilehomes are not truly mobile, in that it is often cost prohibitive to relocate them. The cost to move a mobilehome ranges from $2,000 to upwards of $20,000 depending on the size of the home and the distance traveled. A mobilehome owner whose home is located in a mobilehome park does not own the land the unit sits on, and must pay rent and fees for the land and any community spaces.

The MRL extensively regulates the relationship between landlords and homeowners who occupy a mobilehome park. A limited number of provisions also apply to residents who rent, as opposed to own, their mobilehome. The MRL has two parts: Articles 1 through 8 apply to most mobilehome parks and Article 9 applies to resident-owned parks or parks which are established as a subdivision, cooperative or condominium. The provisions cover many issues, including, but not limited to: 1) the rental and lease contract terms and specific conditions of receipt and delivery of written leases, park rules and regulations, and other mandatory notices; 2) mandatory notice and amendment procedures for mobilehome park rules and regulations; 3) mandatory notice of fees and charges, and increases or changes in them; and 4) specified conditions governing mobilehome park evictions. A dispute that arises pursuant to the application of the MRL generally must be resolved in a civil court of competent jurisdiction.

HCD oversees several areas of mobilehome law, including health and safety standards, registration and titling of mobilehomes and parks, and, through the Mobilehome Ombudsman, assists the public with questions or problems associated with various aspects of mobilehome law. The Mobilehome Ombudsman provides assistance by taking complaints and helping to resolve and coordinate the resolution of those complaints. However, the Ombudsman does not have enforcement authority for the MRL, and cannot arbitrate, mediate, negotiate, or provide legal advice on mobilehome park rent disputes, lease or rental agreements, but may provide general information on these issues.

HCD also inspects parks and mobilehomes for health and safety issues. Under the Mobilehome Park Maintenance (MPM) program, HCD annually inspects 5% of parks for compliance with

health and safety requirements under the Health and Safety Code (Mobilehome Parks Act) and Title 25. The program is funded through a $4 fee, of which the property owner may charge half ($2) to the homeowners. In addition to the MPM program, HCD also responds to health and safety complaints under the Mobilehome Parks Act.

MRLPP: AB 3066 (Stone), Chapter 744, Statutes of 2018, established the MRLPP as a time-limited five year pilot program to intake complaints regarding alleged violations of the MRL and refer complaints to legal service providers (LSPs). Last year, the Legislature extended the program for another three years and made some modifications that are likely to increase uptake of the program. The MRLPP is meant to resolve certain disputes between mobilehome/manufactured homeowners in mobilehome parks and park owners/management, and the annual program fee is paid by homeowners.

MRLPP Audit: The California State Auditor performed an audit of the MRLPP, and its findings were released on December 19, 2023 in Audit 2023-112.[1] The following is an excerpt from the audit:

> Changes to state law that will take effect on January 1, 2024, will likely result in shifting responsibility for handling all program eligible complaints to the LSPs—a departure from the current requirement that HCD refer only the most severe complaints to LSPs. However, attorney related privileges prevent LSPs from sharing confidential information with HCD about the services they provide to complainants. As a result, HCD is unable to effectively monitor the progress of work under the LSP contracts, because it lacks certain information about complaints, such as the activities that LSPs are undertaking to help complainants. The Legislature could address this impediment and, by doing so, provide HCD with the ability to effectively oversee the program. Nonetheless, we found that even within its existing authority, HCD did not prevent some LSPs from inappropriately denying services to complainants. In fact, three of the eight LSPs to whom HCD refers complaints rejected 18 of the 275 referred complaints because the LSPs believed the complainants' incomes made the complainants ineligible for services or because the complainants refused to answer questions about their incomes, even though the program has no income eligibility requirement. HCD did not act to correct these inappropriate rejections in the nearly two years since the LSPs first notified HCD of a rejection. We also found that HCD has not maintained program data in a manner that would allow it to easily identify the total number of complaints. Nor does HCD maintain data containing uniform information about the outcomes of complaints. Because of this problem, HCD has reported inaccurate outcome information to the Legislature.
>
> To fund the program, state law requires HCD to collect an annual $10 fee from mobilehome parks for each of their mobilehome lots. Although we determined that HCD generally spent program funding appropriately, its spending has significantly lagged behind the revenue the fees generate. As of June 2023, the program had collected a total of $13.4 million in fee revenue and spent a total of $5.1 million. As a result, it has amassed unspent funds of $8.3 million, which is equal to more than 60 percent of the revenue collected. This surplus of unspent funds results from incorrect estimates of the revenue the program would need and the volume of complaints HCD would receive. When the program was established, HCD

[1] https://www.auditor.ca.gov/reports/2023-112/index.html

> estimated that the program would annually receive an average of 6,500 complaints and would refer an average of 4,100 complaints to LSPs each year. However, the program has received only an average of 1,005 complaints per year and referred an average of 147 complaints to LSPs. Upcoming changes to state law will likely increase the number of complaints handled by LSPs and therefore increase expenditures. However, even in that scenario, HCD will continue to accumulate unspent funds, something it should not do if it does not need that revenue to administer the program. To assess the appropriateness of the program's fee, we created several scenarios to model how different circumstances affect the program's surplus. In a scenario in which the annual fee remains at $10 per lot, the unspent fund balance is projected to grow. We found that suspending the annual fee until the program's next sunset date would reduce the unspent fund balance while still allowing sufficient funding for HCD to address complaints.[2]

HCD responded to the audit with the following, excerpted:

> Thank you for the opportunity to review and provide comments to the audit titled The Mobilehome Residency Law Protection Program (MRLPP) The California Department of Housing and Community Development Must Improve Its Oversight of the Program. HCD generally concurs with the HCD recommendations and will take appropriate steps to implement the recommendations provided by the California State Auditor (CSA) where feasible. However, HCD has significant concerns with the CSA recommendation to the legislature to eliminate all new program revenue.
>
> The MRLPP is a pilot program enacted by AB 3066 (Chapter 774, Statutes of 2018), operative as of January 1, 2019. Upon appropriation of program resources, the program was stood-up in earnest in July 2020 and will soon be undergoing significant programmatic changes due to recent legislative changes pursuant to AB 318 (Chapter 736, Statutes of 2023). As a result of these changes, historical data cannot be used to estimate the number of future complaints or revenue needed to support program expenditures. Accordingly, it would be both premature and fiscally irresponsible to suggest such radical changes to program funding.
>
> HCD agrees that it is appropriate to analyze if the statutory fee should be adjusted to reflect the ongoing needs of the program, but strongly suggests that a reasonable fee remain in place until after the program modifications are complete and the new complaint volume, LSP workload/expenses and program outreach efforts are realized. Additionally, elimination of the current $10.00 per lot fee while simultaneously suggesting that HCD should request a new fee to be set by the legislature prior to current fund depletion would place an unreasonable burden on HCD by hindering their ability to administer the program given the uncertainty of expenditure authority, the ability to enter contracts, and the long-term viability of the program. The consequence of simultaneously suspending and/or eliminating program revenue at the same time as program expansion increases the likelihood that the program would need to cease operation prior to the new statutorily authorized sunset date of January 1, 2027.[3]

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[2] https://www.auditor.ca.gov/reports/2023-112/index.html#section1
[3] https://www.auditor.ca.gov/reports/2023-112/index.html#section6

Arguments in Support: According to the Western Manufactured Housing Communities Association (WMA), "The State Auditor noted that there needs to be some level of transparency to make determinations about the proper use of funding, especially now that all complaints will be forwarded on for review. Why wouldn't the state want to have oversight or some level of transparency over how these funds are being used and how much time is being spent on making determinations? The recommendations nor this bill is intended to water down the attorney client privilege. However, isn't it reasonable to find a balance to allow HCD to review billing practices and activity? Also, isn't it fair for the State to create a mechanism to ensure that funds are being used as intended?"

Arguments in Opposition: According to the Golden State Manufactured-home Owners League, "Last year, Mobilehome Residents worked with Assembly Member Dawn Addis and the Department of Housing to make improvements to the Pilot Program, including expanding the scope to include all violations committed by Park Owners – AB 318 (2023). Governor Newsom agreed and signed into law. Having failed to stop Assembly Member Addis' bill, Park Owners have hatched a new scheme. They are working with Senator Seyarto and Assembly Member Alanis to prevent us from funding our protection program and take control and take us out of the equation. GSMOL and Mobilehome Residents OPPOSE these Republican bills AB 2291 and SB 1052. Mobilehome Residents want Governor Newsom's and Assembly Member Dawn Addis' law to be allowed to take effect, including the improvements to the Pilot Program. Mobilehome Residents want these Republican Legislators to stop picking on us and stop trying to trick everyone into eliminating our protection program."

Committee Amendments: Staff recommends the bill be amended as follows:

- Strike Health and Safety Code Section 18803 (f)(1)-(4) and Section 3 in order to preserve full attorney-client confidentiality for participants in the program and to alleviate the possible chilling effect this change might have on LSPs' interest in contracting with HCD under the program.

- Strike Section 2 of the bill, leaving intact the existing MRLPP fee structure.

18803. (a) In administering the program, the department shall contract with one or more qualified and experienced nonprofit legal services providers and refer complaints selected for evaluation pursuant to subdivision (f) of Section 18802, and which are not resolved pursuant to subdivision (g) of Section 18802, to those nonprofit legal services providers for possible enforcement action.

(b) The department shall only contract with a nonprofit legal services provider that meets all of the following requirements:

(1) The nonprofit legal services provider has experience in handling complaints, disputes, or matters arising from the provisions of the Mobilehome Residency Law or matters related to general landlord-tenant law.

(2) The nonprofit legal services provider has experience in representing individuals in dispute resolution processes, state court proceedings, and appeals.

(3) The nonprofit legal services provider has sufficient staff and financial ability to provide for legal services to homeowners.

(c) A nonprofit legal services provider contracted with pursuant to this section shall maintain adequate legal malpractice insurance and shall agree to indemnify and hold harmless the state from any claims arising from the legal services provided pursuant to this part.

(d) (1) A nonprofit legal services provider contracted with pursuant to this section shall have the sole authority to determine which referred complaints will be addressed or pursued, based on the resources provided to it pursuant to the contract with the department.

(2) The nonprofit legal services provider shall inform the department of any complaints not handled due to a shortage of resources.

(e) A nonprofit legal services provider contracted with pursuant to this section shall not charge any fees to a homeowner for any services performed in connection with a complaint referred to it by the department.

~~(f) (1) A nonprofit legal services provider contracted with the department pursuant to this section shall provide the department, in its role as the contract manager overseeing the performance of nonprofit legal services contracts, with full access to information regarding the status of each case and the services provided to complainants.~~

~~(2) Laws relating to the attorney-client privilege or attorney work product doctrine that protect the confidentiality of communications or records shall not prevent disclosure pursuant to this subdivision.~~

~~(3) To the extent any information disclosed to the department includes confidential information subject to the attorney-client privilege or work product protection, disclosure pursuant to this subdivision shall not constitute a waiver of that privilege or protection.~~

~~(4) The department shall not disclose any confidential information received pursuant to this subdivision to anyone outside of the department.~~

(g) The department shall conduct regular surveys of complainants referred to a nonprofit legal services provider to determine whether the nonprofit legal services provider is in regular communication with the complainants and whether complainants have any concerns about the services provided by the nonprofit legal services provider.

(h) The department shall monitor updates from a nonprofit legal services provider to detect any inappropriate denial of services and shall respond immediately to correct any denials.

(i) This section shall become operative on July 1, 2020.

~~SEC. 2.~~ ~~Section 18804 of the Health and Safety Code is amended to read:~~

~~18804.~~ ~~(a) There is hereby established in the State Treasury the Mobilehome Dispute Resolution Fund. The fund shall receive all moneys derived pursuant to this part. Moneys in the fund shall be available, upon appropriation by the Legislature, for purposes of implementing this part.~~

~~(b) (1) The department may collect from the management of a mobilehome park subject to the Mobilehome Residency Law an annual registration fee of ten dollars ($10) for each permitted mobilehome lot within the mobilehome park in the event that the department and Department of Finance agree that the fund can cover only six months of expenditures.~~

~~(2) The department shall collect the registration fee pursuant to this paragraph at the same time as the annual operating permit fee imposed under the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code).~~

~~(3) The Legislature finds and declares that the purpose of the fee imposed by this section is to cover the costs of the department incident to the investigation of mobilehome parks for purposes of enforcing the Mobilehome Residency Law.~~

~~(c) Notwithstanding any other law or local ordinance, rule, regulation, or initiative measure to the contrary, within 90 days from payment of the registration fee to the department, management may pass on all or a portion of the amount of the annual registration fee assessed under this section to the homeowners within the mobilehome park and may collect the amount or portion thereof from the homeowner with the rent payment and other charges due, except that management shall not aggregate or include the fee in the rent nor shall the amount exceed ten dollars ($10) per mobilehome space annually. The annual registration fee shall appear as a separate line item in the bill and shall be accompanied by a clear written description of the purpose of the charge to homeowners, along with contact information for the department.~~

~~**SEC. 3.** The Legislature finds and declares that Section 1 of this act, which amends Section 18803 of the Health and Safety Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:~~

~~This act restricts public access to the personal information retained by the Department of Housing and Community Development to maintain trust and confidentiality in attorney-client interactions.~~

Related Legislation:

AB 2399 (Rendon) of the current legislative session would require the rental agreement for a tenancy in a mobilehome park and the existing notice that must be provided to all homeowners by February 1 each year to include specified information about the MRLPP. This bill is currently pending before this committee.

SB 1052 (Seyarto) of the current legislative session is identical to this bill. This bill failed passage on a vote of 2-4 in the Senate Housing Committee and was granted reconsideration on March 19, 2024.

AB 318 (Addis), Chapter 736, Statutes of 2023: Extended the sunset on the MRLPP from January 1, 2024 to January 1, 2027, and made several changes to the program.

AB 3066 (Stone), Chapter 774, Statutes of 2018: Established the Mobilehome Residency Law Protection Act which enacted the MRLPP pilot program with a sunset date of January 1, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Western Manufactured Housing Communities Association

Opposition

Golden State Manufactured-home Owners League

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2338 (Jones-Sawyer) – As Amended March 4, 2024

SUBJECT: Statewide Homelessness Coordinator

SUMMARY: Requires the Governor to appoint a Statewide Homelessness Coordinator (Coordinator) within the Governor's Office to serve as the lead person for ending homelessness in the state. Specifically, **this bill**:

1) Requires the coordinator to do all of the following:

    a) Set state goals to end homelessness;

    b) Identify a local leader in each relevant city, county, city and county, or other jurisdiction to serve as a liaison between the coordinator and that jurisdiction;

    c) Oversee homelessness programs, services, data, and policies between federal, state, and local agencies;

    d) Coordinate the timing of release of state funds and applications for funding for housing and housing-based services impacting Californians experiencing homelessness; and

    e) In collaboration with local leaders, provide annual recommendations to the Legislature and the Governor.

2) Allows the coordinator to adjust state goals to the extent allowed by state law.

3) Requires the coordinator to submit annual recommendations to the Legislature.

EXISTING LAW:

1) Establishes the California Interagency Council on Homelessness (CA-ICH), chaired by the Secretary of the Business, Consumer Services, and Housing (BCSH) Agency and the Secretary of the California Health and Human Services (HHS) Agency, made up of various state departments and agencies. (Welfare and Institutions Code (WIC) Section 8257)

2) Sets the following goals for the CA-ICH:

    a) To identify mainstream resources, benefits, and services that can be accessed to prevent and end homelessness in California;

    b) To create partnerships among state and federal agencies and departments, local government agencies, and nonprofit entities working to end homelessness, homeless services providers, and the private sector, for the purpose of arriving at specific strategies to end homelessness;

c) To promote systems integration to increase efficiency and effectiveness while focusing on designing systems to address the needs of people experiencing homelessness, including unaccompanied youth under 25 years of age;

d) To coordinate existing funding and applications for competitive funding, without restructuring or changing any existing allocations or allocation formulas;

e) To make policy and procedural recommendations to legislators and other governmental entities;

f) To identify and seek funding opportunities for state entities that have programs to end homelessness and to facilitate and coordinate those state entities' efforts to obtain that funding;

g) To broker 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;

h) To serve as a statewide facilitator, coordinator, and policy development resource on ending homelessness in California;

i) To report to the Governor, federal Cabinet members, and the Legislature on homelessness and work to reduce homelessness; and

j) To ensure accountability and results in meeting the strategies and goals of the council. (WIC 8257)

3) Requires, after July 1, 2017, agencies and departments that implement funds, or administer a program that provides housing or housing-based services to people experiencing homelessness or at-risk of homelessness, with the exception of federally funded programs not consistent with housing first or programs that fund emergency shelters, to work with the CA-ICH to adopt guidelines and regulations to incorporate core components of Housing First. (WIC 8256)

4) Requires an eligible city, county, or Continuum of Care (CoC) to submit a local homelessness action plan that includes all of the following to access Homeless Housing Assistance and Prevention Program (HHAP) funds:

a) A local landscape analysis that assesses the current number of people experiencing homelessness and existing programs and funding which address homelessness within the jurisdiction, utilizing any relevant and available data from the Homeless Data Integration System (HDIS), the United States Department of Housing and Urban Development's (HUD's) homeless point-in-time count, CoC housing inventory count, longitudinal systems analysis, and Stella tools, as well as any recently conducted local needs assessments;

b) Identification of the number of individuals and families served, including demographic information and intervention types provided, and demographic subpopulations that are underserved relative to their proportion of individuals experiencing homelessness in the jurisdiction;

c) Identification of all funds, including state, federal and local funds, currently being used, and budgeted to be used, to provide housing and homelessness-related services to persons experiencing homelessness or at imminent risk of homelessness, how this funding serves subpopulations, and what intervention types are funded through these resources;

d) An outline of proposed uses of funds requested and an explanation of how the proposed use of funds will complement existing local, state, and federal funds and equitably close the gaps identified;

e) Evidence of connection with the local homeless Coordinated Entry System;

f) An agreement to participate in a statewide HDIS, and to enter individuals served by this funding into the local Homeless Management Information System (HMIS), in accordance with local protocols;

g) A demonstration of how the jurisdiction has coordinated, and will continue to coordinate, with other jurisdictions, including the specific role of each applicant in relation to other applicants in the region;

h) A demonstration of the applicant's partnership with, or plans to use funding to increase partnership with, local health, behavioral health, social services, and justice entities and with people with lived experiences of homelessness;

i) A description of specific actions the applicant will take to ensure racial and gender equity in service delivery, housing placements, and housing retention and changes to procurement or other means of affirming racial and ethnic groups that are overrepresented among residents experiencing homelessness have equitable access to housing and services; and

j) A description of how the applicant will make progress in preventing exits to homelessness from institutional settings, including plans to leverage funding from mainstream systems for evidence-based housing and housing-based solutions to homelessness. (Health and Safety Code (HSC) Section 502207.5)

4) Requires HHAP applicants to establish goals that prevent and reduce homelessness from July 1, 2021, through June 30, 2024, informed by the findings from the local landscape analysis and the jurisdiction's base system performance measure from the 2020 calendar year data in the HDIS. The outcome goals shall set definitive metrics, based on HUD's system performance measures, for achieving the following:

a) Reducing the number of persons experiencing homelessness;

b) Reducing the number of persons who become homeless for the first time;

c) Increasing the number of people exiting homelessness into permanent housing;

d) Reducing the length of time people remain homeless;

e) Reducing the number of persons who return to homelessness after exiting homelessness to permanent housing; and

f) Increasing successful placements from street outreach. (HSC 502207.5)

5) Requires each HHAP applicant to determine its outcome goals in consultation with CA-ICH, and prohibits them from submitting final outcome goals before consulting with CA-ICH. (HSC 50220.7)

6) Requires CA-ICH to assess outcome goals in the application based on the information provided in the local homeless action plan and the applicant's baseline data on the performance metrics and determine whether the outcome goals adequately further the objectives of reducing and preventing homelessness. (HSC 50220.7)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "Over 180,000 Californians experience homelessness on any given night, making the Golden State home to the nation's largest homeless population. This is in part due to the state's disjointed approach to ending homelessness. At least nine state agencies currently administer and oversee 41 different homelessness programs statewide. Considering the magnitude of the homelessness crisis in California and the amount of funding the state and federal governments have invested, there is a real need to ensure that our system for addressing problems at both the state and local levels is consistent and effective. AB 2338 establishes a Statewide Homelessness Coordinator to serve as the much-needed lead entity for ending homelessness."

CA-ICH: In 2016, SB 1380 (Mitchell), Chapter 847, created the Homelessness Coordinating and Financing Council, which in 2021 was renamed the California Interagency Council on Homelessness (CA-ICH) (AB 1220 (L. Rivas), Chapter 398) to coordinate the state's response to homelessness. SB 1380 (Mitchell) set out a list of list of "goals" for CA-ICH to focus on but no clear authority to make changes to state policy or programs that address homelessness. CA-ICH is also responsible for ensuring that all state housing and homelessness programs follow Housing First principles.

As the state's homelessness crisis has worsened, the role of the CA-ICH has significantly increased. The council is now responsible for administering two large programs dedicated to addressing homelessness, HEAP and HHAP. Recent budgets have included multi-year funding for HHAP. To access this funding, eligible applicants (CoCs, counties, and eligible cities) are required to submit a Local Homelessness Action Plan that demonstrates how HHAP funds and all local dollars for homelessness can reduce the number of people experiencing homelessness. CA-ICH is tasked with working with eligible applicants to develop measurable outcome goals to reduce homelessness. Goals will measure the following and progress will be based on data collected through the local HMIS:

- Reduction in the number of persons experiencing homelessness;
- Reduction in the number of persons who become homeless for the first time;
- Increases in the number of people exiting homelessness into permanent housing;
- Reduction in the length of time persons remain homeless;
- Reduction in the number of persons who return to homelessness after exiting homelessness to permanent housing; and
- Increases in successful placements from street outreach.

The governance structure of CA-ICH has also evolved since its creation. In addition to changing the name of council, AB 1220 (L. Rivas) appointed the Secretary of the California HHS Agency as co-chair of CA-ICH with the Secretary of the BCSH Agency. In addition, AB 1220 (L. Rivas) removed people with lived experience of homelessness from the council membership and placed them on an advisory board, and required staff of agencies and departments of the CA-ICH to participate in council work groups or task forces at the request of the council.

In addition to administering funding, the CA-ICH developed two major work products in the past few years: an Action Plan and a state HDIS.

Action Plan for Preventing and Ending Homelessness in California (Action Plan): In March 2021, the CA-ICH adopted an Action Plan with specified goals that member agencies approved and agreed to work on collaboratively. The Action Plan required the creation of five work groups to address to address the following priorities:

- Maximizing the Impact of State Funding and Programs Addressing Homelessness;
- Racial Equity in Responses to Homelessness and Housing Instability;
- Tailoring Strategies for Preventing and Ending Homelessness for Youth and Young Adults;
- Strengthening Employment Opportunities and Outcomes for People with Experiences of Homelessness; and
- Preventing Homelessness Among People Transitioning Back into Communities from Corrections Settings.

State Homelessness Data Integration System (HDIS)*:* CA-ICH also launched a state HDIS system that captures the information collected and tracked in local HMIS databases. CoCs manage HMIS, local information technology systems used to collect client-level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness. Each CoC is responsible for selecting an HMIS software solution that complies with HUD's data collection, management, and reporting standards.

All 44 CoCs in the state have entered into contracts to provide their HMIS data to CA-ICH. HDIS is intended to give the state a more accurate picture of the local homelessness response system and inform the state's response to homelessness. Using data from HDIS, the state recently developed a Statewide Landscape Assessment. AB 140 (Committee on Budget), Chapter 111, Statutes of 2021, required BCSH to conduct or contract with an entity to develop this landscape assessment. The purpose of the landscape assessment was to evaluate the existing funding allocated within the various state departments to prevent and end homelessness and link the funds to the actual services and resources state agencies utilize them to provide. The assessment, the first of its kind done in California, allows for more accurate data collection for targeting future investments more effectively.

The next step for HDIS is to use the data to determine if people experiencing homelessness are receiving the state and federal benefits they are eligible for and that could help increase their income to reduce their housing insecurity. AB 977 (Gabriel), Chapter 397, Statutes of 2021, required all state agencies and departments administering programs that serve people that may be experiencing homelessness to enter their data into HDIS so that locals can determine if people in the local HMIS are eligible for, or enrolled in, all of the safety net programs for which they may be eligible. Although this requirement is in statute, there are no outcome requirements for the Legislature to determine if this coordination is occurring and its effectiveness in resolving individual homelessness, nor did the landscape assessment contain any specific outcome evaluations.

Statewide Homelessness Coordinator: This bill would create a Statewide Homelessness Coordinator in the Governor's office to coordinate the state's response to homelessness. The Coordinator would be responsible for identifying a leader in each city or county to serve as a liaison between the coordinator and the jurisdiction. Large cities, counties and CoCs are required to set goals as part of HHAP as a condition of receiving funding. The state has not set any goals to reduce homelessness either statewide or for local governments. The coordinator would be required to set state goals to address homelessness.

Arguments in Support: None on file.

Arguments in Opposition: None on file.

Related Legislation:

AB 86 (Jones-Sawyer) of 2023 was identical to this bill and would have required the Governor to appoint a Statewide Homelessness Coordinator (Coordinator) within the Governor's Office to serve as the lead person for ending homelessness in the state. This bill was held in Senate Appropriations Committee.

AB 2345 (L. Rivas) of 2022 would have established the Office of Interagency Council on Homelessness as the lead entity for ending homelessness in California, subsumes the California Interagency Council on Homelessness into the Office, and creates a funding workgroup (workgroup) with various duties. This bill was held in the Assembly Appropriations Committee.

AB 1845 (L. Rivas) of 2020 would have created the Governor's Office to End Homelessness under the direction of the Secretary on Homelessness, and would have moved the CA-ICH from BCSH into the Governor's Office to End Homelessness. This bill was vetoed by the Governor.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2373 (Rendon) – As Amended March 7, 2024

SUBJECT: Mobilehomes: tenancies

SUMMARY: Limits the ability of mobilehome park management to terminate a tenancy for nonpayment or for a change of park use if the park permit to operate is suspended or expired, as specified. Specifically, **this bill**:

1) Prohibits a tenancy from being terminated for nonpayment of rent, utility charges, or reasonable incidental service charges, as specified, or for a change of use of the park or any portion thereof, and prohibits issuance of a notice of termination based on those reasons, during the period of any suspension or expiration of the permit to operate the park, as required by specified law.

2) Allows a tenancy to be terminated and a notice to be issued under 1) only after both of the following occur:

    a) The violation that was the basis of the suspension or expiration of the permit to operate has been corrected; and

    b) A valid permit to operate has been issued by the enforcement agency.

EXISTING LAW:

1) Declares it unlawful for any person to do any of the following unless they have a valid permit issued by an enforcement agency:

    a) Construct a mobilehome park;

    b) Construct additional buildings or lots, or alter buildings, lots, or other installations in an existing park;

    c) Operate, occupy, rent, lease, sublease, let out, or hire out for occupancy any lot in a park that has been constructed, reconstructed, or altered without having obtained a permit as required by the Mobilehome Parks Act (MPA); or

    d) Operate a park or any portion thereof. (Health and Safety Code (HSC) Section 18500)

2) Requires a permit to operate to be issued by the enforcement agency, and requires a copy of each permit to operate to be issued to the Department of Housing and Community Development (HCD). Prohibits a permit to operate from being issued for a park where the previous operating permit has been suspended by the enforcement agency, until the violations which were the basis for the suspension have been corrected. Requires a permit to operate to be issued for a 12-month period and invoiced according to a method and schedule established by HCD. (HSC 18506)

3) Requires the enforcement agency to be notified by the new owner or operator of any park of any change in the name or ownership or possession thereof. Requires the notice to be in written form and to be furnished within 30 days from and after any such change in name or transfer of ownership or possession. Following receipt of the notice and fee, the enforcement agency must record the change of ownership or possession and must issue an amended permit to operate, except as specified in 2). (HSC 18507)

4) Allows an enforcement agency to suspend a permit if any person who holds a permit to operate violates the permit or the MPA. Requires the enforcement agency to issue and serve upon the permittee a notice setting forth in what respect the provisions of the permit or the MPA have been violated, and must notify them that unless these provisions have been complied with within 30 days after the date of notice, the permit shall be subject to suspension. (HSC 18510 and 18511)

5) Requires the enforcement agency to reinstate the permit or issue a new permit to operate upon compliance by the permittee with the provisions of the MPA and of the notice. (HSC 18518)

6) Allows management to terminate a tenancy only for one or more of the following reasons:

    a) 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;

    b) Conduct by the homeowner or resident, upon the park premises, that constitutes a substantial annoyance to other homeowners or residents;

    c) Conviction of the homeowner or resident for specified crimes, if the act resulting in the conviction was committed anywhere on the premises of the mobilehome park, including, but not limited to, within the homeowner's mobilehome;

    d) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment;

    e) Nonpayment of rent, utility charges, or reasonable incidental service charges, provided that the amount due has been unpaid for a period of at least five days from its due date, and provided that the homeowner must be given a three-day written notice subsequent to that five-day period to pay the amount due or vacate the tenancy, as specified;

    f) Condemnation of the park; or

    g) Change of use of the park or any portion thereof, provided specified written notices have been provided by management within specified timeframes. (Civil Code (CC) Section 798.56)

7) Prohibits management from terminating or refusing to renew a tenancy, except for a reason specified in 2) and upon giving written notice to the homeowner in the manner prescribed in specified law to sell or remove, at the homeowner's election, the mobilehome from the park within a period of not less than 60 days, which period must be specified in the notice.

Requires a copy of this notice to be sent to the legal owner of the mobilehome, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, by United States mail within 10 days after notice to the homeowner. (CC 798.55(b)(1))

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "Californians living in mobile homes tend to be older, lower-income, immigrants, and/or people of color. This is a disadvantaged population that needs and deserves greater eviction protections from the state of California. By ensuring that mobile home park owners have valid, up-to-date permits and are in good legal standing before they begin initiating eviction proceedings against tenants, this bill will hold management accountable, while offering a new level of protection for mobile home residents."

Background: More than 1 million people live in California's approximately 4,500 mobilehome parks. Mobilehomes are not truly mobile, in that it is often cost prohibitive to relocate them. The cost to move a mobilehome ranges from $2,000 to upwards of $20,000 depending on the size of the home and the distance traveled. A mobilehome owner whose home is located in a mobilehome park does not own the land the unit sits on, and must pay rent and fees for the land and any community spaces to their parkowner, unless the park is collectively owned by the residents, in which case the RO operates like a homeowners association.

The Mobilehome Residency Law (MRL) extensively regulates the relationship between landlords and homeowners who occupy a mobilehome park. A limited number of provisions also apply to residents who rent, as opposed to own, their mobilehome. The MRL has two parts: Articles 1 through 8 apply to most mobilehome parks and Article 9 applies to resident-owned parks or parks which are established as a subdivision, cooperative or condominium. The provisions cover many issues, including, but not limited to: 1) the rental and lease contract terms and specific conditions of receipt and delivery of written leases, park rules and regulations, and other mandatory notices; 2) mandatory notice and amendment procedures for mobilehome park rules and regulations; 3) mandatory notice of fees and charges, and increases or changes in them; and 4) specified conditions governing mobilehome park evictions. A dispute that arises regarding the MRL generally must be resolved in a civil court of competent jurisdiction.

HCD oversees several areas of mobilehome law, including health and safety standards, registration and titling of mobilehomes and parks, and, through the Mobilehome Ombudsman, assists the public with questions or problems associated with various aspects of mobilehome law. The Mobilehome Ombudsman provides assistance by taking complaints and helping to resolve and coordinate the resolution of those complaints. However, the Ombudsman does not have enforcement authority for the MRL, and cannot arbitrate, mediate, negotiate, or provide legal advice on mobilehome park rent disputes, lease or rental agreements, but may provide general information on these issues. The Mobilehome Residency Law Protection Program at HCD also intakes resident complaints regarding alleged violations of the MRL and refers complaints to legal service providers.

Mobilehome Parks Act: The MPA requires HCD to regulate mobilehome parks to assure protection of the health, safety, and general welfare of all mobilehome park residents. Local agencies have the option of assuming enforcement authority of the MPA within their jurisdiction

through agreement with HCD. Among these enforcement duties is performing health and safety inspections of parks.

The MPA also requires each mobilehome park to pay an annual fee and obtain a permit to operate from either HCD or the local enforcement agency. Operating permits last for a year and the enforcement agency has the ability to suspend an operating permit in the event of substandard conditions at the park or other violations of the MPA. If a mobilehome park or an individual park resident is found to be in violation of the MPA, the law requires the enforcement agency to promptly issue a notice to correct the violation or violations identified in the agency's inspection to the park owner or operator, or to the registered owner of the mobilehome.

If the park owner or operator does not correct the violations or otherwise violates the terms of their operating permit, the enforcement agency must notify the permit holder of the specific terms or provisions they are violating, and provide a 30-day window for the permittee to come into compliance. If the 30 days elapses with no compliance, the enforcement agency can suspend the permit to operate. Current law declares it unlawful for any person to operate a park without a valid permit, but the author points to instances in their district of park management with suspended park permits raising rents on park residents and performing evictions in violation of this provision.

This bill would incorporate into the MRL an explicit prohibition on park management terminating a tenancy for nonpayment or for a change of park use if the park permit to operate is suspended or expired. Management would only be legally able to take such actions after the violation that was the basis of the permit suspension or expiration has been corrected, and the permit has been issued or re-issued by the enforcement agency.

Arguments in Support: According to the Golden State Manufactured-home Owners League (GSMOL), "Under today's Mobilehome Residency Law, management of the mobilehome park may only terminate a tenancy for specific reasons, including nonpayment of rent, utility charges, or reasonable incidental charges, or change of use of the park. Like a corporation who cannot maintain a legal action in court unless it is in good standing with the Secretary of State, a park should maintain good standing with a valid [permit to operate] before they pursue a legal eviction against a resident."

Arguments in Opposition: None on file.

Related Legislation:

AB 2022 (Addis) of the current legislative session would add new requirements to the emergency preparedness plan and emergency procedures that mobilehome park owners or operators must adopt and comply with, to take effect July 1, 2025. This bill is currently pending a hearing in this committee.

AB 2247 (Wallis) of the current legislative session extends the sunset date on the MPA from January 1, 2025 to January 1, 2030, and requires a notice of violation to include information about the Manufactured Housing Opportunity and Revitalization (MORE) Program. This bill is currently pending a hearing in this committee.

SB 1108 (Ochoa Bogh) of the current legislative session would indefinitely extend provisions of the MPA relating to HCD enforcement authority of the health and safety standards for

mobilehome parks, make changes requiring HCD to mail a copy of a first notice of violation for a resident's violation of the MPA or related regulations to the park's designated responsible person, increase the time allowed for correction of a violation from 60 to 90 days, and make HCD responsible for exhausting all administrative and legal recourse against a resident before requiring action by the mobilehome park. This bill is currently pending before the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Golden State Manufactured-home Owners League

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2399 (Rendon) – As Amended March 21, 2024

SUBJECT: Mobilehome park residences: rental agreements: Mobilehome Residency Law Protection Program

SUMMARY: Requires the rental agreement for a tenancy in a mobilehome park and the existing notice that must be provided to all homeowners by February 1 each year to include specified information about the Mobilehome Residency Law Protection Program (MRLPP). Specifically, **this bill**:

1) Requires the existing notice that must be provided in a rental agreement with specified information about rights and responsibilities under the Mobilehome Residency Law (MRL) to also include the following statement:

    a) "The Mobilehome Residency Law Protection Program (MRLPP), found in Section 18800 et seq. of the Health and Safety Code, protects and safeguards mobilehome homeowners and residents by affording them an additional avenue to enforce violations of the MRL. The Department of Housing and Community Development (HCD) administers the program by providing assistance in taking complaints and helping to resolve and coordinate the resolution of those complaints from homeowners and residents relating to the MRL. The HCD contracts with nonprofit legal service providers and refers complaints of alleged MRL violations to these legal service providers. The HCD may not arbitrate, mediate, negotiate, or provide legal advice in connection with mobilehome park rent disputes, lease or rental agreements, or disputes arising from lease or rental agreements, but may provide information on these issues to the complaining party, management, or other responsible party. The MRLPP is funded by an annual registration fee of $10.00 for each permitted mobilehome lot, collected from management, which management may pass on and collect from the homeowner at the time of rent payment. The annual MRLPP registration fee must appear as a separate line item on the rent bill and be accompanied by a clear written description of the purposes of the charge, along with contact information for the HCD. For questions regarding the fee or the MRLPP, contact: the HCD at MHAssistance@hcd.ca.gov or by calling (800) 952-8356."

2) Requires the statement in 1)a) to also be provided in the copy of the existing notice with specified information about rights and responsibilities under the MRL that must be provided by management to all homeowners by February 1 of each year.

EXISTING LAW:

1) Regulates, pursuant to the MRL, the rights, responsibilities, obligations, and relationships between mobilehome park management and park residents. (Civil Code (CC) Section 798, et seq.)

2) Establishes the Mobilehome Residency Law Protection Act (MRLPA). States the intent of the Legislature in enacting the MRLPA is to protect and safeguard the most vulnerable

mobilehome homeowners by affording them an additional avenue to enforce violations of the MRL. (Health and Safety Code (HSC) Section 18800)

3) Establishes the Mobilehome Residency Law Protection Program (MRLPP) within the Department of Housing and Community Development (HCD). Requires HCD to provide assistance in taking complaints, and helping to resolve and coordinate the resolution of those complaints, from homeowners related to the MRL. (HSC 18802)

4) Requires a mobilehome park rental agreement to be in writing and to contain specified provisions, including a copy of a notice with the following:

> IMPORTANT NOTICE TO ALL MANUFACTURED HOME/MOBILEHOME OWNERS: CALIFORNIA LAW REQUIRES THAT YOU BE MADE AWARE OF THE FOLLOWING:
>
> The Mobilehome Residency Law (MRL), found in Section 798 et seq. of the Civil Code, establishes the rights and responsibilities of homeowners and park management. The MRL is deemed a part of the terms of any park rental agreement or lease. This notice is intended to provide you with a general awareness of selected parts of the MRL and other important laws. It does not serve as a legal explanation or interpretation. For authoritative information, you must read and understand the laws. These laws change from time to time. In any year in which the law has changed, you may obtain one copy of the full text of the law from management at no charge. This notice is required by Civil Code Section 798.15(i) and the information provided may not be current.
>
> Homeowners and park management have certain rights and responsibilities under the MRL. These include, but are not limited to:
>
> 1. Management must give a homeowner written notice of any increase in his or her rent at least 90 days before the date of the increase. (Civil Code Section 798.30)
>
> 2. No rental or sales agreement may contain a provision by which a purchaser or a homeowner waives any of his or her rights under the MRL. (Civil Code Sections 798.19, 798.77)
>
> 3. Management may not terminate or refuse to renew a homeowner's tenancy except for one or more of the authorized reasons set forth in the MRL. (Civil Code Sections 798.55, 798.56) Homeowners must pay rent, utility charges, and reasonable incidental service charges in a timely manner. Failure to comply could be grounds for eviction from the park. (Civil Code Section 798.56)
>
> 4. Homeowners, residents, and their guests must comply with the rental agreement or lease, including the reasonable rules and regulations of the park and all applicable local ordinances and state laws and regulations relating to mobilehomes. Failure to comply could be grounds for eviction from the park. (Civil Code Section 798.56)
>
> 5. Homeowners have a right to peacefully assemble and freely communicate with respect to mobilehome living and for social or educational purposes. Homeowners have a right to meet in the park, at reasonable hours and in a reasonable manner, for any lawful purpose. Homeowners may not be charged a cleaning deposit in

order to use the park clubhouse for meetings of resident organizations or for other lawful purposes, such as to hear from political candidates, so long as a homeowner of the park is hosting the meeting and all park residents are allowed to attend. Homeowners may not be required to obtain liability insurance in order to use common facilities unless alcohol is served. (Civil Code Sections 798.50, 798.51)

6. If a home complies with certain standards, the homeowner is entitled to sell it in place in the park. If you sell your home, you are required to provide a manufactured home and mobilehome transfer disclosure statement to the buyer prior to sale. (Civil Code Section 1102.6d) When a home is sold, the owner is required to transfer the title to the buyer. The sale of the home is not complete until you receive the title from the seller. It is the responsibility of the buyer to also file paperwork with the Department of Housing and Community Development to register the home in his or her name. (Civil Code Sections 798.70–798.74)

7. Management has the right to enter the space upon which a mobilehome is situated for maintenance of utilities, trees, and driveways; for inspection and maintenance of the space in accordance with the rules and regulations of the park when the homeowner or resident fails to maintain the space; and for protection and maintenance of the mobilehome park at any reasonable time, but not in a manner or at a time that would interfere with the resident's quiet enjoyment of his or her home. (Civil Code Section 798.26)

8. A homeowner may not make any improvements or alterations to his or her space or home without following the rules and regulations of the park and all applicable local ordinances and state laws and regulations, which may include obtaining a permit to construct, and, if required by park rules or the rental agreement, without prior written approval of management. Failure to comply could be grounds for eviction from the park. (Civil Code Section 798.56)

9. In California, mobilehome owners must pay annual property tax to the county tax collector or an annual fee in lieu of taxes to the Department of Housing and Community Development (HCD). If you are unsure which to pay, contact HCD. Failure to pay taxes or in lieu fees can have serious consequences, including losing your home at a tax sale.

10. For more information on registration, titling, and taxes, contact: the Department of Housing and Community Development www.hcd.ca.gov (800) 952-8356; your County Tax Collector; or call your local county government.

FISCAL EFFECT: None.

COMMENTS:

Author's Statement: According to the author, "Californians who live in mobile homes tend to be older, low-income, and people of color. These populations are especially vulnerable to violations of their housing rights, including illegal rent increases and unlawful evictions. Mobile home residents deserve a greater level of protection, and stronger housing rights. AB 2399 would make sure that every year, California's mobile home residents are provided information about what legal services are available to them through the state's Mobilehome Residency Law Protection

Program. By notifying tenants of their rights and services, California can afford a stronger level of protection for mobile home residents most in need of support."

Background: More than 1 million people live in California's approximately 4,500 mobilehome parks. Mobilehomes are not truly mobile, in that it is often cost prohibitive to relocate them. The cost to move a mobilehome ranges from $2,000 to upwards of $20,000 depending on the size of the home and the distance traveled. A mobilehome owner whose home is located in a mobilehome park does not own the land the unit sits on, and must pay rent and fees for the land and any community spaces.

The MRL extensively regulates the relationship between landlords and homeowners who occupy a mobilehome park. A limited number of provisions also apply to residents who rent, as opposed to own, their mobilehome. The MRL has two parts: Articles 1 through 8 apply to most mobilehome parks and Article 9 applies to resident-owned parks or parks which are established as a subdivision, cooperative or condominium. The provisions cover many issues, including, but not limited to: 1) the rental and lease contract terms and specific conditions of receipt and delivery of written leases, park rules and regulations, and other mandatory notices; 2) mandatory notice and amendment procedures for mobilehome park rules and regulations; 3) mandatory notice of fees and charges, and increases or changes in them; and 4) specified conditions governing mobilehome park evictions. A dispute that arises pursuant to the application of the MRL generally must be resolved in a civil court of competent jurisdiction.

HCD oversees several areas of mobilehome law, including health and safety standards, registration and titling of mobilehomes and parks, and, through the Mobilehome Ombudsman, assists the public with questions or problems associated with various aspects of mobilehome law. The Mobilehome Ombudsman provides assistance by taking complaints and helping to resolve and coordinate the resolution of those complaints. However, the Ombudsman does not have enforcement authority for the MRL, and cannot arbitrate, mediate, negotiate, or provide legal advice on mobilehome park rent disputes, lease or rental agreements, but may provide general information on these issues.

HCD also inspects parks and mobilehomes for health and safety issues. Under the Mobilehome Park Maintenance (MPM) program, HCD annually inspects 5% of parks for compliance with health and safety requirements under the Health and Safety Code (Mobilehome Parks Act) and Title 25. The program is funded through a $4 fee, of which the property owner may charge half ($2) to the homeowners. In addition to the MPM program, HCD also responds to health and safety complaints under the Mobilehome Parks Act.

MRLPP: AB 3066 (Stone), Chapter 744, Statutes of 2018, established the MRLPP as a time-limited five year pilot program to intake complaints regarding alleged violations of the MRL and refer complaints to legal service providers (LSPs). Last year, the Legislature extended the program for another three years. The MRLPP is meant to resolve certain disputes between mobilehome/manufactured homeowners in mobilehome parks and park owners/management, and the annual program fee is paid by homeowners.

HCD performed a review of the program in 2023 and recommended, among other changes, that the program allow for more homeowner education opportunities so more homeowners become aware of the program's existence. This bill would require the following statement to be provided in rental agreements and annually to homeowners:

The Mobilehome Residency Law Protection Program (MRLPP), found in Section 18800 et seq. of the Health and Safety Code, protects and safeguards mobilehome homeowners and residents by affording them an additional avenue to enforce violations of the MRL. The Department of Housing and Community Development (HCD) administers the program by providing assistance in taking complaints and helping to resolve and coordinate the resolution of those complaints from homeowners and residents relating to the MRL. The HCD contracts with nonprofit legal service providers and refers complaints of alleged MRL violations to these legal service providers. The HCD may not arbitrate, mediate, negotiate, or provide legal advice in connection with mobilehome park rent disputes, lease or rental agreements, or disputes arising from lease or rental agreements, but may provide information on these issues to the complaining party, management, or other responsible party. The MRLPP is funded by an annual registration fee of $10.00 for each permitted mobilehome lot, collected from management, which management may pass on and collect from the homeowner at the time of rent payment. The annual MRLPP registration fee must appear as a separate line item on the rent bill and be accompanied by a clear written description of the purposes of the charge, along with contact information for the HCD. For questions regarding the fee or the MRLPP, contact: the HCD at MHAssistance@hcd.ca.gov or by calling (800) 952-8356.

Arguments in Support: According to the Golden State Manufactured-home Owners League (GSMOL), "The MRLPP was developed for and is funded by mobilehome residents to protect mobilehome residents from park owners who violate the Mobilehome Residency Law. In their 2021-22 annual report, the state Department of Housing and Community Development highlighted the need for education and outreach to mobilehome homeowners regarding the Mobilehome Residency Law Protection Program. Ensuring mobilehome residents receive notice of the MRLPP program is a critical first step to this outreach."

Arguments in Opposition: According to the Western Manufactured Housing Communities Association (WMA), "If the current list required by the MRL of ten rights and responsibilities is expanded to include the MRLPP, WMA may wish to add other items guest use of common areas and how many pets a tenant may have to name a couple. Expanding this list opens the door to an overload of information provided in summary form but which is already included in the existing MRL. Further, if AB 2399 is signed into law this year, it would be virtually impossible for HCD to provide the appropriate language for notification in 2025. Given that the MRLPP is set to expire on January 1, 2027, this means the notice provided to tenants would effectively only be in effect for 2026."

Related Legislation:

AB 2291 (Alanis) of the current legislative session would suspend collection of the MRLPP fee and make other changes to how HCD oversees LSPs who have contracted with the department to execute functions under the MRLPP. This bill is currently pending before this committee.

AB 318 (Addis), Chapter 736, Statutes of 2023: Extended the sunset on the MRLPP from January 1, 2024 to January 1, 2027, and made several changes to the program.

AB 3066 (Stone), Chapter 774, Statutes of 2018: Established the Mobilehome Residency Law Protection Act.

REGISTERED SUPPORT / OPPOSITION:

Support

Golden State Manufactured-home Owners League

Opposition

Western Manufactured Housing Communities Association

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2433 (Quirk-Silva) – As Amended April 15, 2024

SUBJECT: California Private Permitting Review and Inspection Act: fees: building permits

SUMMARY: Allows an applicant for a building permit to employ a private professional provider to perform plan-checking services, assess plans and specifications, and complete building inspections if the local agency fails to perform these functions within specified timeframes. Specifically, **this bill**:

1) Creates the California Private Permitting Review and Inspection Act.

2) Allows an applicant for a building permit to contract with or employ at the applicant's own expense a private professional provider (provider) to perform plan-checking services and ensure that the plans and specifications comply with State Housing Law and the State Building Code, if the local agency has not completed the plan-checking services related to the plans and specifications submitted as part of the application within 30 business days of receiving an application for a building permit.

3) Allows an applicant to contract with or employ at the applicant's own expense a private professional provider to complete the inspection, if the local agency has not completed the inspection within five business days of receiving a request as part of the application for a building permit.

4) Requires a provider to perform plan-checking services or inspection to determine compliance with the State Housing Law and the State Building Code.

5) Requires, if the plans and specifications or the building complies with the State Housing Law and the State Building Code, the provider to prepare an affidavit under penalty of perjury on a form prescribed by the local agency stating all of the following:

   a) The provider performed the plan-checking services or inspection pursuant to this bill; and

   b) The plans and specification or building complies with State Housing Law and the State Building Code.

6) Requires the applicant to submit to the local agency a report of the plan-checking services or inspection pursuant to this bill within five business days of the completion of the plan-checking services or inspection. The report shall include both of the following:

   a) The affidavit described in 6), above; and

   b) Information required by the local agency.

7) Requires, within 30 business days of receiving the report pursuant to 7), the local agency to consider the report and based on the report, do either of the following:

a) Issue the building permit if the plans and specifications or building and provider complies with State Housing Law or the State Building Code; and

b) Deny the building permit and notify the applicant in writing that the plans and specifications, building, or provider does not comply with State Housing Law or the State Building Code if the plans and specifications, building, or provider does not comply with State Housing Law or the State Building Code. The notice shall specify the requirements for the plans and specifications, building, or provider to comply with State Housing Law and the State Building Code.

8) Allows an applicant to appeal a denial of a building permit pursuant to7)to the local appeals board.

9) Provides that this bill shall not apply to any of the following buildings:

a) Health facilities;

b) Public buildings; and

c) Highrise structures.

10) Requires the building department of a city, including a charter city, or county to prepare a schedule of fees and post the schedule on its internet website if the city or county prescribes fees for permits, certificates, or other forms or documents required or authorized by State Housing Law.

11) Provides the following terms for the purposes of this bill:

a) "Health facility" has the same meaning as defined in Section 1250 of the Health and Safety Code;

b) "Highrise structure" means a building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest floor level having building access; and

c) "Private professional provider" means a professional engineer licensed pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code) or an architect licensed pursuant to the Architects Practice Act (Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code).

12) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill or because costs that may be incurred by a local agency or school district will be incurred because this bill creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

EXISTING LAW:

1) Allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including land use authority. (California Constitution, Article XI, Section 7)

2) Establishes the California Building Standards Commission (CBSC) within the Department of General Services and requires CBSC to approve and adopt building standards and to codify those standards in the California Building Standards Code. (Health and Safety Code (HSC) Section 18930)

3) Establishes State Housing Law to assure the availability of affordable housing and uniform statewide code enforcement to protect the health, safety, and general welfare of the public and occupants of housing and accessory buildings. (HSC 17910)

4) Establishes the Permit Streamlining Act (PSA), which, among other things, establishes time limits within which state and local government agencies must either approve or disapprove permits to entitle a development. (Government Code (GOV) Section 65920 - 65964.5)

5) Establishes standards and requirements for local agencies to review non-discretionary postentitlement phase permits, including time limits within which local agencies must either approve or disapprove postentitlement permits. (GOV 65913.3).

6) Allows the governing body of a local agency to authorize its enforcement agency to contract with or employ a private entity or persons on a temporary basis to perform plan-checking functions, as specified. (HSC 17960.1, 19837)

7) Requires a local agency to contract with or employ a private entity or persons on a temporary basis to perform plan-checking functions, upon the request of an applicant, for specified structures when there is an "excessive delay" in checking the plans and specifications that are submitted as a part of the application. (HSC 17960.1, 19837)

    a) For a residential building permit, "excessive delay" generally means the building department or building division of a local agency has taken more than 30 days after submitting a complete application to complete the structural building safety plan check of the applicant's set of plans and specifications that are suitable for checking. "Residential building" means a one-to-four family detached structure not exceeding three stories in height. (HSC 17960.1)

    b) For a nonresidential permit for a building other than a hotel or motel that three stories or less, "excessive delay" generally means the building department or building division of the local agency has taken more than 50 days after submitting a complete application to complete the structural building safety plan check of the applicant's set of plans and specifications that are suitable for checking. (HSC 19837)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "efficiency is key for economic growth and effective governance. AB 2433 aims to cut through the red tape in the building permit process by setting reasonable, common-sense deadlines for plan-checking and inspections. It is all about keeping projects moving forward smoothly and providing relief to our local agencies facing challenges in timely permit processing. By making the permit process more efficient, we support our communities and businesses alike."

State Housing Law and the State Building Code: State Housing Law establishes statewide construction and occupancy standards for buildings used for human habitation. Existing law authorizes the governing body of a county or city to prescribe fees for permits, certificates, or other forms or documents required or authorized under the State Housing Law, and fees to defray the cost of enforcement required by the law to be carried out by local enforcement agencies.

The California Building Standards Code contains building standards and regulations as adopted by the CBSC. These standards include, among other requirements, structural standards for building safety (the Building Code), fire safety standards (the Fire Code), energy efficiency standards (the Energy Code), and standards for green buildings (CalGreen).

The BSC updates the Building Standards Code on a three-year cycle. Once adopted at the state level, cities and counties in California then enact an ordinance to adopt the codes. New construction and improvements to existing buildings must comply with the current building codes, and improvements to an existing building may trigger additional code upgrades for other parts of the building.

Existing law requires the building department of every city or county to enforce the provisions of the State Housing Law, the California Building Standards Code, and the other specified rules and regulations promulgated pursuant to the State Housing Law.

Planning for and Approval of New Development: Planning for, and approving, new development is mainly a local responsibility. The California Constitution allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public – including land use authority. Cities and counties enforce this land use authority through zoning regulations, as well as through an "entitlement process" for obtaining discretionary as well as ministerial approvals, and through the issuance of building permits.

The Permit Streamlining Act (PSA): The PSA requires public agencies to act fairly and promptly on applications for development proposals. Under the PSA, public agencies have 30 days to determine whether applications for development projects are complete and request additional information; failure to act results in an application being "deemed complete." The PSA applies to the discretionary approval phase of a development review process; this is the phase where the agency, in its discretion, decides whether it approves of the concept outlined in the development proposal.

Non-discretionary Postentitlement Permits: A development proposal that is approved and entitled by a local agency is still required to obtain approval for a range of non-discretionary

permits. This includes building permits and other permits related to the physical construction of the development proposal. The timelines established in the PSA do not apply to these non-discretionary permits.

Essentially, the PSA applies to the discretionary approval phase of a development review process. This is the phase where the local agency, in its discretion, decides whether or not it approves of the concept outlined in the development proposal. Because the local agency is exercising discretion, these approval decisions are subject to CEQA. A development proposal that is approved and entitled by a local agency must also obtain approval of objective permits associated with the development proposal. This ensures the proposal is compliant with state and local building codes and other measures that protect public health, safety and the environment. This stage of the review process is often ministerial, as these post-entitlement permits are typically objective in nature. Generally, once a local agency invests the time and effort to approve and entitle a development proposal, there is an incentive for the agency to process the post-entitlement permits in a timely fashion.

Excessive Delays for Plan Checks: The California Department of Housing & Community Development (HCD) identifies lengthy permit processing timelines and procedures as a governmental constraint to housing development. According to Annual Progress Report (APR) data self-reported to HCD by local governments, it takes an average of 279 days for a housing development with five or more units to receive building permits after it has received entitlement from the local Planning Department.[1] Buildings with 2-4 units typically move from "entitled" to "permitted" within 223 days, and accessory dwelling units (ADUs), which have a statutory approval timeline of 60 days from a complete application, still take an average of 161 days to be issued building permits.[2] Some jurisdictions are much slower than the statewide average. For example, the average entitled development in San Francisco takes 699 days to receive a building permit.[3]

In HCD's San Francisco Housing Policy and Practice Review, the department found that procedural complexities associated with housing entitlement and permitting are "not only a barrier to entry to new development professionals pursuing [housing] projects," but it may also cause developers to exit housing markets with complex permitting ecosystems and pursue developments in neighboring jurisdictions with less complex procedural requirements instead.[4]

Existing law requires a local agency to contract with or employ a private entity or persons on a temporary basis to perform plan-checking functions, upon the request of an applicant, when there is an "excessive delay" in checking the applicant's plans and specifications. For a residential building permit, "excessive delay" generally means the building department or building division of a local agency has taken more than 30 days after receiving a complete application to complete the structural building safety plan check of the applicant's set of plans and specifications that are suitable for checking. In this instance, "residential building" means a one-to-four family detached structure not exceeding three stories in height.

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[1] HCD APR Data Dashboard: https://www.hcd.ca.gov/planning-and-community-development/housing-open-data-tools/housing-element-implementation-and-apr-dashboard
[2] IBID.
[3] IBID.
[4] HCD San Francisco Policy & Practice Review, Page 13. Published October 2023. Accessed from: https://www.hcd.ca.gov/policy-and-research/plans-and-reports

This bill would allow applicants for a building permit to hire a provider to perform plan-checking services, and assess plans and specifications to ensure they comply with State Housing Law and the State Building Code, if the local agency fails to perform these functions within 30 business days of receiving an application for a building permit. Applicants may do the same for a building inspection if the local agency has not completed the inspection within five business days of receiving a request for an inspection as part of the permit application. In doing so, this bill addresses a key governmental constraint associated with the housing production pipeline – the post-entitlement process.

This bill requires a provider to perform plan-checking services or inspections to determine compliance with State Housing Law and the State Building Code. If the plans and specifications or the building complies, the provider must prepare an affidavit under penalty of perjury on a form prescribed by the local agency stating that the provider performed the plan-checking services or inspection and that they comply with State Housing Law and the State Building Code.

This bill requires the applicant to submit to the local agency a report of the plan-checking services or inspection pursuant to this bill within five business days of the completion of those services. The report must include the affidavit from the provider and information required by the local agency. Within business 30 days of receiving the report, the local agency must:

1. Issue the building permit if the plans and specifications or building and private professional provider complies with State Housing Law or the State Building Code.; and

2. Deny the building permit and notify the applicant in writing that the plans and specifications, building, or private professional provider does not comply with State Housing Law or the State Building Code, if that is the case. The notice must specify the requirements for the plans and specifications, building, or private professional provider to come into compliance. An applicant may appeal a denial to the local appeals board.

The building department of a city or county is also required to prepare a schedule of fees and post the schedule on its internet website if the city or county prescribes fees for permits, certificates, or other forms or documents required or authorized by State Housing Law.

This bill does not apply to health facilities, public buildings, or highrise structures.

Arguments in Support*:* A large coalition of supporters, including the sponsor of this bill, NAIOP California, state, that this bill "will improve the efficiency of California's building permit process, which in coordination with local planning officials will enable an alternative plan process and allow economic and community development opportunities to come to fruition more quickly. AB 2433 proposes the implementation of flexible fee structures, expedited inspection timelines, and the conditional employment of private professional services. These measures are designed to enhance the speed and predictability of permit processing, alleviating the unnecessary burdens currently borne by project applicants, particularly those in small business sectors and entities working on affordable housing in underserved communities.

The bill's emphasis on establishing definitive deadlines and permitting the sensible use of private professionals in the inspection process promises to cultivate a more streamlined, transparent, and conducive environment for growth and investment across California. Furthermore, AB 2433 thoughtfully ensures that critical safety and oversight measures remain uncompromised for major

projects. We believe that the enactment of AB 2433 represents an essential step towards fostering a more vibrant, equitable, and sustainable economic future for all Californians."

***Arguments in Opposition**:* The Rural County Representatives of California, the California State Association of Counties, the Urban Counties of California, and the League of California Cities write, "we understand the issue of lagging permitting times in some jurisdictions and would like to find a path to facilitating that needed construction, whether commercial or residential, in a reasonable amount of time. However, we do not believe that the solution put forth in AB 2433 adequately preserves a local jurisdiction's ability and duty to enforce building related laws. AB 2433 allows an applicant for a construction project (large or small with the only exceptions being health facilities, high rises and public buildings) to pay a private third party to review plans and inspect the site, even if that is the same professional that designed the plans and works with (or for) the company. Even if the bill included an anti-collusion provision that disallowed services from professionals connected with a project, there is a clear financial incentive for the person paid by the applicant to do site review and inspection to render decisions favorable to applicant. Quite simply, directly paying the 'regulator' (a private individual in this case) to regulate you leads to biased results and creates a structure of deregulation.

Building inspection is an important step in the public safety process – there are many examples of unpermitted activities leading to catastrophic outcomes, such as 2016 Valley fire that killed four people and burned over 76,000 acres - all caused by an unpermitted hot tub electrical connection. We are concerned that as currently drafted, AB 2433 removes government oversight in the permitting process, allowing only approval or denial based on a private third-party report, negating any involvement, oversight or independent verification or judgment of the facts by the local jurisdiction."

Related Legislation:

AB 3012 (Grayson). Would require a city or county that has an internet website to make a fee estimate tool that the public can use to calculate an estimate of fees and exactions for a proposed housing development project available on its internet website. AB 3012 is pending in this Committee.

AB 2234 (Robert Rivas), Chapter 651, Statutes of 2022. Required local agencies to process non-discretionary permits within 30 days for small housing development projects and 60 days for large housing development projects.

SB 423 (Wiener), Chapter 778, Statutes of 2023. Amended SB 35 (Wiener), which created a streamlined, ministerial local approvals process for housing development proposals in jurisdictions that have failed to produce sufficient housing to meet their RHNA. Local jurisdictions are required to complete their planning approvals process within 60 days for developments of less than or equal to 150 units, and 90 days for developments containing more than 150 units. City Agencies shall review subsequent permits to implement the approved development, and review of these permits shall not chill, inhibit, or preclude the development.
AB 2221 (Quirk-Silva), Chapter 650, Statutes of 2022. Required, among other provisions, all local agencies involved with reviewing ADUs, including planning departments and utility companies, to complete their review within 60 days of a complete application.

AB 2011 (Wicks), Chapter 647, Statutes of 2021. Created the Affordable Housing and High Road Jobs Act of 2022, creating a streamlined, ministerial local review and approvals process for

certain affordable and mixed-use housing developments in commercial zoning districts and commercial corridors. A current bill, AB 2243 (Wicks) would amend AB 2011 to facilitate the conversion of office buildings to residential uses, among other provisions. Local jurisdictions are required to complete their planning approvals process within 60 days for developments of less than or equal to 150 units, and 90 days for developments containing more than 150 units. City Agencies shall review subsequent permits to implement the approved development, and review of these permits shall not chill, inhibit, or preclude the development.

Double referred: This bill is double-referred. It was heard in the Assembly on Local Government, and passed on a vote of 8-0 on April 10, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

NAIOP California (Sponsor)
Associated General Contractors
Bay Area Council
Building Owners and Managers Association of California
California Apartment Association
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Manufacturing Technology Association
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Folsom Chamber of Commerce
Institute of Real Estate Management
Lincoln Area Chamber of Commerce
Rancho Cordova Area Chamber of Commerce
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
Shingle Springs/Cameron Park Chamber of Commerce
UCAN Chambers of Commerce
United Chamber Advocacy Network
YIMBY Action
Yuba Sutter Chamber of Commerce

Opposition

California Building Officials
California Fire Chiefs Association
Fire Districts Association of California

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2479 (Haney) – As Amended March 19, 2024

SUBJECT: Housing First: core components

SUMMARY: Adds requirements for recovery housing to meet to qualify for state funding under the Housing First definition. Specifically, **this bill**:

1) Allows state departments and agencies to allow programs to fund recovery housing if the state program uses at least 75% percent of funds for housing or housing-based services using a harm-reduction model, and the recovery housing complies with all of the following:

    a) The individual or family is offered options and chooses recovery housing over housing offering a harm-reduction approach;

    b) The recovery housing otherwise complies with all other components of Housing First;

    c) Participation in a program is self-initiated;

    d) Core outcomes emphasize long-term housing stability and minimize returns to homelessness;

    e) Policies and operations ensure individual rights of privacy, dignity, and respect, and freedom from coercion and restraint, as well as continuous, uninterrupted access to the housing;

    f) Holistic services and peer-based recovery supports are available to all program participants along with services that align with participants' choice and prioritization of personal goals of sustained recovery and abstinence from substance use;

    g) The housing abides by local and state landlord-tenant laws governing grounds for eviction; and

    h) Relapse is not a cause for eviction from housing and, instead, tenants receive relapse support. Eviction from recovery housing should only occur when a tenant's behavior substantially disrupts or impacts the welfare of the recovery community in which the tenant resides. A tenant may apply to reenter the housing program if expressing a renewed commitment to living in a housing setting targeted to people in recovery with an abstinence focus. If a tenant is no longer interested in living in a recovery-housing model or the tenant is at risk of eviction, the housing program provides assistance in accessing housing operated with harm-reduction principles that is also permanent housing.

2) Defines "recovery housing" to mean a housing model using substance use-specific services, peer support, and physical design features supporting individuals and families on a path to recovery from addiction that emphasizes abstinence.

EXISTING LAW:

1) Establishes the California Interagency Council on Homelessness (Cal-ICH) with the purpose of coordinating the state's response to homelessness by utilizing Housing First practices. (Welfare and Institutions Code Section 8255)

2) Requires agencies and departments administering state programs created on or after July 1, 2017 to incorporate the core components of Housing First. (WIC 8255)

3) 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. (WIC 8255)

4) Defines, among other things, the "core components of Housing First" to mean:

    a) Acceptance of referrals directly from shelters, street outreach, drop-in centers, and other parts of crisis response systems frequented by vulnerable people experiencing homelessness;

    b) Supportive services that emphasize engagement and problem-solving over therapeutic goals and service plans that are highly tenant-driven without predetermined goals;

    c) Participation in services or program compliance is not a condition of permanent housing tenancy;

    d) Tenants have a lease and all the rights and responsibilities of tenancy, as outlined in California's Civil, Health and Safety, and Government codes; and

    e) The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction. (WIC 8255)

5) Defines "recovery residence" to mean a residential dwelling that provides primary housing for individuals who seek a cooperative living arrangement that supports personal recovery from a substance use disorder and that does not require licensure by the department or does not provide licensable services. Provides that a recovery residence may include, but is not limited to, residential dwellings commonly referred to as "sober living homes," "sober living environments," or "unlicensed alcohol and drug free residences." (HSC 11833.05)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "Although housing that does not require sobriety works for thousands of people who aren't yet ready to enter drug free housing, it doesn't work for everyone. There are thousands of people who want to live in a strictly sober living arrangement but they can't access it because this type of housing is limited and hard to find. This causes people to live in housing that is not best suited for their sobriety journey and puts them at a higher risk of falling back into homelessness. AB 2479 aligns California policy with federal

guidelines by recognizing that drug free housing is a component of the housing first model and should get some statewide funding."

Homelessness in California: Based on the 2023 point in time count, California has the largest homeless population in the nation with 181,399 people experiencing homelessness on any given night. Many of those people (113,660) are unsheltered, meaning they are living outdoors and not in temporary shelters. Nearly half of all unsheltered people in the country were in California during the 2023 count. 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 six million renter households in the state, 1.7 million are paying more than 50% of their income toward 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.

Housing First: Decades of research demonstrate that evidence-based approaches like supportive housing – affordable housing coupled with wrap-around services – resolves homelessness for most individuals. In addition, the state has a policy of Housing First, which is an approach that prioritizes providing permanent housing to people experiencing homelessness, thus ending their homelessness and serving as a platform from which they can pursue personal goals and improve their quality of life. Many state and local programs effectively utilize these evidence-based approaches to address homelessness; however, the number of people falling into homelessness continues to overwhelm the response system and surpasses the affordable housing stock in many communities. These factors lead to persistently high rates of homelessness despite recent state and local investments. Other strategies, such as rental assistance and help with identifying and securing housing (housing navigation) can also help with those individuals who need prevention tools to avoid homelessness.

Recovery Housing: Under existing law, "recovery housing" or "sober living homes" are residential dwellings that provide cooperative living and that support an individual's personal recovery from a substance use disorder. These homes are not licensed by the Department of Health Care Services or any other state or local government. This bill seeks to allow state funding for homelessness programs to be used for recovery housing by adding recovery housing to the existing Housing First definition in statute. Recovery housing, as currently defined under existing law, is not required to comply with Housing First requirements, although some may do so. This bill would require a "recovery home" to comply with Housing First, which means that although the provider of the housing could emphasize abstinence, an individual would be offered options and would choose recovery housing over housing offering a harm-reduction approach; participation would be self-initiated; relapse is not a cause for eviction from housing and tenants receive relapse support; and policies and operations must ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint, as well as continuous, uninterrupted access to housing. By incorporating the principles of Housing First, an evidence-based approach to housing, recovery homes will ensure greater success for individuals to remain housed.

Shifting Funding: SB 1380 (Mitchell), Chapter 847, Statutes of 2016 required the state to adopt a Housing First approach and required all state-funded programs to comply with Housing First. Traditional recovery housing does not necessarily conform to Housing First because it is an abstinence-based approach to addressing substance abuse, meaning tenants who relapse, do not participate in mandatory programming, or do not comply with certain house rules might be

evicted. This bill would set new guidelines for how recovery homes could continue to provide an option for abstinence but also comply with Housing First. This bill would allow state programs to use 25% of available funding for homelessness for licensed recovery homes, as defined.

Overlapping Bills: This bill is very similar, though not identical to AB 2893 (Ward) which recently passed out of this committee. AB 2893 also adds a definition of recovery housing to the Housing First definition in state statute, with a few differences. AB 2893 also requires a recovery housing provider applying for state funds to demonstrate engagement with lived experience of homelessness as part of the program. AB 2893 also has a different definition of recovery housing.

Arguments in Support: According to the bill's cosponsor, the Salvation Army, "AB 2479 would allow state housing programs targeting people experiencing homelessness to use up to 25% of funding to support Recovery Housing projects. Recovery Housing is a housing model that utilizes substance use-specific services, peer support, and physical design features to support individuals and families on a path to recovery from addiction that emphasizes abstinence."

Arguments in Opposition: None on file.

Committee amendments: The committee may wish to consider amending this bill so that it matches the policy the committee already approved in AB 2893 (Ward).

Related Legislation:

AB 2893 (Ward) of the current legislative session would establish a certification process for recovery homes and adds a standard for recovery homes that meets the state's Housing First requirements. This bill passed out of the Assembly Housing and Community Development Committee 7-0 and is currently pending hearing in Assembly Health Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

The Salvation Army (Sponsor)
Code Tenderloin
DignityMoves
Hotel Council of San Francisco
Mayor Matt Mahan, City of San Jose
Mayor of City & County of San Francisco London Breed
Pacific Alliance for Prevention and Recovery
Positive Directions Equals Change INC.
Sister's Circle
Tenderloin Housing Clinic
TMG Partners
United Playaz
Westside Community Services

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2488 (Ting) – As Amended April 18, 2024

SUBJECT: Downtown revitalization and economic recovery financing districts: City and County of San Francisco

SUMMARY: Allow the City and County of San Francisco to establish downtown revitalization and economic recovery financing districts (districts). Specifically, **this bill**:

1) Defines the following terms:

   a) "Board of Supervisors" means the Board of Supervisors of the City and County of San Francisco.

   b) "Designated official" as the appropriate official designated pursuant to this bill.

   c) "District board" as the governing board of the district.

   d) "District" as a legally constituted governmental entity separate and distinct from the City and County of San Francisco Board of Supervisors created for the sole purpose of financing office-to-residential conversion projects or other projects of community wide significance that support downtown revitalization and economic recovery as authorized by this bill. A district is a local agency for the purposes of the Ralph M. Brown Act and subject to existing open meetings laws. A district shall be deemed a district within the meaning of Section 1 of Article XIII A of the California Constitution.

   e) "Downtown revitalization financing plan" (financing plan) as an adopted financing plan prepared pursuant to this bill.

   f) "Legislative body" as the city council or board of supervisors.

   g) "Lower income households" has the same meaning as defined in Health and Safety Code (HSC) Section 50079.5.

   h) "Moderate income households" means households of persons and families of moderate income, as defined in HSC Section 50093.

   i) "Office-to-residential conversion project" as a housing development project that converts an existing qualifying commercial office building to market rate or affordable housing by either reuse of the existing commercial office building or by replacing the commercial office with a new residential building.

   j) "Opted-in taxable property" as the property of an office-to-residential conversion project that has opted in to receive incremental tax revenue.

   k) "Qualifying commercial office building" as a commercial office building identified in the financing plan.

l) "Very low income households" has the same meaning as HSC Section 50105.

2) Provides that the Board of Supervisors of the City and County of San Francisco may establish a district. Proceedings for the establishment of a district shall be instituted by the adoption of a resolution of intention to establish the proposed district and shall do all of the following:

   a) State that a district is proposed to be established under the terms of this bill and describe the boundaries of the proposed district, which may be accomplished by reference to a map on file in the office of the recorder in the county. The map may identify, within a district, certain areas which shall be referred to as "project areas."

   b) The boundary of the district shall be contiguous with the boundaries of the City and County of San Francisco.

   c) State the need for the district and the goals the district proposes to achieve.

   d) State that incremental property tax revenue from San Francisco will be used to finance these activities.

   e) Fix a time and place for a public hearing on the proposal.

3) Specifies that the district board's membership shall consist of three members of the Board of Supervisors, and two members of the public chosen by the Board of Supervisors. The Board of Supervisors may appoint one of its members to be an alternate member of the district board who may serve and vote in place of a member who is absent or disqualifies themselves from participating in a meeting of the district. The appointment of the public members shall be subject to the provisions of existing law.

4) Provides that a legislative body may include a directly elected mayor.

5) Requires the Board of Supervisors to ensure the district board is established at the same time that it adopts a resolution of intention.

6) Provides that members of a district board shall not receive compensation but may receive reimbursement for actual and necessary expenses incurred in the performance of official duties.

7) Specifies that members of the district board are subject to existing ethics training requirements.

8) Provides that the district board shall be a local public agency subject to the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act.

9) States that the purpose of a district is to finance office-to-residential conversion projects with incremental tax revenues generated by the office-to-residential conversion projects within the district.

10) Provides that incremental tax revenues generated by office-to-residential conversion projects within the district shall be allocated to, and when collected shall be paid into a special fund of, the district for all lawful purposes described in this bill.

11) Requires the district to finance only the office-to-residential development projects that the district determines are of communitywide significance and that provide significant benefits to the district or San Francisco.

12) Provides that the district shall ensure that incremental tax revenues allocated to the district are limited to specified revenues that are generated through the office-to-residential conversion projects within the district that have opted in.

13) Requires the district to ensure that the requirements of this bill are met every 10 years.

14) Specifies that the creation of a district and the adoption of a financing plan shall not be deemed a "project" for the purposes of the California Environmental Quality Act.

15) Provides that after adopting the resolution of intention, the Board of Supervisors shall send a copy of the resolution to the district board. The district board shall designate and direct the appropriate local government official to prepare a financing plan.

16) Specifies that after the receipt of a copy of the resolution of intention to establish a district, the designated official shall prepare a proposed financing plan. The financing plan shall be consistent with the general plan and specific plan of San Francisco and shall include all of the following:

    a) A map and legal description of the proposed district, which may include all or a portion of the district designated by the Board of Supervisors in its resolution of intention.

    b) A description of the potential office-to-residential conversion projects proposed in the area of the district, including those to be provided by the private sector, those to be provided by governmental entities without assistance under this bill, those public improvements and facilities to be financed with assistance from the proposed district, and those to be provided jointly. Provides that an office-to-retail conversion may be mixed use but at least two-thirds of the square footage of the building must be a residential use.

    c) A requirement that if nonresidential development is included in the development, then at least 25% of the total planned units affordable to lower income households must be made available for lease or sale and permitted for use and occupancy before or at the same time with every 25% of nonresidential development made available for lease or sale and permitted for use and occupancy.

    d) A requirement that an opted-in taxable property shall not receive a property tax allocation unless it meets one of the following:

        i) At least 5% of total units for rent are affordable to very low-income households or the local inclusionary requirement, whichever is higher, for a minimum of 55 years; or

        ii) At least 10% of total units for rent are affordable to lower income households or the local inclusionary requirement, whichever is higher, for a minimum of 55 years; or

iii) At least 10% of total units for sale are affordable to households of moderate income or the local inclusionary requirement, whichever is higher, for a minimum of 45 years; and

iv) The affordability requirements shall not apply to the first 3 million square feet of opted-in office-to-residential conversion projects.

e) A finding that the potential office-to-residential conversion projects and financial assistance are of communitywide significance and provide significant benefits to an area larger than the area of the district.

f) Identification of each existing commercial office building within the district that is eligible for conversion to residential use and that may opt in to receive incremental tax revenue pursuant to this bill.

g) A requirement that the incremental tax revenues generated by each individual office-to-residential conversion project within the district be allocated back to that project for the purpose of financing the debt service of the project. Each individual office-to-residential conversion project shall receive an annual allocation on a pay-go basis in the amount equal to the amount of incremental tax revenues generated by the project for 30 years or until the district ceases to exist, whichever occurs first.

h) A requirement that the first allocation of incremental tax revenue to an office-to-residential conversion project begin with the fiscal year that begins after the project is issued a certificate of occupancy.

i) A requirement that if an opted-in taxable property is sold or otherwise transferred to a new property owner, the allocation or property taxes shall also be transferred to the new property owner.

j) A requirement that any incremental tax revenues remaining after the allocation of revenues pursuant to e) above, be allocated to uses supporting downtown revitalization. Provides that once the allocation of revenues ceases the tax increment shall be allocated to and when collected apportioned to San Francisco.

k) A requirement that local administrative costs to implement this bill do not exceed 5% of the tax revenues allocated pursuant to this bill.

l) A financing section, which shall contain all of the following information:

i) A specification of the maximum portion of the incremental tax revenue of San Francisco proposed to be committed to the district for each year during which the district will receive incremental tax revenue. The portion may change over time.

ii) A projection of the amount of tax revenues expected to be received by the district in each year during which the district will receive tax revenues.

iii) A limit on the total number of dollars of taxes that may be allocated to the district pursuant to the financing plan.

iv) Either of the following:

I) A date on which the district will cease to exist, by which time all tax allocations to the district will end. The date shall not be more than 45 years from the date on which the district allocates funding to the first office-to-residential conversion project within the district.

II) If the district is divided into project areas, a date on which the financing plan will cease to be in effect and all tax allocations to the district will end and a date on which the district's authority to pay incremental tax revenues received under this division will end, not to exceed 45 years from the date the district or the applicable project area has actually received $100,000 in annual incremental tax revenues under this bill. After the time limits established, a district or project area shall not receive incremental tax revenues under this bill. If the district is divided into project areas, a separate and unique time limit shall be applicable to each project area that does not exceed 45 years from the date the district has actually received $100,000 in incremental tax revenues under this bill from that project area.

v) An analysis of the costs to San Francisco of providing facilities and services to the area of the district while the area is being developed and after the area is developed. The financing plan shall also include an analysis of the tax, fee, charge, and other revenues expected to be received by San Francisco as a result of expected development in the area of the district.

vi) An analysis of the projected fiscal impact of the district and the associated development upon the local government.

m) If any residential dwelling units within the territory of the district are proposed to be removed or demolished in the course of an office-to-residential conversion project within the area of the district, a plan providing for replacement of those units and relocation of those persons or families consistent with the Housing Crisis Act of 2019, as specified.

n) The goals the district proposes to achieve for each project financed pursuant to this bill.

17) Specifies that a financing plan shall contain a provision that taxes, if any, levied upon opted-in taxable property in the area included within the district each year by or for the benefit of the State of California, or San Francisco, shall be divided, subject to the provisions of Section 53993, as follows:

a) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for San Francisco upon the total sum of the assessed value of all of the opted-in taxable property in the district, established pursuant to 18) below, shall be allocated to, and when collected shall be paid to, the local government as taxes on all other property are paid.

b) That portion of the levied taxes each year specified in the adopted financing plan for San Francisco in excess of the amount specified in a) above, shall be allocated to, and when collected shall be paid into a special fund of, the district for all lawful purposes of the district. Unless and until the total assessed valuation of the opted-in taxable property in a

district exceeds the total assessed value of the opted-in taxable property in the district as shown by the last equalized assessment rolls referred to in a) above, all of the taxes levied and collected upon the opted-in taxable property in the district shall be paid to the local government. When the district ceases to exist pursuant to the adopted financing plan, all moneys thereafter received from taxes upon the opted-in taxable property in the district shall be allocated to, and, when collected, shall be apportioned to, San Francisco.

c) Provides that where any district boundaries overlap with the boundaries of any former redevelopment project area, any debt or obligation of the district shall be subordinate to any and all enforceable obligations of the former redevelopment agency, as approved by the Oversight Board and the Department of Finance. Provides that the division of taxes allocated to the district shall not include any taxes required to be deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund.

18) After an office-to-residential conversion project opts in to receive incremental tax revenue, the district shall establish the base assessed value for the applicable property, as shown upon the assessment roll used in connection with the property by San Francisco, last equalized prior to the first building permit being issued as a part of the conversion of the office-to-residential conversion project.

19) Requires a district to establish a process to reconsider the amount of incremental tax revenue to be allocated to a project if there is a change in use or the square footage of office space converted to housing planned to be built.

20) Specifies that the portion of any ad valorem property tax revenue annually allocated to a local government pursuant to existing law related to the Educational Revenue Augmentation Fund (ERAF) that is specified in the adopted financing plan for the local government, and that corresponds to the increase in the assessed valuation of taxable property shall be allocated to, and, when collected, shall be apportioned to, a special fund of the district for all lawful purposes of the district.

21) Specifies that when a district ceases to exist pursuant to the adopted financing plan, the revenues described above shall be allocated to, and, when collected, shall be apportioned to, the respective local government.

22) Prohibits the downtown revitalization financing plan from dividing revenues that are allocated to other taxing agencies that are not part of San Francisco.

23) Provides that a district board shall consider adoption of the financing plan at a single public hearing.

24) Requires, after the adoption of the financing plan, the district to establish a process for eligible office-to-residential conversion projects to opt into receiving incremental tax revenue pursuant to this bill.

25) Specifies that an eligible office-to-residential conversion project may opt in to receive incremental tax revenue at any time before the project is issued the first building permit.

26) Requires an eligible office-to-residential conversion project that opts in to receive incremental tax revenue to comply with specified labor standards.

27) Provides that it is the intent of the Legislature to subsequently amend this bill to establish labor protections applicable to office-to-residential conversion projects that opt in to receive incremental tax revenue.

28) Requires all costs incurred by a county in connection with the division of taxes pursuant to this bill to be paid by that district.

29) Requires San Francisco to develop and submit an annual report to the relevant committees of the Legislature regarding the office-to-residential conversion projects financed by the district.

30) Includes a sunset on the ability of office-to-residential conversion projects to opt in to receive increment tax revenue as of December 31, 2032.

EXISTING LAW:

1) Provides that all property is taxable, unless otherwise provided by the California Constitution or laws of the United States. (California Constitution, Article XIII, Section 1)

2) Authorizes the Legislature to partially or fully exempt property used for certain purposes, including charitable purposes, owned by a nonprofit organization organized and operated for those certain purposes if no part of the organization's earnings inure to the benefit of any private shareholder or individual. (California Constitution, Article XIII, Section 4.) Existing statute implements this authorization by requiring that eligible property is irrevocably dedicated, and used, for the exempt purpose. This exemption is commonly referred to as the "welfare exemption." (R&TC Section 214(a).)

3) 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).

FISCAL EFFECT: None.

COMMENTS:

Author's Statement: According to the author, "In the aftermath of the COVID-19 pandemic, cities are struggling to adjust to decreased foot traffic in their once-thriving downtowns. Fewer people in city centers results in struggling small businesses, declines in transit ridership, and, for many cities, record-breaking rates of empty office buildings. San Francisco has an estimated 32-34% office vacancy rate, San Jose is at 30.7%, and Los Angeles is at 26.2%. Cities urgently need to find creative ways to save their downtowns from a 'doom loop' of economic decline and urban blight. **"**AB 2488 gives cities a new tool to adapt to the post-pandemic normal by allowing them to create downtown revitalization districts to help finance the conversion of empty office buildings into new homes. This will solve two problems for California cities; it will provide the foot traffic and transit ridership needed to spur economic recovery in downtowns while also reducing the impacts of California's housing crisis. AB 2488 will empower cities to turn their empty office buildings and struggling downtowns into vibrant, walkable, mixed-use communities with exciting new cultural, social, and economic opportunities."

***Redevelopment*:** Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of redevelopment agencies (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). Generally, property tax increment financing involves a local government forming a tax increment financing district to issue bonds and use the bond proceeds to pay project costs within the boundaries of a specified project area. To repay the bonds, the district captures increased property tax revenues that are generated when projects financed by the bonds increase assessed property values within the project area.

To calculate the increased property tax revenues captured by the district, the amount of property tax revenues received by any local government participating in the district is "frozen" at the amount it received from property within a project area prior to the project area's formation. In future years, as the project area's assessed valuation grows above the frozen base, the resulting additional property tax revenues — the so-called property tax "increment" revenues — flow to the tax increment financing district instead of other local governments. After the bonds have been fully repaid using the incremental property tax revenues, the district is dissolved, ending the diversion of tax increment revenues from participating local governments.

Prior to Proposition 13, 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. At the time of dissolution, over 400 RDAs statewide were diverting 12% of property taxes, over $5.6 billion yearly.

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, ABX1 26 (Blumenfield), Chapter 5 and ABX1 27 (Blumenfield), Chapter 6 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 ABX1 26. However, the Court did grant CRA's petition with respect to ABX1 27. As a result, all RDAs were required to dissolve as of February 1, 2012.

Attempts to Replace RDAs: After the Supreme Court's 2011 Matosantos decision dissolved all RDAs, legislators enacted several measures creating new tax increment financing tools to pay for local economic development. The Legislature authorized the creation of Enhanced Infrastructure Financing Districts (EIFDs) [SB 628 (Beall), Chapter 785, Statutes of 2014] quickly followed by Community Revitalization and Investment Authorities (CRIAs) [AB 2 (Alejo), Chapter 319, Statutes of 2015]. Similar to EIFDs, CRIAs use tax increment financing to fund infrastructure projects. CRIAs may currently only be formed in economically depressed areas.

The Legislature has also authorized the formation of affordable housing authorities (AHAs), which may use tax increment financing exclusively for rehabilitating and constructing affordable housing and also do not require voter approval to issue bonds [AB 1598 (Mullin), Chapter 764, Statutes of 2017]. SB 961 (Allen), Chapter 559, Statutes of 2018, removed the vote requirement

for a subset of EIFDs to issue bonds and required these EIFDs to instead solicit public input, and AB 116 (Ting), Chapter 656, Statutes of 2019, removed the voter requirement for any EIFD to issues bonds in favor of a formal protest process. SB 852 (Dodd), Chapter 266, Statutes of 2022, created climate resilience districts (CRDs), which can also utilize tax-increment financing. CRDs were also given the authority to issue general obligation bonds and impose special taxes. While these entities share fundamental similarities with RDAs in terms of using various forms of tax-increment financing, they differ in two significant aspects: 1) not having access to the schools' share of property tax increment, and 2) not automatically including the tax increment of other taxing entities.

California's Housing Crisis: California faces a severe housing shortage. A variety of factors have contributed to the lack of housing production. A major cause of the housing crisis is the mismatch between the supply and demand for housing. The Statewide Housing Plan adopted by the Department of Housing and Community Development (HCD) in 2022 found California needs approximately 2.5 million units of housing, including one million units affordable to lower income households, to address this mismatch over the next eight years. That would require production of over 300,000 units a year, including over 120,000 units a year of housing affordable to lower income households.

Adaptive Reuse: Adaptive reuse is the process of converting an existing non-residential building to housing. The ability to adaptively reuse a building is highly dependent on the initially designed use. For example, uses such as warehouses and big box retail are not generally suitable to adaptive reuse, because their tall ceilings, single stories, and rudimentary plumbing would need to be completely redone to be appropriate for human habitation. Office buildings maintain some potential for conversion, because their multi-floor layout is conducive to housing; however, the large configuration of most office buildings makes it difficult to provide the necessary light and air that is required for residential units. For these conversions to occur, it would also need to be financially attractive to the property owner – something that has drawn more attention due to the sharp downturn in the downtown office market since the beginning of the COVID-19 pandemic. However, other commercial properties, like hotels and motels, are more conducive to adaptive reuse, since they already have separate residential units, often with bathrooms.

Recent State Adaptive Reuse Efforts: One of the state's primary efforts to address homelessness during the COVID-19 pandemic involved turning existing hotels and motels into housing for individuals experiencing homelessness, known as Project Homekey. These uses are already divided into quarters designed for short-term human habitation and can readily be converted to housing with the addition of kitchens. As of February 29, 2024, the Legislative Analyst's Office reported that Project Homekey has funded 250 projects and assisted 15,319 units of housing with a total expenditure of $3.35 billion. The cost of converting a unit under Project Homekey, at $218,683 per unit, is less than the current cost of constructing a new multifamily unit which averages at a little under $600,000 a unit as calculated by a recent report from the UC Berkeley's Terner Center for Housing Innovation, *Making it Pencil: the Math of Housing Development-2023*. This report found that for a multifamily mixed-use project with five stories of residential and a nonresidential ground floor, the average cost per unit in the Bay Area is $637,000 in the East Bay and $623,000 in the South Bay, $594,000 in Los Angeles, and $508,000 in Sacramento.

Property Tax Welfare Exemption: Article XIII, Section 4(b) of the California Constitution authorizes the Legislature to exempt property used exclusively for religious, hospital, or

charitable purposes, as specified, from taxation. The Legislature has implemented this "welfare exemption" in R&TC Section 214.

AB 2144 (Filante), Chapter 1469, Statutes of 1987, amended R&TC Section 214 to specifically exempt low-income housing developments operated by non-profit organizations. As noted in the Senate Revenue and Taxation Committee analysis, AB 2144's proponents argued that the property tax funds then being paid "could better be used in furtherance of the goals of providing low income housing." Generally, to qualify for the welfare exemption, the law requires that the rental housing be financed with specified tax-exempt bonds, government loans, or grants, or that the property's owner receives a Low-Income Housing Tax Credit under the Internal Revenue Code Section 42. The welfare exemption extends to "units serving lower income households." To qualify, the unit must be occupied by a lower income household (typically a household with a maximum income of 80 percent of Area Median Income). To receive the welfare exemption, a property owner must certify that the property tax savings is necessary to maintain the affordability of the units occupied by lower income households.

The California Constitution prohibits a reduction or wavier of property taxes except for specified charitable purposes, which the Legislature has defined as deed-restricted rental housing for households at 80% of AMI or less. This bill is not a property tax exemption, but rather authorizing the use of property taxes already collected by San Francisco. The state does not direct local governments in how to spend their property taxes – that is the purview of the local government. Redevelopment was constitutionally created and directed any tax increment from all the taxing entities to repay the debts of a redevelopment project area. This bill only applies to any tax increment associated with the City and County of San Francisco's portion of property taxes. It is unclear if San Francisco needs legislative authority to spend their own property taxes and any associated tax increment.

Affordability: The property tax welfare exemption is only available to rental units that are restricted to 80% of AMI or below. Developers receive the benefit of the property tax abatement prior to payment. In San Francisco, this bill would transfer property taxes and any growth in increment of property taxes in a district to a developer of largely market-rate housing. The payments would last for 30 years. When a district is first created, there are no affordability requirements, until developers opt-in for 3 million square feet of conversions. At that point, the developers must choose between providing housing at one of the following affordability levels: 5% very low-income, 10% lower income, or 20% moderate income for for-sale units.

Arguments in Support: According to the Bay Area Council, the sponsor of the bill, "Remote work offers many positive benefits to workers and the environment, but it has also resulted in undesirable consequences for urban centers. Millions of square feet of office buildings are now sitting empty in California. Silicon Valley ended 2023 with over 25% of its office spaces vacant, and Southern California had an office vacancy rate of over 20%. In downtown Los Angeles, there is a 26% office vacancy rate, and San Francisco has a record-breaking 36.7% vacancy rate. Transit systems have also suffered with many Bay Area transit operators seeing less than 50% of their prep-pandemic ridership. This crisis has left cities with an urgent need to find creative ways to save their downtowns from a 'doom loop' of economic decline and urban blight.

AB 2488 offers an exciting solution to this challenge and addresses two problems at once: 1) it will replace the foot traffic lost due to remote work and generate new kinds of economic activity in city centers, and 2) it will lessen the longstanding housing supply shortage in big cities.

Office-to-residential (OTR) conversions promise to build highly desirable, mixed-use neighborhoods with both economic and cultural vitality. New housing increases transit ridership and increases demand for new entrepreneurial endeavors, including restaurants, shopping, and nightlife."

Arguments in Opposition: None on file.

Double referred: This bill is double referred. It was heard in the Assembly Committee on Local Government and passed on a vote of 9-0 on April 17, 2024.

Related Legislation:

AB 3068 (Haney), of the current legislative session, establishes the Office to Housing Conversion Act, creating streamlined, ministerial approvals process for adaptive reuse projects, as defined, and provides certain financial incentives for the adaptive reuse of existing buildings. This bill was heard in Assembly Housing and Community Development Committee and passed out 9-0. It is currently pending hearing in Assembly Local Government Committee.

AB 2909 (Santiago), of the current legislative session, would allow certain properties within the City of Los Angeles that are at least 30 years old to be eligible for the Mills Act for purposes of adaptive reuse of the property from January 1, 2026 to January 1, 2036. This bill was heard in Assembly Local Government Committee and passed out 9-0.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council (Sponsor)
Advance SF
BOMA San Francisco
Build Group
California Apartment Association
California Travel Association
East Bay YIMBY
Emerald Fund
Grow the Richmond
Housing Action Coalition
Metrovation
Mountain View Yimby
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
Plant Construction
Presidio Bay Ventures
Progress Noe Valley
San Francisco Bay Area Planning and Urban Research Association
San Francisco Chamber of Commerce
San Francisco Yimby
San Luis Obispo Yimby

Santa Cruz Yimby
Santa Rosa Yimby
SKS Partners
South Bay Yimby
Southside Forward
Streets for People
Tishman Speyer Properties
TMG Partners
Union Square Alliance
Urban Environmentalists
Ventura County Yimby
Webcor Builders
Yimby Action

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2498 (Zbur) – As Amended April 16, 2024

SUBJECT: Housing: the California Housing Security Act

SUMMARY: Establishes the California Housing Security Program (the Program) to provide counties with funding to administer a housing subsidy to eligible persons to reduce housing insecurity and help Californians meet their basic housing needs, subject to an appropriation. Specifically, **this bill**:

1) Defines the following terms, for purposes of the Program:

    a) "Adult with a disability" means an individual or head of household who is 18 years of age or older and is experiencing a condition that limits a major life activity, including, but not limited to, one of the following:

        i) A "developmental disability," as defined;

        ii) A "medical condition," as defined;

        iii) A "mental disability," as defined, and which shall also include a substance use condition;

        iv) A "physical disability," as defined;

        v) A chronic illness, including, but not limited to, HIV; or

        vi) A traumatic brain injury.

    b) "Department" means the Department of Housing and Community Development (HCD).

    c) "Eligible population" means a low-income person that meets at least one of the following criteria:

        i) A former foster youth who qualifies for the Independent Living Program, as specified;

        ii) An older adult, which means a person 55 years of age or older;

        iii) An adult with disabilities;

        iv) A person experiencing unemployment;

        v) An incarcerated person with a scheduled release date within 60 to 180 days and who is likely to experience homelessness upon release;

        vi) A person experiencing homelessness; or

vii) A "veteran," as defined.

d) "Grantee" means any of the following entities that administer housing subsidies under the Program:

i) A city, including a charter city;

ii) A city, including a charter city, and a county;

iii) A housing authority, as defined; or

iv) A nonprofit corporation, as defined.

e) "Low-income person" has the same meaning as "lower income households," as defined.

2) Requires HCD, upon appropriation by the Legislature, to establish the Program pursuant to the bill to provide counties with funding to administer a housing subsidy to persons who meet the definition of eligible population to reduce housing insecurity and help Californians meet their basic housing needs.

3) Requires HCD to do all of the following by January 1, 2026:

a) Establish a two-year pilot program in six counties;

b) Select one county from the northern; three counties from the southern, including at least the County of San Diego, Imperial, or Orange; and two counties from the central regions of the state to participate in the pilot program and take into account representation of urban, rural, and suburban areas;

c) Issue suggested guidelines establishing the program, which must include criteria for program eligibility, the duration of the subsidy, and the amount of the subsidy, which shall be the amount necessary to cover the portion of a person's rent to prevent homelessness, but which shall not exceed a total amount of $2,000 per month or as a one-time subsidy during the period of the pilot program, or for two years, whichever is longer; and

d) Provide each county selected to participate in the pilot program with funding for the purposes of administering the housing subsidies in an amount equal to the ratio of the total number of counties participating in the pilot program compared to the total amount of funding available.

4) Requires a county participating in the pilot program to perform both of the following duties by July 1, 2026, and in consultation with the cities located in the county and any nonprofit organizations or housing authorities partnering with the county or those cities for purposes of administering the housing subsidies:

a) Review HCD's suggested guidelines and develop final guidelines for administering the housing subsidies based on the needs of the county, which must address all of the information described in HCD's suggested guidelines and be subject to the subsidy amount requirements in 3)c); and

b) Develop program applications for persons who meet the definition of eligible population to apply for a housing subsidy.

5) Requires a county participating in the pilot program to administer housing subsidies to persons who meet the definition of eligible population beginning January 1, 2027.

6) Allows a county participating in the pilot program to administer housing subsidies through a grantee, as defined, or through an existing housing program that is operated by the county or the grantee that has the same or similar purpose as the pilot program, and which must be subject to the final guidelines in 4).

7) Requires a county to enter into a written agreement with HCD to use funds in a manner consistent with this bill in order to be eligible to receive program funding to administer housing subsidies under the bill.

8) Requires the written agreement in 7) to include terms and conditions consistent with the bill's requirements.

9) Prohibits HCD from providing program funding to a county that refuses or otherwise does not agree to administer the program funds in a manner consistent with the bill.

10) Allows HCD to require a county to pay back program funds that are administered in a manner inconsistent with the bill's requirements.

11) Allows HCD to reallocate any program funds paid back under 10) for purposes of administering the bill.

12) Provides that a county shall be solely responsible for compliance with all applicable requirements in the bill.

13) Provides, notwithstanding any other law and to the extent allowable under federal law, that assistance, services, or supports received under the Program are not income of the participant for purposes of determining eligibility for, or benefits pursuant to, any public assistance program.

14) Provides that participation in other benefits or housing or housing-based services programs shall not disqualify an individual or household from being a participant for a subsidy under the Program.

15) Includes a finding and declaration that an undocumented person, as specified, who meets the definition of eligible population is eligible to receive a subsidy under the Program.

16) Requires HCD, beginning January 1, 2028 and annually thereafter for the duration of the program, to include programmatic performance metrics for program funds administered under the Program within HCD's existing annual report. Requires the information to include, at a minimum, all of the following:

a) The amount of program funds dispersed by any county or grantee providing housing subsidies under the Program;

b) The amount of program funding used by eligible persons under the Program; and

c) Demographic information, including household income, of eligible persons that received program funding under the Program.

17) Requires a county or grantee that administers housing subsidies under the Program to provide information necessary for HCD to comply with the reporting requirement in 16).

18) Provides that this Program shall become operative only upon appropriation by the Legislature of sufficient funds for the purposes of the Program.

EXISTING LAW:

1) Establishes the Housing Choice Voucher (HCV) program within the federal Department of Housing and Urban Development (HUD) to pay rental subsidies directly to eligible families for selection and rental of affordable and safe housing. The HCV program is generally administered by state or local public housing agencies (PHAs). (2 CFR Part 982)

2) Establishes the CalWORKS Housing Support Program (HSP) to provide housing supports to CalWORKs recipients who are experiencing homelessness or at risk of homelessness, including recipients who have not yet received an eviction notice, and for whom housing instability would be a barrier to self-sufficiency or child well-being. Supports provided may include, but shall not be limited to, all of the following:

   a) Financial assistance, including rental assistance, security deposits, utility payments, moving cost assistance, and motel and hotel vouchers; and

   b) Housing stabilization and relocation, including outreach and engagement, landlord recruitment, case management, housing search and placement, legal services, and credit repair. (Welfare and Institutions Code (WIC) Section 11330 et al.)

3) Establishes the Bring Families Home Program (BFH) to provide families receiving child welfare services who are homeless, at risk of homelessness, or in a living situation that cannot accommodate the child or multiple children in the home with financial assistance, housing stabilization, and relocation. (WIC 16523)

4) Establishes the State Emergency Rental Assistance Program (ERAP) within HCD for the provision of federal rental assistance funds in response to the COVID-19 pandemic. (Health and Safety Code Section 50897)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "One key to reducing the number of Californians experiencing homelessness is to empower people who are currently housed to stay in their homes. This bill will reduce housing insecurity by providing rent subsidies to some of California's most vulnerable communities: low income former foster youth, older adults, adults with disabilities, people experiencing unemployment or homelessness, and recently incarcerated individuals. It requires the California Department of Housing and Community Development to establish a pilot program to do this in up to [six] counties in different geographic regions across the state."

California's Housing Crisis: California is in the midst of a severe housing crisis. Over two-thirds of low-income renters are paying more than 30% of their income toward housing, a "rent burden" that means they have to sacrifice other essentials such as food, transportation, and health care.[1] In 2023, over 181,000 Californians experienced homelessness on a given night, with a sharp increase in the number of people who became homeless for the first time.[2] The crisis is driven in large part by the lack of affordable rental housing for lower income people. According to the California Housing Partnership's (CHP) Housing Need Dashboard, in the current market, nearly 2 million extremely low-income and very low-income renter households are competing for roughly 687,000 available and affordable rental units in the state. Over three-quarters of the state's extremely low-income households and over half of the state's very low-income households are severely rent burdened, paying more than 50% of their income toward rent each month. CHP estimates that the state needs an additional 1.3 million housing units affordable to very low-income Californians to eliminate the shortfall.[3] By contrast, production in the past decade has been under 100,000 housing units per year – including less than 10,000 units of affordable housing per year.[4]

Homelessness Prevention: Housing subsidies are highly effective in both preventing and reducing homelessness. Studies show low-income renters accessing "shallow" housing subsidies of $200-$500 per month, or larger one-time infusions of emergency cash, are able to remain stably housed. Moreover, people experiencing homelessness are able to move into permanent housing quickly, and remain stably housed, with a housing subsidy and the right services interventions. The state has focused homelessness prevention on those who are receiving benefits through safety net programs like CalWORKS and the foster care system, as well as through the ERAP program which was intended to stem evictions for nonpayment of rent due to COVID-19 related hardships.

Housing Assistance Programs: The state offers several programs that provide rental assistance and housing navigation services targeted at vulnerable populations that are homeless or housing insecure. The Department of Social Services operates two programs, CalWORKs HSP and BFH. HSP provides families who are receiving CalWORKs benefits financial assistance, including rental assistance, security deposits, utility payments, moving cost assistance, and motel and hotel vouchers, landlord recruitment, case management, housing search and placement, legal services, and credit repair. In addition, the Homeless Housing, Assistance, and Prevention (HHAP) program has provided roughly $1 billion annually for the last few years to large cities, counties, and Continuums of Care to address homelessness in their communities. Rental subsidies are an allowable use of HHAP funds.

Housing Choice Vouchers (HCVs): The federal HCV program provides households at or below 80% of area median income with vouchers that can be used in the private rental market or in subsidized affordable housing. Voucher holders generally pay 30% of their income towards the fair market rent and the voucher covers the remaining amount. PHAs administer the program.

According to the 2022 Statewide Housing Plan, federal support and funding for addressing housing need has not kept up with demand and is a contributing factor to the state's housing

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[1] https://chpc.net/housingneeds/
[2] https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html
[3] https://chpc.net/housingneeds/
[4] https://www.hcd.ca.gov/policy-research/housing-challenges.shtml

crisis. Despite modest increases in the amount of money allocated by the federal government for rental housing assistance in the form of deep-subsidy programs, an increase in the total number of renter households and mounting rental costs render these federal subsidies insufficient to meet demand. Only a fraction of renters that need assistance receive it, and this housing assistance gap is expected to worsen.

The Program: This bill would create a pilot grant program within HCD to provide rental subsidies for qualifying low-income individuals in six counties to reduce housing insecurity. The bill's definition of "eligible population" include low-income individuals (who may be undocumented) with any of the following characteristics:

- A former foster youth who qualifies for the Independent Living Program;
- An older adult, 55 years of age or older;
- An adult with disabilities;
- A person experiencing unemployment;
- An incarcerated person with a scheduled release date within 60 to 180 days and who is likely to experience homelessness upon release;
- A person experiencing homelessness; or
- A veteran, as defined.

The program would allow for counties or grantees to provide a subsidy to any eligible individuals in an amount necessary to cover the portion of the person's rent to prevent them from falling into homelessness, not to exceed either $2,000 as a one-time subsidy or $2,000 per month for the duration of the pilot, or two years, whichever is longer. Any subsidy would be prohibited from being considered as "income" for purposes of other public benefit programs. HCD would have to establish the program and associated guidelines and provide appropriated funds to counties by January 1, 2026, counties would have to establish their local program criteria by July 1, 2026, and would have to begin administering subsidies January 1, 2027. Counties could choose to administer the funding through a city, a local housing authority, or a nonprofit corporation, in the event that these entities have similar programs and infrastructure that could be utilized or are better equipped to handle program administration.

Budget Challenges: Although final revenues are not in, the Legislative Analyst's Office estimates that the state is facing a $58 billion budget deficit. The Governor's January budget proposes to cut $1.2 billion in existing budget commitments to affordable housing programs, including eliminating $500 million for the state Low Income Housing Tax Credit, a core program necessary to fund affordable multi-family housing programs. The last voter-approved housing bond, Proposition 1 from 2018, provided $3 billion for various affordable housing programs, which has been fully spent down. In addition, although the January budget preserved $1 billion in funds intended for a fifth round of the HHAP program through 2024-25, no new HHAP funding has been proposed beyond 2025.

Arguments in Support: According to Los Angeles County, the bill's sponsor, "Many vulnerable populations, such as older adults and adults with disabilities, are particularly susceptible to housing insecurity and homelessness. In addition, individuals who have experienced homelessness or are at risk of experiencing homelessness face significant challenges in finding and maintaining stable housing. AB 2498 addresses these challenges by establishing the California Housing Security Program, which will provide housing subsidies to eligible low-income individuals and families not to exceed $2,000 a month. This program would target

populations at a high risk of experiencing homelessness, including older adults, adults with disabilities, and individuals experiencing homelessness."

Arguments in Opposition: According to the Valley Industry and Commerce Association, "…California grapples with a significant budget deficit, making it financially irresponsible to embark on costly pilot programs. While acknowledging the importance of preventive measures, the exorbitant expenses associated with this initiative could exacerbate the state's financial challenges rather than address them. As responsible stewards of public funds, it is crucial to prioritize initiatives that demonstrate tangible and sustainable impacts on homelessness without overburdening the state's already strained budget."

Committee Amendments: Staff recommends the bill be amended as follows:

- Make technical changes to the definition of "eligible population" to include specific cross-references to definitions of former foster youth and homeless youth;
- Modify the amount and distribution of counties that are eligible for the Program; and
- Clarify that counties may begin administering subsidies by January 1, 2027, rather than "beginning January 1, 2027."

Health and Safety Code Section 50489.1. (c) "Eligible population" means a low-income person that meets at least one of the following criteria:

(1) A former foster youth who qualifies for the Independent Living Program, established pursuant to the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272).

(2) A former foster youth, who is 18 to 24 years of age, inclusive, as defined in Section 50807.

(2) An older adult.

(3) An adult with disabilities.

(4) A person experiencing unemployment.

(5) An incarcerated person with a scheduled release date within 60 to 180 days and who is likely to experience homelessness upon release.

(6) A person experiencing homelessness, ***including a homeless youth, as defined in Section 8260 of the Welfare and Institutions Code***.

(7) A "veteran," as defined in Section 980 of the Military and Veterans Code.

50489.2. (a) Upon appropriation by the Legislature pursuant to Section 50489.5, the department shall establish the California Housing Security Program pursuant to the requirements of this chapter to provide counties with funding to administer a housing subsidy to persons who meet the definition of eligible population to reduce housing insecurity and help Californians meet their basic housing needs.

(b) By January 1, 2026, the department shall do the following to create the program:

(1) (A) Establish a two-year pilot program in ~~six~~ ***eight*** counties.

(B) The department shall select ~~one county~~ ***two counties*** from the northern, ~~three~~ ***four*** counties from the southern, including at least the ***County of Los Angeles,*** ~~County of~~ San Diego, ~~Imperial,~~ or Orange, and two counties from the central regions of the state to participate in the pilot program and shall take into account representation of urban, rural, and suburban areas.

(2) Issue suggested guidelines establishing the program. The guidelines shall include all of the following:

(A) Criteria for program eligibility.

(B) Duration of the subsidy.

(C) (i) Amount of the subsidy.

(ii) The amount of the subsidy shall be the amount necessary to cover the portion of a person's rent to prevent homelessness, but the subsidy shall not exceed a total amount of two thousand dollars ($2,000) per month or as a one-time subsidy during the period of the pilot program, or for two years, whichever is longer.

(c) By January 1, 2026, the department shall provide each county selected to participate in the pilot program with funding for the purposes of administering the housing subsidies in an amount equal to the ratio of the total number of counties participating in the pilot program compared to the total amount of funding available.

(d) By July 1, 2026, a county participating in the pilot program shall, in consultation with the cities located in the county and any nonprofit organizations or housing authorities partnering with the county or those cities for purposes of administering the housing subsidies, perform both of the following duties:

(1) Review the department's suggested guidelines and develop final guidelines for administering the housing subsidies based on the needs of the county.

(A) The final guidelines shall address all of the information described in the department's suggested guidelines.

(B) The final guidelines shall be subject to the requirements described in clause (ii) of subparagraph (C) of paragraph (2) of subdivision (b).

(2) Develop program applications for persons who meet the definition of eligible population to apply for a housing subsidy.

(e) ~~Beginning~~ ***By*** January 1, 2027, a county participating in the pilot program shall administer housing subsidies to persons who meet the definition of eligible population.

Related Legislation:

SB 37 (Caballero) of the current legislative session would establish the Older Adults and Adults with Disabilities Housing Stability Pilot Program, administered by HCD, to provide housing subsidies to older adults and adults with disabilities who either are experiencing or at risk of experiencing homelessness, in up to five geographic regions or counties. This bill is currently pending on the Senate Floor.

AB 1431 (Zbur) of the 2022 session was substantially similar to this bill. That bill died pending a hearing in this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles County Board (Sponsor)
Apartment Association of Greater Los Angeles
California Coalition for Youth
California Legislative LGBTQ Caucus
California Rental Housing Association
CalPACE
Los Angeles County Democratic Party
PowerCA Action
Santa Monica Democratic Club
Santa Monicans for Renters' Rights
Southern California Rental Housing Association

Opposition

Valley Industry and Commerce Association

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2506 (Lowenthal) – As Introduced February 13, 2024

SUBJECT: Property taxation: local exemption: possessory interests: publicly owned housing

SUMMARY: Authorizes a county board of supervisors to exempt from property taxation any possessory interest held by a tenant of publicly owned housing with a value so low that the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them. Specifically, **this bill**:

1) Includes the following definitions:

   a) "Board" means a county board of supervisors;

   b) "Costs of assessing and collecting" shall include, but are not limited to, the costs to the assessor's and treasurer-tax collector's office for potential administrative disputes before an assessment appeals board to contest the existence or value of a possessory interest by the tenant, determination of value in accordance with this bill, the cost of notifying each residential tenant of the county's intent to assess property taxes as required by this bill, the costs of the treasurer-tax collector in preparing and sending a tax bill, and a reasonable estimate of potential legal or other costs and risks of non-collection of property taxes from residential tenants because the taxes are not secured by a lien on property and because of the limited financial resources of the tenant;

   c) "Property taxes and applicable subventions" shall not include any non-ad valorem property taxes or similar charges based on ownership of a residential possessory interest in publicly owned housing;

   d) "Publicly owned housing" means an apartment or condominium multifamily residential project that is owned, as of January 1, 2025, by an agency that is exempt from property taxation under either subdivision (a) or subdivision (b) of Section 3 of Article XIII of the California Constitution;

   e) "Tenant" means the occupant of a residential unit in publicly owned housing. "Tenant" shall not include holders of a commercial lease of real property in publicly owned housing; and

   f) "Value" means the valuation of the possessory interest as determined by subparagraph (A) of paragraph (3) of subdivision (e) of Section 21 of Chapter 1 of Division 1 of Title 18 of the California Code of Regulations, as that section read on January 1, 2023, where the term of possession is conclusively presumed to be the stated term of possession in the lease agreement plus any express options for the tenant to unilaterally extend the lease that are part of the written lease agreement, and where the rent to be capitalized is the contract rent paid by the tenant over the term of possession.

2) Authorizes a county board of supervisors to exempt from property taxation any possessory interest held by a tenant of publicly owned housing with a value so low that the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

3) Prohibits a board of supervisors from exempting any possessory interests with a total base year value, as adjusted by an annual inflation factor, or full value of more than $50,000.

4) Creates a rebuttable presumption that the property taxes and applicable subventions on a possessory interest held by a tenant in publicly owned housing are less than the costs of assessing and collecting those taxes and applicable subventions.

5) Provides that a county board of supervisors may grant an exemption for a possessory interest as follows:

    a) By inaction. If the board does not hold a public hearing and does not take a vote to apply, or to deny the application of, the exemption to the possessory interest at issue, then the board shall be deemed to have agreed with the presumption and the exemption shall be deemed granted by the board with respect to the possessory interest;

    b) By action. The board of supervisors shall consider in a public hearing whether to apply the exemption to the possessory interest. The board may approve by a majority to apply or to decline to apply the exemption to the possessory interest. However, if the board takes a vote but fails to reach a majority vote either in favor of or against the application of the exemption for the possessory interest, the board shall be deemed to have agreed with the presumption and the exemption shall be deemed granted by the board with respect to the possessory interest.

6) Provides that if the board votes to deny the exemption for a possessory interest of a tenant in publicly owned housing, prior to the assessor enrolling the possessory interest, the county assessor shall send, by registered mail, notice to each applicable tenant that does all of the following:

    a) Informs the tenant of the county's intention to impose property tax on their possessory interest;

    b) Displays the valuation proposed to be assessed by the assessor and the methodology to support the proposed value; and

    c) Provides information regarding the assessment appeals process for contesting both the existence of a possessory interest and the valuation of any such interest.

7) Provides that if the board of supervisors grants the exemption for the possessory interest the following applies:

    a) In administering the exemption the assessor shall not enroll the tenant's possessory interest on the assessment roll;

b) The exemption shall apply to lien dates following the granting of the exemption for the possessory interest and may, at the option of the board, continue in effect for succeeding fiscal years. Any revision or rescission of the exemption shall be adopted by the board on or before the lien date for the fiscal year to which that revision or rescission is to apply; and

c) The exemption of possessory interests held by tenants in publicly owned housing shall apply to all open property tax years and shall apply prior to any regular property tax assessments of tenant possessory interests in publicly owned housing and prior to escape assessments of possessory interests to tenants of publicly owned housing, whether placed on the regular or supplemental roll or on the secured or unsecured roll.

EXISTING LAW:

1) Provides that all property is taxable, unless otherwise provided by the California Constitution or laws of the United States. (California Constitution, Article XIII, Section 1)

2) Exempts certain property from taxation, including property owned by the State or a local government, as provided. (California Constitution, Article XIII, Section 3)

3) Allows the Legislature, by two-thirds vote, to authorize county boards of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them. (California Constitution, Article XIII, Section 7)

4) Enacts the Personal Income Tax (PIT) Law, which imposes a tax at specified percentages on a taxpayer's taxable income, as defined, and the Corporation Tax (CT) Law, which generally imposes a tax at the rate of 8.84% on the net income of a corporation. (Revenue and Taxation Code (R&TC) Section 17041 *et seq.* and R&TC Section 23151 *et seq.*)

5) Imposes a tax on the gross premiums, as specified, of insurers, as defined, at the rate of 2.35%. (California Constitution, Article XIII, Section 28)

6) Authorizes, under the tax on the gross premiums of insurers, the PIT Law, and the CT Law, a state Low-Income Housing Tax Credit (LIHTC) that is calculated in partial conformity with the federal LIHTC and may only be claimed over a period of four years. (R&TC Sections 12206, 17058, and 23610.5)

7) Authorizes, under the Joint Exercise of Powers Act (JEPA), two or more "public agencies" to enter into an agreement to jointly exercise any power common to the contracting parties. This agreement is referred to as a "joint powers authority" (JPA). (Government Code (GOV) Section 6502) A public agency includes the federal government or any federal department or agency, this state, another state or any state department or agency, a county, city, public corporation, public district, regional transportation commission, a federally recognized Indian tribe, or any joint powers authority formed pursuant to the JEPA, among others. (GOV 6500)

8) Authorizes the Legislature to partially or fully exempt property used for certain purposes, including charitable purposes, owned by a nonprofit organization organized and operated for those certain purposes if no part of the organization's earnings inure to the benefit of any private shareholder or individual. (California Constitution, Article XIII, Section 4.) Existing

statute implements this authorization by requiring that eligible property is irrevocably dedicated, and used, for the exempt purpose. This exemption is commonly referred to as the "welfare exemption." (R&TC Section 214(a).)

9) Defines a "possessory interest" as the possession of, claim to, or right to the possession of land or improvements that is "independent," "durable," and "exclusive" of rights held by others in the property, except when coupled with ownership of the land or improvements in the same person. (R&TC Section 107.)

10) Defines "independent" as the ability to exercise authority and exert control over the management or operation of the property or improvements, separate and apart from the policies, statutes, ordinances, rules, and regulations of the public owner of the property or improvements. (R&TC Section 107.)

11) Defines "durable" as a determinable period with a reasonable certainty that the use, possession, or claim with respect to the property or improvements will continue for that period. (R&TC Section 107.)

12) Defines "exclusive" as the enjoyment of a beneficial use of land or improvements, together with the ability to exclude from occupancy by means of legal process others who may interfere with that enjoyment, as specified. (R&TC Section 107.)

13) Defines "affordable rents" as no more than 30% of a tenant's income. (Health and Safety Code Section 50093.)

14) Defines "low-income household" as a household that does not exceed 80% of the area median income (AMI). (HSC 50079.5)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "California is in the midst of a housing crisis where nearly half of the state's renters are housing burdened (renters that spend more than 30% of their monthly income on rent are housing burdened as defined by HUD). JPA owned and government owned rental properties are filling a need to help provide much needed housing for California's disenfranchised communities. Legislation is required to negate a potential possessory interest tax for these communities in government owned assets."

Joint Power Authorities (JPAs): The Joint Exercise of Powers Act allows two or more cities or counties to form a Joint Powers Authority (JPA) for a variety of purposes, including issuing bonds to pay for public projects. To pay for infrastructure such as airports and public hospitals, JPAs issue government bonds. Several JPAs in the state fund affordable housing projects by issuing private activity bonds (PABs) which are paired with 4% federal low-income housing tax credits and government bonds. The Federal government caps the amount of PABs a state can issue, but no volume cap exists for tax-exempt government bonds issued by JPAs. JPAs outsource their bond issuance to private financiers or private administrators.

In addition to these traditional bonding approaches, recently JPAs have begun to partner with private entities to purchase existing multi-family housing. According to media reports, since

2019, JPAs have authorized $6 billion in government bonds to acquire more than 35 apartment buildings. The process works as follows:

- A private entity identifies a property, places a deposit on the property and approaches a JPA about purchasing the property;
- The JPA issues government bonds and purchases the property. JPAs outsource their bond issuance to private financiers or private administrators; and
- The private entity that initially approached the JPA about buying the property acts as project administrator and asset manager. Because a JPA, a governmental entity, owns the property, it is not subject to property taxes.

Public housing owned by a city, county, or housing authority is 100% affordable to lower income households. Although some units in developments purchased by the JPAs described above may be rented to lower income households, it is likely that many are rented to moderate-income households and above moderate-income households. There is no requirement that the JPA's units be rented to lower income households or that the units be offered at an affordable rent, defined as 30% of a renter's income.

Property Taxes: Cities collect property taxes from market-rate rental and ownership housing and distribute a portion of those taxes to the other taxing entities – counties, special districts, and schools. The California Constitution authorizes a welfare exemption from property taxes if a property is used for a charitable purpose. Revenue and Taxation Code Section 214 (g) defines a charitable purpose to include units in an affordable housing developments that are offered for households making 80% of AMI or less. The property tax savings from the welfare exemption is intended to reduce the overall cost of the units and to be passed on to lower income households as rent savings.

The California Constitution also authorizes an exemption from property taxes for government-owned property. The purpose of exempting buildings owned by governments from property taxes is to reduce the overall cost of using the building – for example, if the bonds are used to build a library or a public hospital that is not producing income.

Unrestricted, multifamily housing owned by JPAs via the purchasing scheme outlined above are exempt from paying property taxes, because the property is owned by a public entity. However, not all of the units qualify for the welfare exemption because some may be rented to households that are over the 80% household income cap.

Possessory Interest: A possessory interest is a private interest held in public property and constitutes that portion of a public property which is exclusively, independently, and durably vested in a private entity. The California Constitution provides that property of the state and of local governments are not taxable. However, a possessory interest in that state or local government property can be considered taxable. In these instances, the portion of the property's value that can be attributed to benefit a private entity is taxed. This case is often referred to as a "taxable possessory interest."

Tenants in the JPAS described above have a possessory interest because although the development they live in is owned by a public entity, they are receiving part of the value from the property in the form of housing. If renters were at or below 80% of AMI, then the unit would qualify for the welfare exemption and no taxes would be due, but as discussed earlier, there is no

income limit on these units. As a result, county assessors in some counties have sent tax bills to tenants in JPAs to recover the property taxes owed for their possessory interest.

SB 734 (Rubio), Chapter 734, Statutes of 2023*:* Last year, SB 734 codified guidance from BOE that lower income tenants (those who are at or below 80% of AMI) do not have a possessory interest in a unit they are renting in a JPA. This guidance is consistent with the welfare exemption that exempts units rented to tenants who are lower income. The welfare exemption does not apply to moderate income or market-rate units. This bill would, essentially, expand the welfare exemption to those units by waiving any possessory interest on rental housing units in a JPA rented to a moderate-income or above moderate-income tenant.

Process For Exemption: Article 13, Section 7 of the California Constitution allows the Legislature, by two-thirds vote, to authorize county boards of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them. This bill would create a process for a Board of Supervisors to vote to exempt from property taxation any possessory interest held by a tenant of publicly owned housing with a value so low that the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them. The amount of value that can be exempt is $50,000. The Board could do this either by action or inaction. The Board could vote by majority to exempt the unit, or if the board takes a vote but fails to reach a majority vote either in favor of or against the application of the exemption for the possessory interest, the board shall be deemed to have agreed with the presumption and the exemption shall be deemed granted by the board with respect to the possessory interest. To create additional certainty that the Board will take action, this bill creates a rebuttable presumption that the property taxes and applicable subventions on a possessory interest held by a tenant in publicly owned housing are less than the costs of assessing and collecting those taxes and applicable subventions. This bill provides a process for the assessor to inform a tenant if the Board votes to approve or disprove the exemption and how to appeal if it is denied. The Board can vote to exempt past due property taxes as well as future taxes for as many years as the Board decides.

Arguments in Support: The California Association of County Treasurers and Tax Collectors (CACTTC) "deeply appreciates the collaboration with stakeholders to craft language that authorizes a county board of supervisors to exempt from property taxation any possessory interest held by a tenant of publicly owned housing with a value so low that the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them. The benefit of this legislation is two-fold: it will prevent undue financial and emotional stress on individuals who already are income-eligible to reside in public housing, but then receive a property tax bill from the County for their occupancy of that unit. AB 2506 makes it clear that county boards of supervisors can act to exempt that tenancy from possessory interest taxation. Secondly, by establishing that the board of supervisors can act to do this exemption, it will reduce the workload for county tax collectors to generate, print, and mail these bills. The question of generating and issuing property tax bills for individuals living in publicly-owned housing has created challenges and inconsistent practices across counties. Establishing a clear path and process by which a board can elect to not assess taxation on these tenants, and subsequently reduce the workload on county staff generating and collecting tax bills is worthy of support."

Arguments in Opposition: None on file.

Related Legislation:

SB 734 (Rubio), Chapter 734, Statutes of 2023 codified guidance from Board of Equalization (BOE) that lower income tenants (those who are at or below 80% of AMI) do not have a possessory interest in a unit they are renting in a JPA.

AB 850 (Ward) (2023) would have prohibits a city, county, or joint powers authority (JPA) from acquiring unrestricted, multifamily housing unless each unit in the development was restricted to 55 year affordability requirements and rent limits published by the California Tax Credit allocation Committee (TCAC). This bill died in Senate Governance and Finance Committee.

Double Referred: This bill was also referred to the Assembly Committee on Revenue and Taxation, where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of County Treasurers and Tax Collectors

Support If Amended

California Housing Partnership Corporation

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2533 (Juan Carrillo) – As Amended March 21, 2024

SUBJECT: Accessory dwelling units: junior accessory dwelling units: unpermitted developments

SUMMARY: Extends the Accessory Dwelling Unit (ADU) amnesty law to unpermitted ADUs and junior accessory dwelling units (JADUs) built before 2020. Provides a process for homeowners to permit their unpermitted ADUs and provides financial assistance to lower- and moderate-income households seeking to permit their unpermitted ADUs and JADUs. Specifically, **this bill**:

1) Prohibits a local agency from denying a permit for an unpermitted ADU or unpermitted JADU that was constructed before January 1, 2020, due to either of the following:

    a) The unpermitted ADU or JADU violates certain residential building standards established in Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code; or

    b) The unpermitted ADU or JADU violate certain provisions of State ADU/JADU Law (established in Government Code Section 65852.2 or 65852.22, as applicable), or of local ADU or JADU ordinances.

2) Allows a local agency to deny a permit for the legalization of an unpermitted ADU or JADU if the local agency makes a finding that correcting the violation is necessary to comply with the health and safety standards, as specified.

3) Requires a local agency to inform the public about the options to permit their unpermitted ADU or JADU including posting on their website a checklist of health and safety standards that the units would need to meet and informing homeowners that they may obtain a confidential third-party inspection from a licensed contractor to determine the unit's existing condition or potential scope of improvements necessary to meet health and safety standards.

4) Provides that a homeowner applying for a previously unpermitted ADU or JADU constructed before January 1, 2020, shall not be required to pay impact fees or connection fees or capacity charges to obtain a permit if they provide written evidence that their household is low- or moderate-income, as defined.

5) Provides that, upon receiving an application to permit a previously unpermitted ADU or JADU constructed before January 1, 2020, an inspector from the local agency may inspect the unit for compliance with health and safety standards and provide recommendations to comply with health and safety standards necessary to obtain a permit. If the inspector finds noncompliance with health and safety standards, the local agency shall not penalize an applicant for having the unpermitted ADU or JADU and shall approve necessary permits to correct noncompliance with health and safety standards.

6) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.

EXISTING LAW:

1) Defines "accessory dwelling unit" as an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit (ADU) also includes efficiency units and manufactured homes, as specified. (Government Code (GOV) Section 66313)

2) Defines "junior accessory dwelling unit" as a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit (JADU) may include separate sanitation facilities, or may share sanitation facilities with the existing structure. (GOV 66313)

3) Prohibits a local agency, special district, or water corporation from imposing impact fees, as specified, on ADUs less than 750 square feet. Requires that impact fees charges for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit. Impact fees do not include any connection fee or capacity charge charged by a local agency, special district, or water corporation. (GOV 66324)

4) Prohibits a local agency, special district, or water corporation from requiring the applicant of an attached ADU, conversion of an existing structure, or JADU to install a new or separate utility connection directly between the ADU and the utility or impose a related connection fee or capacity charge, unless the ADU was constructed with a new single-family dwelling or upon separate conveyance of the ADU, as specified. (GOV 66324)

5) Allows a local agency, special district or water corporation to require a new or separate utility connection directly between the ADU and the utility, if the ADU is a new detached structure. Allows the local agency, special district or water corporation to charge a connection fee or capacity charge. If a connection fee or capacity charge is imposed, then the fee or charge shall be proportionate to the burden imposed by the new ADU. (GOV 66324)

6) Delays the enforcement of building standards at the request of the owner on ADUs built prior to January 1, 2020 or if the ADU was built on or after January 1, 2020 in a jurisdiction that at the time had a noncompliant ADU ordinance, but the ordinance is compliant at the time the request is made. However, the ADU is still subject to health and safety standards, as specified. (GOV 66331)

7) Prohibits a local agency from denying a permit for an ADU constructed prior to January 1, 2018 because the ADU was in violation of building standards, as specified, or the ADU does not comply with state law or local ordinance. Allows a local agency to deny a permit to an ADU that is deemed substandard and that would put the health and safety of the occupants at risk. (GOV 66332)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "ADUs are an important asset for middle and low-income homeowners to build generational resources and for multigenerational families to care for each other. These units are providing critically needed homes for renters amidst a housing crisis and steady supplemental income for owners at risk of displacement. While no one solution will solve the housing crisis, AB 2533 intends to support and empower cost-burdened homeowners by providing a pathway to legalize their unpermitted ADUs, so they may safely house family or community members."

Statewide Housing Need: According to the Department of Housing and Community Development's (HCD's) 2022 Statewide Housing Plan Update,[1] California's housing crisis is a half century in the making. After decades of underproduction, supply is far behind need and housing and rental costs are soaring. As a result, millions of Californians must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation, directly impacting quality of life in the state. One in three households in the state doesn't earn enough money to meet their basic needs. In 2023, over 181,000 Californians experienced homelessness on a given night, with a sharp increase in the number of people who became experienced homelessness for the first time.[2]

To meet this housing need, HCD determined that California must plan for more than 2.5 million new homes, and no less than one million of those homes must be affordable to lower-income households, in the 6th Regional Housing Needs Allocation (RHNA). This represents more than double the housing needed in the 5th RHNA cycle. As of April 5, 2024, in the 6th RHNA cycle, jurisdictions across the state have permitted the following:

- 2.1 percent of the very low-income RHNA
- 4.8 percent of the low-income RHNA
- 4.8 percent of the moderate-income RHNA
- 12.7 percent of the above moderate-income RHNA

ADUs as a Solution: In California, most of the land suitable for housing has already been developed. The remaining developable areas are typically far from job centers, in high-risk wildfire areas, and/or land that is environmentally sensitive or important for agriculture. Therefore, addressing the housing crisis in an environmentally responsible way will require an increase in density in already developed areas. This policy of incentivizing infill development is also aligned with other state policy goals, such as reducing vehicle miles traveled and lowering greenhouse gas emissions.

Increasing density can occur in multiple ways. In recent decades, this has often meant high-density housing near major transit stops. However, such housing is both expensive to build, and limited in geographic scope. Recently, there has been a national trend to allow for more "gentle

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[1] California Department of Housing and Community Development, *A Home for Every Californian*: 2022 Statewide Housing Plan. March 2022, https://storymaps.arcgis.com/stories/94729ab1648d43b1811c1698a748c136
[2] U.S. Department of Housing and Urban Development, Point in Time Counts. https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html

density," e.g., ADUs, duplexes, fourplexes, townhomes, and other moderately dense developments that were common before the imposition of zoning. In recent years, the Legislature has taken a more active role in facilitating such gentle density. In 2016 SB 1069 (Wieckowski) and AB 2299 (Bloom) permitted accessory dwelling units (ADUs) by right on all residentially-zoned parcels in the state. By permitting an ADU as a second unit on all single-family lots, these laws effectively doubled their allowed density. Last year, SB 9 (Atkins) furthered this trend by making duplexes by-right on single-family zoned properties.

These state laws have transformed ADUs from being less than 1% of new construction before 2017 to now being approximately 18%, at over 18,000 new ADUs completed in 2022.[3] The number of ADUs is expected to continue growing as the ADU construction and financing industry matures, which will help meet the market feasibility for ADUs that is estimated to be approximately 1.8 million units in California.[4]

Additionally, because ADUs are typically smaller than the average home in a community, they tend to be more affordable than other market-rate units, thereby better serving lower income households. A survey of ADU owners in coastal markets found that over a third of the owners were renting their ADUs at a rate affordable to lower income households.[5] With thousands of affordable ADUs being added every year, ADUs have already become an important part of the state's stock of new affordable housing, with a growth potential that is not subject to the state's funding allocations.

ADU Construction Costs and Regulatory Barriers: Despite being cheaper to build than other construction typologies in the state, legally building an ADU still imposes a financial burden on homeowners, and it can be difficult for homeowners to navigate through the local approvals process. A 2021 survey of owners of permitted ADU conducted by researchers at UC Berkeley found that the median construction cost of an ADU ranged from $197 - $329 per square foot.[6] The owners of permitted ADUs tended to be more affluent than the average Californian, and 52% relied on cash savings to build their units. [7] Navigating local approvals process and paying for permitting fees were cited as two of the top four challenges encountered by those who legally constructed an ADU. [8] Only 39% of those who legally built an ADU reported that it was easy to obtain the necessary permits to build their unit. [9]

Legalization of Unpermitted ADUs: For various reasons, including those cited above, homeowners construct ADUs without the benefit of permits from their local government. These reasons may include the unawareness of regulations, or the perceived complexity and cost of obtaining the required permits. In 2018, UCLA Professor Vinit Mukhija estimated that there

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[3] Per HCDs "APR Dashboard" https://www.hcd.ca.gov/planning-and-community-development/housing-open-data-tools/housing-element-implementation-and-apr-dashboard. 2022 is the last year with complete APR data reported as of April, 2024.
[4] Monkonnen et al, 2020, *One to Four: The Market Potential of Fourplexes in California's Single-Family Neighborhoods*, UCLA Working Paper Series: https://www.lewis.ucla.edu/research/market-potential-fourplexes/
[5] Chapple et al, Implementing the Backyard Revolution: Perspectives of California's ADU Owners, UC Berkeley Center for Community Innovation, April 2021, Table 3: https://www.aducalifornia.org/wp-content/uploads/2021/04/Implementing-the-Backyard-Revolution.pdf
[6] IBID.
[7] IBID.
[8] IBID.
[9] IBID.

were at least 50,000 unpermitted ADUs on single-family lots in the City of Los Angeles alone. Providing homeowners with the opportunity to legalize these unpermitted units has the following benefits:

1) Habitability and safety: ADU legalization allow these unpermitted units to be inspected for health and safety standards, and updated to comply with those building standards that would ensure the health and safety of the occupant, as needed. Without a pathway to legalization, owners of unpermitted ADUs would not stop using their ADUs, including renting them out to tenants, the owners would likely just forego the necessary health and safety upgrades.

2) Meeting Regional Housing Needs Assessment (RHNA): Allowing local jurisdictions to bring unpermitted units into the formal housing stock would enable those jurisdictions to count the ADUs towards their RHNA numbers, and give the jurisdictions a better understanding of their local housing stock and increasing the supply of habitable homes.

3) Reducing enforcement costs: Providing a pathway for ADU legalization may shifts the focus of local governments from punitive code enforcement measures, including, in some instances, forcing homeowners to remove these homes, to supportive ones by creating a pathway to help owners legalize their units.

Prior legislation, SB 897 (Wieckowski), Chapter 664, Statutes of 2022, made it easier for homeowners to permit unpermitted ADUs that were built before January 1, 2018. Specifically, it prohibited local agencies from denying a permit for such ADUs if:

1) The ADU is in violation of building standards, but correction of the violation is not necessary to protect the health and safety of the public or occupants of the structure;

2) The ADU does not comply with state or local ADU law; or

3) There are violations on the site, but they are not related to the ADU.

This bill would apply those provisions to both unpermitted ADUs and unpermitted JADUs built before January 1, 2020, rather than January 1, 2018. A local agency could not deny a permit to an unpermitted ADUs and JADUs built prior to 2020, unless the structure poses a threat to health and safety. This bill prohibits an owner of an unpermitted ADU or JADU from having to pay impact fees, connection fees, or capacity charges if their household can prove they are lower- or moderate-income. This bill also requires local agencies to post a checklist that provides the conditions necessary to comply with health and safety standards and that inform homeowners that they may seek a third-party code inspection from a licensed contractor prior to filing an application with their local agency. This bill allows the local agency to inspect the unit for compliance with health and safety standards and requires the approval of permits necessary to correct noncompliance.

Impact Fees and Exactions: 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 local agency'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 various local 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 the UC Berkeley Terner Center for Housing Innovation, between 2008 and 2015, California fees rose 2.5%, while the national average decreased by 1.2%.[10] Development fees can comprise 17% of the total development costs of new housing, and in California in 2015, impact fees were nearly three times the national average.[11]

The Mitigation Fee Act governs the imposition, collection, and use of impact fees collected by local governments when reviewing and approving development proposals.

Key aspects of the Mitigation Fee Act include:

1. **Nexus Requirement**: The Act requires a clear "nexus" or connection between the fee charged and the impact created by the development, typically established via a nexus study. This means that the fees collected must be used to address the specific impacts that the new development is expected to have on public facilities and services.

2. **Proportionality**: The fees charged must be proportional to the impact of the development.

3. **Accountability**: Local governments are required to establish separate accounts for the fees collected and to use the funds solely for the intended purposes. They must also provide annual reports on the status of the fees, including the balance and how the funds have been used.

4. **Timing of Fee Payment**: The Act specifies when fees can be collected, generally at the time of final inspection or when certificate of occupancy is issued, with some exceptions, as specified below in the “Collection of Impact Fees” section. This bill would remove those exceptions.

5. **Refunds**: If the fees collected are not used within five years, and specific findings are not made, the Act provides for the refund of the fees.

Related Legislation:

SB 477 (Senate Committee on Housing), Chapter 7, Statutes of 2024: Reorganized ADU and JADU law.

AB 976 (Ting), Chapter 751, Statutes of 2023: Prohibits a local agency from imposing owner occupancy requirements on properties with an ADU.

AB 1033 (Ting), Chapter 752, Statutes of 2023: Allowed an ADU to be separately conveyed from the primary residence

SB 897 (Wieckowski), Chapter 664, Statutes of 2022: Created a process for the permitting of unpermitted ADUs.

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[10] Sarah Mawhorter, David Garcia and Hayley Raetz, *It All Adds Up: The Cost of Housing Development Fees in Seven California Cities*, Terner Center for Housing Innovation, March 2018, https://ternercenter.berkeley.edu/research-and-policy/it-all-adds-up-development-fees
[11] IBID.

AB 587 (Friedman), Chapter 657, Statutes of 2019: Allowed an ADU to be sold or conveyed separately from the primary residence to a qualified buyer under specified circumstances.

AB 68 (Ting), Chapter 655, Statutes of 2019, AB 881 (Bloom), Chapter 659, Statutes of 2019, and SB 13 (Wieckowski), Chapter 653, Statutes of 2019: Collectively, these bills made changes to ADU and JADU laws, including narrowing the criteria by which local jurisdictions can limit where ADUs are permitted, clarifying that ADUs must be ministerially approved if constructed in existing garages, eliminating for five years the potential for local agencies to place owner-occupancy requirements on the units, prohibiting an ordinance from imposing a minimum lot size for an ADU, and eliminating impact fees on ADUs that are 750 square feet or less and capping fees on ADUs that are 750 square feet or more to 25 percent

AB 2299 (Bloom), Chapter 735, Statutes of 2016; and SB 1069 (Wieckowski), Chapter 720, Statutes of 2016: Provided legislative intent re ADUs and provided requirements and authorizations for the entitlement of ADUs.

AB 2406 (Thurmond), Chapter 755, Statutes of 2016: Established JADU law.

AB 2604 (Torrico), Chapter 246, Statutes of 2008: Authorized a local agency to defer the collection of one of more fees up to the close of escrow.

AB 641 (Torrico), Chapter 603, Statues of 2007: Prohibited local governments from requiring the payment of local developer fees before the developer has received a certificate of occupancy, pursuant to a specified exemption, for any housing development in which at least 49 percent of the units are affordable to low or very low income households.

Double referred: This bill is double referred. It was heard in the Assembly Committee on Local Government and passed on a vote of 9-0 on April 17, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council (Sponsor)
Casita Coalition (Sponsor)
AARP
California Community Builders
California YIMBY
HPP Cares

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2553 (Friedman) – As Amended April 15, 2024

SUBJECT: Housing development: major transit stops: vehicular traffic impact fees

SUMMARY: Changes the geographic scope of a housing development eligible for reduced vehicular traffic impact fees. Specifically, **this bill:**

1) Changes, for the purposes of existing law governing reduced vehicular traffic impact fees, "transit station" to "major transit stop".

2) Defines, for the purposes of a local agency imposing vehicular traffic impact fees, "major transit stop" to mean any of the following:

   a) An existing rail or bus rapid transit station;

   b) A ferry terminal served by either a bus or rail transit service;

   c) The intersection of two or more major bus routes with a frequency of service interval of 20 minutes or less during the morning and afternoon peak commute periods;

   d) Major transit stops included in the applicable regional transportation plan; or

   e) Planned major transit stops whose construction is programmed to be completed prior to the scheduled completion and occupancy of the housing development.

3) Redefines "major transit stop," for the purposes of the California Environmental Quality Act (CEQA) and any cross references, to contain the intersection of two or more major bus routes with a frequency of service interval of 20 minutes or less, rather than 15 minutes or less, during the morning and afternoon peak commute periods.

EXISTING LAW:

1) Requires a local agency to impose fees related to vehicular impacts at a rate that reflects a lower rate of automobile trips associated with housing development with all of the following characteristics: (Government Code (GOV) 66005.1)

   a) The housing development is located within one-half mile of a transit station and there is direct access between the housing development and the transit station along a barrier-free walkable pathway not exceeding one-half mile in length.

   b) Convenience retail uses, including a store that sells food, are located within one-half mile of the housing development.

   c) The housing development provides the minimum number of parking space required by the local ordinance or no more than one onsite parking space for zero to two bedroom units, and two onside parking spaces for three or more bedroom units, whichever is less.

2) Defines, for the purposes of 1), above, "housing development" to mean a development project with common ownership and financing consisting of residential use or mixed use where not less than 50 percent of the floorspace is for residential use. (GOV 66005.1)

3) Defines, for the purposes of 1) above, "transit station" to mean a rail or light-rail station, bus hub, or bus transfer station. (GOV 65460.1)

4) Defines "major transit stop" which means a site containing an existing rail or bus rapid transit station, ferry terminal served by either bus or rail transit, or the intersection of two or more major bus routes with a frequency of service of 15 minutes or less during the morning and afternoon peak commute periods. (Public Resources Code (PRC) 21064.3)

5) Establishes the Mitigation Fee Act which:

    a) Requires a local agency to do all of the following when establishing, increasing, or imposing a fee on a development project:

        i. Identify the purpose of the fee;

        ii. Identify the use to which the fee is to be put;

        iii. Determine how there is a nexus between the fee's use and the type of development project on which the fee is imposed; and

        iv. Determine how there is a nexus between the need for a public facility and the type of development project on which the fee is imposed. (Government Code (GOV) 66000-66025)

    b) Provides that if a local agency imposes a fee on a housing development to mitigate traffic impacts, and the development is within half a mile barrier-free walk of a transit station, the fee should reflect a lower rate of automobile trips, unless proven at a public hearing that the housing development would not generate fewer automobile trips than a development further away from transit. (GOV 66005.1)

FISCAL EFFECT: Unknown. This is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

Author's Statement: According to the author, "Many local agencies have very high traffic impact fees, posing an impediment to the production of housing and over-charging transit proximate housing developments that would have minimal traffic impacts. Furthermore, the COVID-19 pandemic caused a significant reduction in transit ridership. Many transit agencies responded by cutting routes and reducing service frequency. As a result, there are fewer locations that meet the definition of major transit stop. Notwithstanding service reductions, development projects proximate to existing and planned transit generate fewer vehicle trips and have more transit riders than projects located further from transit with benefits to air quality and greenhouse gas emissions.

AB 2553 solves these problems by removing impediments to the production of transit proximate housing. AB 2553 clarifies when local jurisdictions must impose lower traffic impact fees on

transit proximate housing developments and updates the definition of major transit stop to reflect post-COVID service levels and on-demand transit."

Statewide Housing Needs: According to the Department of Housing and Community Development's (HCD's) 2022 Statewide Housing Plan Update,[1] California's housing crisis is a half century in the making. After decades of underproduction, supply is far behind need and housing and rental costs are soaring. As a result, millions of Californians must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation, directly impacting quality of life in the state. One in three households in the state doesn't earn enough money to meet their basic needs. In 2023, over 181,000 Californians experienced homelessness on a given night, with a sharp increase in the number of people who became experienced homelessness for the first time.[2]

To meet this housing need, HCD determined that California must plan for more than 2.5 million new homes, and no less than one million of those homes must be affordable to lower-income households, in the 6th Regional Housing Needs Allocation (RHNA). This represents more than double the housing needed in the 5th RHNA cycle. By contrast, housing production in the past decade has been under 100,000 units per year – including less than 10,000 units of affordable housing per year.[3] As of April 5, 2024, in the 6th RHNA cycle, jurisdictions across the state have permitted the following:

- 2.1 percent of the very low-income RHNA
- 4.8 percent of the low-income RHNA
- 4.8 percent of the moderate-income RHNA
- 12.7 percent of the above moderate-income RHNA

Cost of Building Housing: It is expensive to build housing in California. The UC Berkeley Terner Center finds that challenging macroeconomic conditions, including inflation and high interest rates, affect the availability and cost of capital, resulting in rising costs for labor and materials.[4] Furthermore, workforce and supply shortages have exacerbated the already high price of construction in California, and economic uncertainty has made equity partners and lenders apprehensive about financing new housing development proposals.[5]

An analysis by the California Housing Partnership compares the cost of market rate development prototypes developed by the Terner Center with the median cost of developing affordable rental homes. In the four regions analyzed, the study found that the cost of developing one unit of affordable housing ranged from approximately $480,000 to $713,000, while the cost of

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[1] California Department of Housing and Community Development, *A Home for Every Californian*: 2022 Statewide Housing Plan. March 2022, https://storymaps.arcgis.com/stories/94729ab1648d43b1811c1698a748c136
[2] U.S. Department of Housing and Urban Development, Point in Time Counts. https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html
[3] https://www.hcd.ca.gov/policy-research/housing-challenges.shtml
[4] David Garcia, Ian Carlton, Lacy Patterson, and Jacob Strawn, *Making It Pencil: The Math Behind Housing Development (2023 Update)*, Terner Center for Housing Innovation, December 2023, https://ternercenter.berkeley.edu/research-and-policy/making-it-pencil-2023/
[5] IBID.

developing one unit of market rate housing in the state ranged from approximately $508,000 to $637,000.[6]

Impact Fees and Exactions – Added Uncertainty and Costs: 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 local agency'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 various local 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 the UC Berkeley Terner Center for Housing Innovation, between 2008 and 2015, California fees rose 2.5%, while the national average decreased by 1.2%.[7] Development fees can comprise 17% of the total development costs of new housing, and in California in 2015, impact fees were nearly three times the national average.[8]

The Mitigation Fee Act governs the imposition, collection, and use of impact fees collected by local governments when reviewing and approving development proposals.

Key aspects of the Mitigation Fee Act include:

1. **Nexus Requirement**: The Act requires a clear "nexus" or connection between the fee charged and the impact created by the development. This means that the fees collected must be used to address the specific impacts that the new development is expected to have on public facilities and services.

2. **Proportionality**: The fees charged must be proportional to the impact of the development.

3. **Accountability**: Local governments are required to establish separate accounts for the fees collected and to use the funds solely for the intended purposes. They must also provide annual reports on the status of the fees, including the balance and how the funds have been used.

4. **Timing of Fee Payment**: The Act specifies when fees can be collected, generally at the time of final inspection or when certificate of occupancy is issued, with some exceptions.

5. **Refunds**: If the fees collected are not used within five years, and specific findings are not made, the Act provides for the refund of the fees.

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[6] Mark Stivers, *Affordable Housing Compares Favorably to Market-Rate Housing From a Cost Perspective*, California Housing Partnership, January 2024: https://chpc.net/affordable-housing-compares-favorably-to-market-rate-housing-from-a-cost-perspective/#:~:text=It%20turns%20out%20that%20costs,market%2Drate%20developments%20do%20not.
[7] Sarah Mawhorter, David Garcia and Hayley Raetz, *It All Adds Up: The Cost of Housing Development Fees in Seven California Cities*, Terner Center for Housing Innovation, March 2018, https://ternercenter.berkeley.edu/research-and-policy/it-all-adds-up-development-fees
[8] IBID.

Existing law limits the fees local agencies can impose for the purpose of mitigating vehicular traffic impacts on housing developments within 1/2 mile of a transit station, which includes a rail or light-rail station, ferry terminal, bus hub, or bus transfer station, but excludes other major bus stops, as well as planned transit stops.

***Climate Smart Housing Development*:** In 2008, the Legislature passed the Sustainable Communities and Climate Protection Act [SB 375 (Steinberg), Chapter 728, Statutes of 2008] which helped support California's climate goals coordinating transportation, housing, and land use planning to reduce greenhouse gas emissions. This law focuses on incentivizing regional and local planning and building in ways that bring people and destinations closer together, with low-carbon, alternative and convenient ways to get around. It requires regional metropolitan planning organizations in California to develop Sustainable Communities Strategies (SCS), or long-range plans, which align transportation, housing, and land use decisions toward achieving greenhouse gas (GHG) emissions reduction targets set by the California Air Resources Board (CARB).

According to CARB, some of the key aspects of SCS plans include a focus on housing and job growth within existing urbanized areas with access to high quality transit and active transportation options. By creating flexibility on impact fees related to vehicular traffic, local governments can incentivize development around transit service and reduced GHG emissions.

The state seeks to incentivize and prioritize new housing development in climate-smart places,[9] accompanied by the policy goals of lowering the cost of housing and reducing greenhouse gas emissions. As such, limiting the fees that a local jurisdiction can charge for vehicular traffic mitigation near major transit stops, as proposed in this bill, is well aligned with these existing goals and priorities.

***Related Legislation*:**

AB 3177 (W. Carrillo): Prohibits a local agency from imposing a land dedication requirement on a housing development within a transit priority area for the purpose of mitigating vehicular traffic impacts or achieving an adopted level of service related to vehicular traffic and makes related changes, with certain exceptions. This bill passed in this committee 7-0, and is now in the Assembly Committee on Local Government.

AB 1560 (Friedman), Chapter 631, Statues of 2019: Defined "bus rapid transit" and restructured the definition of "major transit stop."

SB 375 (Steinberg), Chapter 728, Statutes of 2008: Required metropolitan planning organizations to include sustainable community strategies, as defined, in their regional transportation plans for the purpose of reducing greenhouse gas emissions, aligns planning for transportation and housing, and creates specified incentives for the implementation of the strategies.

AB 3005 (Jones), Chapter 692, Statutes of 2008: Established that when a local agency imposes a fee on a housing development for the purpose of mitigating vehicular traffic impacts, the local

[9] 2022 Statewide Housing Plan.

agency shall set the fee at a lower rate for housing developments within one-half mile of a transit station, one-half mile of a convenience retail that sells food, and the housing development provides minimum number of parking spaces required by local ordinance.

SB 1925 (Sher), Chapter 1039, Statues of 2002: Defines "major transit stop" means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods

Arguments in Support. According to Abundant Housing Los Angeles, "as of now, if a local agency has adopted a traffic impact fee, the Mitigation Fee Act would make sure the fee is set at a lower rate for housing development projects that reduce vehicle trips and miles traveled. As the current law stands, it requires the housing development to be within one-half mile of a transit station, which is a definition that leaves out many projects that are near transit stops. Numerous local agencies have high traffic impact fees, which creates another hurdle in the production of housing and over-charging housing developments located near transit stops that would have minimum traffic impacts."

The California Environmental Quality Act and the State Density Bonus Law currently encourage development projects near transit stops. Written in these statutes, a development project must be proximate to a major transit stop, which under its current definition, means it includes the intersection of two or more major bus routes with a frequency of 15 minutes or less during morning and afternoon peak commute periods. However, after the pandemic, there have been significant cuts to ridership, which has translated into a reduction in bus routes and service frequency. Thus, many locations no longer meet the existing definition for a major transit stop."

***Arguments in Opposition*.** None on file.

Double referred: This bill is double referred. It was heard in the Assembly Committee on Local Government and passed on a vote of 9-0 on April 10, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP
Abundant Housing LA
California Community Builders
California YIMBY
Circulate San Diego
CivicWell
East Bay YIMBY
Grow the Richmond
How to ADU
LeadingAge California
MidPen Housing
Monterey Bay Economic Partnership
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
Sand Hill Property Company
Santa Cruz YIMBY
Santa Rosa YIMBY
South Bay YIMBY
Southside Forward
SPUR
Streets for All
Streets for People
Urban Environmentalists
Ventura County YIMBY
YIMBY Action

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2570 (Joe Patterson) – As Introduced February 14, 2024

SUBJECT: Department of Housing and Community Development: annual report: Homeless Housing, Assistance, and Prevention program

SUMMARY: Requires the Department of Housing and Community Development (HCD) as part of its annual report on specified programs to include an evaluation of the Homeless Housing, Assistance, and Prevention (HHAP) program as administered by the Business, Consumer Services, and Housing Agency and the Interagency Council on Homelessness.

EXISTING LAW:

1) Requires HCD, on or before December 31 of each year, to submit an annual report to the Governor and both houses of the Legislature on the operations and accomplishments during the previous fiscal year of the housing programs administered by the department, including, but not limited to, the Emergency Housing and Assistance Program and Community Development Block Grant activity.

2) Requires the report to include all of the following information:

    a) The number of units assisted by those programs;

    b) The number of individuals and households served and their income levels;

    c) The distribution of units among various areas of the state;

    d) The amount of other public and private funds leveraged by the assistance provided by those programs;

    e) Information detailing the assistance provided to various groups of persons by programs that are targeted to assist those groups;

    f) The information required to be reported pursuant to specified law; and

    g) An evaluation, in collaboration with the Department of Veterans Affairs (DVA), of any program established by DVA, including information relating to the effectiveness of assisted projects in helping veterans occupying any supportive housing or transitional housing development that was issued funds pursuant to that article. (Health and Safety Code (HSC) 50408)

3) Requires the evaluation of any DVA program to include, but not be limited to: performance outcome data including, but not limited to, housing stability, housing exit information, and tenant satisfaction, which may be measured by a survey, and changes in income, benefits, and education. (HSC 50408)

4) Defines "housing stability" to include, but is not limited to, how many tenants exit transitional housing to permanent housing or maintain permanent housing, and the length of time those tenants spent in assisted units. (HSC 50408)

5) Defines "housing exit information" to include but is not limited to, the following:

   a) How many tenants left assisted units;

   b) The length of tenancy in assisted units;

   c) The reason those tenants left assisted units, when that information is readily obtainable;

   d) The housing status of a tenant exiting an assisted unit upon exit when that information is readily available; and

   e) Client data, which may include, but is not limited to, demographic characteristics of the veteran and their family, educational and employment status of the veteran, and veteran-specific information including, but not limited to, disability ratings, type of discharge, branch, era of service, and veterans affairs health care eligibility. (Cite)

6) An evaluation of any program established by the department to meet the legal requirements of the Federal Housing Trust Fund program guidelines. (Health and Safety Code Section (HSC) 50408)

7) Established HHAP to provide jurisdictions with one-time grant funds to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges informed by a best-practices framework focused on moving homeless individuals and families into permanent housing and supporting the efforts of those individuals and families to maintain their permanent housing. Directs HCD to administer HHAP. (Government Code (GC) Section 50216)

8) Requires HHAP to be used for evidence-based solutions that address and prevent homelessness among eligible populations, including any of the following:

   a) Rapid rehousing, including rental subsidies and incentives to landlords, such as security deposits and holding fees;

   b) Operating subsidies in new and existing affordable or supportive housing units, emergency shelters, and navigation centers. Operating subsidies may include operating reserves;

   c) Street outreach to assist persons experiencing homelessness to access permanent housing and services;

   d) Services coordination, which may include access to workforce, education, and training programs, or other services needed to promote housing stability in supportive housing;

   e) Systems support for activities necessary to create regional partnerships and maintain a homeless services and housing delivery system, particularly for vulnerable populations, including families and homeless youth;

f) Delivery of permanent housing and innovative housing solutions, such as hotel and motel conversions;

g) Prevention and shelter diversion to permanent housing, including rental subsidies; and

h) Interim sheltering, limited to newly developed clinically enhanced congregate shelters, new or existing noncongregate shelters, and operations of existing navigation centers and shelters based on demonstrated need. Demonstrated need for purposes of this paragraph shall be based on the following:

i) The number of available shelter beds in the city, county, or region served by a continuum of care;

ii) The number of people experiencing unsheltered homelessness in the homeless point-in-time count;

iii) Shelter vacancy rate in the summer and winter months;

iv) Percentage of exits from emergency shelters to permanent housing solutions; and

v) A plan to connect residents to permanent housing. (Government Code (GC) Section 50220.7)

9) Requires, beginning with the third round of HHAP, applicants to provide the following information for all rounds of program allocations through a data collection, reporting, performance monitoring, and accountability framework, as established by CA-ICH:

a) Data on the applicant's progress towards meeting their outcome goals, which must be submitted annually on December 31 of each year through the duration of the program;

b) If the applicant has not made significant progress toward their outcome goals, the applicant must submit a description of barriers and possible solutions to those barriers;

c) Applicants that do not demonstrate significant progress towards meeting outcome goals must accept technical assistance from the council and may also be required to limit the allowable uses of these program funds, as determined by the council;

d) A quarterly fiscal report of program funds expended and obligated in each allowable budget category approved in their application for program funds; and

e) If the applicant has not made significant progress toward their outcome goals, then the applicant must report on their outcome goals in their quarterly report. (GC Section 50220.7)

10) Requires CA-ICH to post a statewide report that aggregates each applicant's outcome goals into a single statewide set of metrics. (GC Section 50220.7)

11) Require each recipient that receives a round three program allocation to submit to CA-ICH a final report, as well as detailed uses of all program funds, no later than October 1, 2026. (GC Section 50220.7)

12) Requires each recipient that receives a round four program allocation to submit to CA-ICH a final report, as well as detailed uses of all program funds, no later than October 1, 2027. (GC Section 50220.7)

FISCAL EFFECT: Unknown

COMMENTS:

***Author's Statement*:** According to the author, "Accounting for nearly 30% of the nation's homeless population, California continues to face a growing homelessness epidemic. In response to this staggering reality, state leaders have tackled the issue through the development of varying programs and funding sources. While the effort possesses altruistic intentions, the Homeless Housing, Assistance, and Prevention program has failed to address the ever-intensifying homelessness crisis in California, with the state experiencing the second largest increase in homeless population in the nation from 2022-2023. It is crucial for state leaders to become informed of the problems plaguing our homelessness efforts, of which are funded by taxpayer dollars. I believe that by requiring a status update and review of the Homeless Housing, Assistance, and Prevention program in the Department of Housing and Community Development annual report to the Governor and both houses of the Legislature, we will be able to shed light on the flaws in our plan of action in addressing the overwhelming homelessness issue in our state."

CA-ICH: In 2016, SB 1380 (Mitchell), Chapter 847, created the Homelessness Coordinating and Financing Council, which was renamed the California Interagency Council on Homelessness (CA-ICH) in 2021 (AB 1220 (L. Rivas), Chapter 398) to coordinate the state's response to homelessness. SB 1380 set out a list of list of "goals" for CA-ICH to focus on, but no clear authority to make changes to state policy or programs that address homelessness. CA-ICH is also responsible for ensuring that all state housing and homelessness programs follow Housing First principles. As the state's homelessness crisis has worsened, the role of the CA-ICH has significantly increased. The council was responsible for administering several programs dedicated to addressing homelessness, including HHAP and the Encampment Resolution Program.

HHAP: The HHAP Program was created to provide jurisdictions with one-time grant funds expand or develop local capacity to address immediate homelessness challenges informed by a best-practices framework focused on moving homeless individuals and families into permanent housing and supporting the efforts of those individuals and families to maintain their permanent housing. Program funds can be used for services for those experiencing homelessness or at risk of homelessness, such as rapid rehousing, operating subsidies, street outreach, services coordination, delivery of permanent and innovative housing solutions, and homelessness prevention. HHAP replaced a prior program, the Homeless Emergency Aid Program (HEAP), which also provided block grants to large cities and CoCs for a variety of solutions addressing homelessness. Large cities (with a population of 300,000 or more), counties, Continuums of Care (CoCs), and tribes can apply for HHAP funding. HHAP has received $3.95 billion in funding from 2019-24. Round four of the HHAP Program included robust accountability provisions, including the requirement that applicants develop a Local Action Plan and performance goals. Round five requires regions to submit a joint applicant and plan for addressing homelessness.

Local Action Plans required HHAP recipients to set outcome goals that prevent and reduce homelessness over a three-year period, informed by the findings from a local landscape analysis and the jurisdiction's base system performance measure from 2020 calendar year data in the

Homeless Data Integration System. The outcome goals included definite metrics, based on the United States Department of Housing and Urban Development's system performance measures, to do the following:

- Reduce the number of persons experiencing homelessness;
- Reduce the number of persons who become homeless for the first time;
- Increase the number of people exiting homelessness into permanent housing;
- Reduce the length of time persons remain homeless;
- Reduce the number of persons who return to homelessness after exiting homelessness to permanent housing; and
- Increase successful placements from street outreach.

Applicants recently submitted applications for round five of HHAP and are currently receiving funds. The Governor's January Budget maintains $1 billion General Fund in 2023-24 for a fifth round of HHAP.

HCD Reporting: HCD completes an annual report of programs that they administer, including how many people served by income level and the number of units created. This bill would add an evaluation of the HHAP program to the report. In the 2022-23 Budget, the HHAP program and the Encampment Resolution Program, the two programs previously administered by Cal-ICH, were moved to HCD.

Arguments in Support: None on file.

Arguments in Opposition: None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2579 (Quirk-Silva) – As Amended April 9, 2024

SUBJECT: Inspections: exterior elevated elements

SUMMARY: Provides a 30-month extension to the deadline for the obligation to perform inspections of exterior elevated elements that include load-bearing components in all buildings containing three or more multifamily dwelling units, thereby delaying the inspection deadline from January 1, 2025, to July 1, 2027.

EXISTING LAW:

1) Requires owners of all buildings containing three or more multifamily dwelling units to inspect exterior elevated elements that include load-bearing components. Requires the inspection to be performed by a licensed architect; licensed civil or structural engineer; a building contractor holding any or all of the "A," "B," or "C-5" license classifications issued by the Contractors' State License Board, with a minimum of five years' experience as a holder of the aforementioned classifications or licenses, in constructing multistory wood frame buildings; or an individual certified as a building inspector or building official from a recognized state, national, or international association, as determined by a local jurisdiction. (Health and Safety Code (HSC) Section 17973(a))

2) Specifies that the purpose of the inspection is to determine that exterior elevated elements and their associated waterproofing elements are in a generally safe condition, adequate working order, and free from any hazardous condition caused by fungus, deterioration, decay, or improper alteration to the extent that the life, limb, health, property, safety, or welfare of the public or the occupants is not endangered. (HSC 17973(a))

3) Defines "exterior elevated element" as the following types of structures, including their supports and railings: balconies, decks, porches, stairways, walkways, and entry structures that extend beyond exterior walls of the building and which have a walking surface that is elevated more than six feet above ground level, are designed for human occupancy or use, and rely in whole or in substantial part on wood or wood-based products for structural support or stability of the exterior elevated element. (HSC 17973(b)(2))

4) Defines "load-bearing components" as components that extend beyond the exterior walls of the building to deliver structural loads from the exterior elevated element to the building. (HSC 17973(b)(3))

5) Defines "associated waterproofing elements" as flashings, membranes, coatings, and sealants that protect the load-bearing components of exterior elevated elements from exposure to water and the elements. (HSC 17973(b)(a))

6) Requires the inspection to include, at a minimum:

    a) Identification of each type of exterior elevated element that constitute a threat to the health or safety of the occupants;

b) Assessment of the load-bearing components and associated waterproofing elements of a sample of at least 15 percent of each type of exterior elevated element;

c) The current condition of the exterior elevated elements, expectations of future performance and projected service life, and recommendations of any further inspection necessary; and

d) A written report of the evaluation that includes certain specified information and is stamped or signed by the inspector and presented to the building owner within 45 days. (HSC 17973(c))

7) Requires the initial inspection to be completed by January 1, 2025, and requires subsequent inspections every six years. (HSC 17973(d))

8) Requires the inspector to produce an initial report and, if requested by the owner, a final report indicating that any required repairs have been completed. The inspector must provide a copy of any report that recommends immediate repairs or finds severe safety issues to the building owner and the local enforcement agency within 15 days. (HSC 17973(d))

9) Requires the building owner to correct an exterior elevated element found by the inspector to be in need of repair or replacement. All repair and replacement work must follow certain prescribed timelines and be performed by a qualified and licensed contractor in compliance with the recommendations of a specified licensed professional, any applicable manufacturer's specifications, applicable building standards, and local jurisdictional requirements. (HSC 17973(g))

10) Requires the inspector, if the owner of the building does not comply with the repair requirements within 180 days, to notify the local enforcement agency and the owner of the building. If within 30 days of the date of the notice the repairs are not completed, the owner of the building must be assessed a civil penalty based on the fee schedule set by the local authority of not less than $100 nor more than $500 per day until the repairs are completed, unless an extension of time is granted by the local enforcement agency. (HSC 17973(i))

FISCAL EFFECT: None.

COMMENTS:

Author's Statement: According to the author, "When California issued a state-of-emergency for COVID-19 in March of 2020, unforeseen challenges emerged, including barriers to accessing dwelling units for necessary balcony inspections under SB 721. Because of these unavoidable delays, allowing additional time for balcony inspections is not just a necessity, but is crucial for the safety of residents with balconies. AB 2579 provides building owners a much needed thirty-month extension for inspections, bringing these properties in line with existing law, ensuring the safety of the public, and preventing avoidable collapses or, worse yet, tragic losses of life."

Background: In 2015, a wooden balcony collapsed at the Library Gardens apartment complex located in the City of Berkeley, near the University of California, Berkeley campus. The balcony collapsed due to decayed wooden joists caused by wood dry rot as a result of poor building maintenance, killing six young adults and injuring seven others.

Ultimately, the Contractor's State License Board revoked the license of Segue Construction, Inc., the general contractor responsible for building the apartment complex where the collapse occurred, as it was alleged that the contractor company "willfully departed from or disregarded building plans or specifications, and willfully departed from accepted trade standards for good and workmanlike construction."

As a result of that collapse, the Legislature passed SB 465 (Hill), Chapter 372, Statutes of 2016, which, in addition to requiring additional oversight for contractors, also required the California Building Standards Commission (CBSC) to establish a working group to study the failure of exterior elevated elements. The bill directed the CBSC to submit a report to the Legislature containing findings and possible recommendations for statutory or other changes to the California Building Standards Code. In 2017, the CBSC approved emergency regulations to accelerate the adoption of higher construction standards.

As a result of that report and the emergency regulations, in 2018, SB 721 (Hill), Chapter 445 established a requirement to perform regular inspections of exterior elevated elements of certain multi-unit residential buildings. The bill required that those elements and other load-bearing components and waterproofing elements be inspected at least every six years by certain licensed persons, to determine that the exterior elevated elements and their associated waterproofing elements are in a generally safe conditions, adequate working order, and free from any hazardous conditions. The bill also required any identified repairs to be made within a designated timeframe and provided penalties for building owners who do not complete the required repairs.

SB 721 lays out a list of inspectors who are eligible to perform the inspections: a licensed architect; licensed civil or structural engineer; a building contractor holding an "A," "B," or "C-5" license classification issued by the Contractors' State License Board, with a minimum of five years' experience in constructing multistory wood frame buildings; or an individual certified as a building inspector or building official from a recognized state, national, or international association, as determined by a local jurisdiction.

The first inspection deadline is January 1, 2025, or six years after the effective date of the balcony legislation (January 1, 2019). The COVID-19 stay-at-home order and associated business shutdowns occurred in the middle of this six-year period, and according to the author, the state of emergency lasted for 1,091 days, during which it was difficult, if not impossible for building owners to bring third parties into their apartment buildings to complete these required balcony inspections. This bill extends the inspection deadline from January 1, 2025, to July 1, 2027, to provide a roughly proportionate amount of time as the state of emergency for building owners to complete their inspection obligations.

Arguments in Support: According to the California Business Properties Association and the California Apartment Association, "This bill proposes a 30-month extension to the inspection timeline for balconies and other elevated structures, recognizing the extensive disruptions caused by the COVID-19 pandemic. The extended timeline is a necessary response to the state's emergency measures, which significantly restricted access to properties and hindered timely inspections. This measure ensures property owners are not unfairly penalized for delays caused by the pandemic, while still upholding the safety and integrity of buildings throughout California. AB 2579 thoughtfully balances regulatory compliance with practical challenges posed by unprecedented global events."

Arguments in Opposition: None on file for the current version of the bill.

Related Legislation:

AB 1101 (Flora) of the 2023 legislative session would have authorized a Branch 3 registered company registered with the Structural Pest Control Board within the Department of Consumer Affairs, with a minimum of five years of experience, to conduct inspections of exterior elevated elements that include load-bearing components (balconies) in buildings with three or more residential dwelling units.

SB 607 (Min), Chapter 367, Statutes of 2021: Deleted a prohibition on repairs of exterior elevated elements being performed by a licensed contractor serving as the inspector of those elements.

SB 721 (Hill), Chapter 445, Statutes of 2018: Established a requirement to perform regular inspections of exterior elevated elements of certain multi-unit residential buildings by January 1, 2025, and every six years thereafter.

REGISTERED SUPPORT / OPPOSITION:

Support

California Apartment Association
California Business Properties Association

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2593 (McCarty) – As Amended March 18, 2024

SUBJECT: Joint Exercise of Powers Act: Sacramento County Partnership on Homelessness

SUMMARY: Specifies that qualified local agencies may enter into a joint powers agreement (agreement) to assist the homeless population within Sacramento County. Specifically, **this bill**:

1) Defines "qualified local agency" as a city or county that has jurisdiction within geographical borders of the County of Sacramento and that has a population of at least 50,000, as determined by the most recent federal decennial census or a subsequent census between United States Decennial censuses that is validated by the Demographic Research Unit of the Department of Finance.

2) Authorizes any qualified local agency to enter into an agreement with any other qualified local agencies pursuant to the Joint Exercise of Powers Act (JPA Law) to create and operate a joint powers agency (JPA) to assist the homeless population, to coordinate homelessness response, and to develop and manage a comprehensive strategic plan to address homelessness within the County of Sacramento.

3) Requires the JPA created pursuant to this bill to be known as the Sacramento County Partnership on Homelessness (SCPH), and to be created and operate pursuant to this bill.

4) Specifies that the SCPH shall be governed by a board of directors and that the agreement shall set forth the composition and membership requirements of the board of directors.

5) Allows the voting procedures of the SCPH's board of directors to be determined by taking into consideration the population of each qualified local agency that is a member of the partnership.

6) Requires an executive director to serve as the partnership's chief executive officer and as secretary of the board of directors, but shall not have voting rights. Actual expenses shall be approved before they are incurred.

7) Specifies that the SCPH shall comply with the regulatory guidelines of each specific state funding source received.

8) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances facing the County of Sacramento with regard to the homelessness crisis.

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 JPA. Such an agreement may create a new, separate government called a joint powers agency. 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. (Government Code (GC)Section 65700 et.al.)

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. (GC Section 65700 et.al.)

3) Establishes the Local Housing Trust Fund (LHTF) Program under the Department of Housing and Community Development (HCD), to provide matching grants to local housing trust funds that are funded on an ongoing basis from private or public sources.

FISCAL EFFECT: Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

***Author's Statement*:** According to the author, "Homelessness is an issue that we must tackle together. I appreciate the innovative city-county efforts to tackle homelessness, but we need a more robust local collaboration if we are going to solve this problem. This partnership will help us make a tangible difference in the lives of homeless individuals, and restore the well-being and vitality of Sacramento County communities."

***JPAs*:** JPA Law allows two or more public agencies to use their powers in common if they sign an agreement. Sometimes an agreement creates a new, separate public entity called a joint powers agency or joint powers authority. Entities that can exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, federally recognized tribal governments, and even other joint powers authorities. Public agencies can also use 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. JPAs can issue one large Marks-Roos Act bond and then loan the capital to local agencies, thus creating a "bond pool." Bond pooling saves money on interest rates and finance charges. It also lets smaller local agencies enter the bond market. Because JPAs are entities separate from their members, and so are not bound by the same limitations on debt issuance, voters do not need to approve bonds that JPAs issue.

Housing Trusts: The Legislature recently authorized the creation of five new JPAs for funding the development of housing for homeless and low-income individuals and families. The statutorily authorized agencies include the following:

a) The Orange County Housing Finance Trust (2018).

b) The San Gabriel Valley Regional Housing Trust (2019).

c) The Western Riverside County Housing Finance Trust (2021).

d) The Burbank-Glendale-Pasadena Regional Housing Trust (2022).

e) The South Bay Regional Housing Trust (2022).

The authorizing statutes creating each of these trusts include standards and operating conditions substantially similar to the standards and conditions that would apply to trusts formed under the

authority proposed in this bill. SB 20 (Rubio), Chapter 147, Statutes of 2023 generally authorized any two or more local agencies to enter into an agreement to create a regional housing trust to fund housing for people experiencing homelessness and persons and families of extremely low-, very low-, and low-income within their jurisdictions.

Homelessness in California and Sacramento: In its December 2023 Annual Homelessness Assessment Report to Congress, the U.S. Department of Housing and Urban Development (HUD) estimated that California identified 181,399 people experiencing homelessness in the State, and California accounts for 28% of all people experiencing homelessness in the United States. HUD reported in 2023 that Sacramento County's point-in-time (PIT) count was 9,281 homeless persons.

On December 6th, 2022, the City of Sacramento and Sacramento County entered into the Homeless Services Partnership Agreement, an agreement to provide services and programs to the unhoused population within the City of Sacramento. According to the partnership's 6-month update, City and County leadership finalized collaboration protocols in March, and several interagency workgroups have been meeting regularly.

Sacramento Steps Forward (SSF) is the lead agency for the Sacramento Continuum of Care and a non-profit organization formed to facilitate the provision of homeless services and housing in the Sacramento Region. According to a December 2023 report from SSF, "The Partnership Agreement between the City of Sacramento and the County of Sacramento has been highlighted by the City and County, as well as other partners, as a step in the right direction to better align the efforts of these jurisdictions to more effectively meet the needs of people experiencing homelessness. The City/County Partnership Agreement formalizes City and County coordination and outlines the role of each partner to invest in and coordinate strategies and programs to prevent and end homelessness. It was noted by many that the scope of the Partnership Agreement is limited (the primary focus is behavioral health and emergency services) and would be a more effective coordination tool if the scope were expanded to include all roles and responsibilities of the City and County in preventing and addressing homelessness."

The 2022-2023 Sacramento County Grand Jury (SCGJ) conducted a report into the strategies, programs, and working relationships between the county and the seven incorporated cities (Citrus Heights, Elk Grove, Folsom, Galt, Isleton, Rancho Cordova, and Sacramento). One of the recommendations by the SCGJ was that the County and the seven incorporated cities should implement a JPA to address homelessness by December 1, 2023. The Grand Jury noted that, "The SCGJ studied other California counties that successfully coordinated efforts to address the homeless issue. They have formed JPAs through legislation to develop housing trusts. All of these JPAs use a governing board comprised of elected officials from each jurisdiction. This is a critical model of successful JPAs. These efforts reflect the best practices and solutions to homelessness as demonstrated by reductions in the PIT counts."

Arguments in Support: According to the Sacramento Regional Coalition to End Homelessness, "To move forward, we must work together, learn from the mistakes and successes of others, and be strategic while utilizing an economy of scale to maximize the impact of our tax dollars. Lately, there have been multiple calls for more regional partnership on this issue, including to establish a coordinated system for homeless services in our region. It is a model that has shown promise elsewhere. That is why we are supportive of AB 2593, which would establish a Joint Powers Authority known as the 'Sacramento County Partnership on Homelessness'. It is

imperative that our leaders and a range of stakeholders, including people with lived experience of homelessness, meet regularly in a transparent manner, set concrete strategies with clear goals and objectives, share resources, and most importantly, follow a regional strategic plan to address homelessness. Such a plan has already been developed by Sacramento's Continuum of Care provider, Sacramento Steps Forward, but needs the accountability that a Joint Powers Authority would provide."

***Arguments in Opposition*:** None on file.

***Related Legislation*:**

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

SB 1444 (Allen) Chapter 672, Statutes of 2022: Authorized the creation of the South Bay 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 local agencies within the San Gabriel Valley Council of Governments to enter into a JPA to fund housing.

AB 448 (Daly) Chapter 336, Statutes of 2018: Authorized the creation of the Orange County Housing Finance Trust as a JPA in the County of Orange.

Double Referred: This bill is double referred. It was heard in the Assembly Committee on Local Government and passed on a vote of 9-0 on April 17, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Councilmember Caity Maple, City of Sacramento
Downtown Streets Team
Hope Cooperative
Sacramento Regional Coalition to End Homelessness

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2712 (Friedman) – As Amended April 18, 2024

SUBJECT: Preferential parking privileges: transit-oriented development

SUMMARY: Prohibits local authorities in the City of Los Angeles from allowing residents, vendors, and visitors of specified development projects from using preferential parking if the development is within a preferential parking area and the development is not subject to minimum parking requirements. Specifically, **this bill**:

1) Defines "development project" as a residential, commercial, or other development projects in the City of Los Angeles exempt from minimum car parking requirements pursuant to AB 2097 (Friedman), Chapter 459, Statutes of 2022, or other parking minimum reductions based on applicable state regulations.

2) Excludes residential developments with 20 units or less from the definition of a "development project."

3) Defines "local authority" to mean the legislative body of every county or municipality having authority to adopt local police regulations.

4) Excludes a development project from the boundaries of a preferential parking area if the development is exempt from minimum parking requirements or subject to parking minimum reductions, as specified, and is located within the preferential parking area.

5) Prohibits a local authority from issuing a parking permit to residents, vendors, or visitors of a development project in a preferential parking area if the development is exempt from minimum parking requirements or subject to parking minimum requirements and is located within a preferential parking area.

6) Allows a local authority to issue a permit or permits to residents or vendors of a development project as specified that is within the boundaries of a preferential parking area if the issuance of the permit would not cause overcrowding in the preferential parking area for existing residents.

7) Allows a local authority to issue a permit or permits to residents of development projects for the residents of deed-restricted units intended for very low-income and low-income households, regardless of whether those units are located in a preferential parking area.

EXISTING LAW:

1) Establishes that a public agency shall not impose minimum automobile parking requirement on a residential, commercial, or other development project if the project is within one-half mile of public transit. [Government Code (GOV) Section 65863.2]

2) Provides that unless a housing development project has fewer than 20 housing units; at least 20% of the total number of housing units are dedicated to very-low; low-, or moderate-income households, the elderly, or people with disabilities; or the development is subject

parking reductions in other applicable bodies of law, a public agency may impose minimum parking requirements on a project within one-half mile of public transit if the public agency makes written findings that not imposing or enforcing minimum automobile parking requirements on the development would substantially have a negative impact on:

a) The city's, county's, or city and county's ability to meet its regional housing need for low- and very low income households.

b) The city's, county's, or city and county's ability to meet any special housing needs for the elderly or persons with disabilities.

c) Existing residential or commercial parking within one-half mile of the housing development project. (GOV 656863.2)

3) Allows local authorities to prohibit or restrict stopping, parking, or standing of vehicles within 100 feet of any intersection, on certain streets or highways, or portions thereof, during all or certain hours of the day by ordinance or resolution. The ordinance or resolution may include a designation of certain streets upon which preferential parking privileges are given to residents and merchants adjacent to the streets for their use and the use of their guests, under which the residents and merchants may be issued a permit or permits that exempt them from the prohibition or restriction of the ordinance or resolution. With the exception of alleys, the ordinance or resolution shall not apply until signs or markings giving adequate notice thereof have been placed. A local ordinance or resolution adopted pursuant to this section may contain provisions that are reasonable and necessary to ensure the effectiveness of a preferential parking program. [Vehicle Code (VEH) Section 22507]

4) Defines "local authorities" to mean the legislative body of every county or municipality having authority to adopt local police regulations. (VEH 385)

5) Establishes that a disabled person or a disabled veteran displaying special license plates or a distinguishing placard is allowed to park for unlimited periods at any metered parking space without paying meter fees and in any parking zone, including preferential parking zones. (VEH 22511.5)

FISCAL EFFECT: None

COMMENTS:

***Author's Statement*:** According to the author, "for decades, California cities would require residential or commercial developments to provide on-site parking. Apartments would be forced to include one or two parking spots per unit, and commercial properties must provide one space for every 100-200 square feet. These mandatory parking requirements led to an oversupply of parking spaces; Los Angeles County has 18.6 million parking spaces, or almost two for every resident. These requirements worsened California's housing shortage by raising the cost of housing. On average, garages cost $24,000-$34,000 per space to build, a cost passed on to households regardless of whether they own a car. Additionally, on-site parking takes up space that could otherwise be used for additional units. In communities resistant to new development, strict parking requirements were a de facto way to block apartment buildings and lower-income housing.

To combat this oversupply parking, the Legislature passed my bill, AB 2097, in 2022. AB 2097 prohibited cities from imposing or enforcing a minimum parking requirement on a development project if the project is within one-half mile of a major transit stop. It does not prohibit the property owners from building on-site parking. Rather, it gives them the flexibility to decide on their own how much on-site parking to provide, instead of requiring them to comply with a one-size-fits-all mandate.

I have authored AB 2097 because I believe it would make housing more accessible and affordable to everyone in our state. AB 2097 is turning transit adjacent apartment neighborhoods up and down the state into magnets for good quality affordable and market-rate housing. It is a critical tool for overcoming a major hurdle to residential developments: the high cost of parking.

I committed to monitoring the implementation of this bill to also ensure that any adverse consequences that arise are remedied. Some cities have long limited street parking to residents in established preferred parking areas. If a development project qualifies under AB 2097 and enjoys economic benefits for being within 1/2 mile of transit, it should comply with the goal of reducing car use and its residents should not be given permits to park in the established preferential parking area. That negates the whole point of eliminating off-street parking minimums.

AB 2712 prohibits a city from issuing any permit conferring preferential parking privileges to any resident, vendor or visitor of any developments within one-half mile of public transit and exempt from parking minimums. A city may only issue permits to these residents, vendors or visitors if the local authority makes findings that that allowing them to park their vehicles within the preferential parking area would not have a substantially negative impact on it."

This Bill: Restricts local authorities in the City of Los Angeles from issuing parking permits for residents, vendors, and visitors of certain development projects located within preferential parking areas if these projects do not have minimum on-site parking requirements. Specifically, the bill applies to residential, commercial, and other development projects exempt from these on-site parking rules due to state regulations. Small residential developments with 20 units or fewer are excluded. Local authorities may still grant parking permits under certain conditions: if it doesn't lead to overcrowding for existing residents in the parking area, or for the residents of deed-restricted housing units for very low-income and low-income housing units, even if these are situated within preferential parking zones.

***The Sustainable Communities and Climate Protection Act*:** In 2008, the Legislature passed the Sustainable Communities and Climate Protection Act [SB 375 (Steinberg), Chapter 728, Statutes of 2008] which helped support California's climate goals coordinating transportation, housing, and land use planning to reduce greenhouse gas emissions. This law focuses on incentivizing regional and local planning and building in ways that bring people and destinations closer together, with low-carbon, alternative and convenient ways to get around. It requires regional metropolitan planning organizations in California to develop Sustainable Communities Strategies (SCS), or long-range plans, which align transportation, housing, and land use decisions toward achieving greenhouse gas (GHG) emissions reduction targets set by the California Air Resources Board (CARB).

According to CARB, some of the key aspects of SCS plans include a focus housing and job growth within existing urbanized areas with access to high quality transit and active transportation options.

Parking Requirements and Access to Transit: In support of the state's sustainable communities goals embodied in SB 375, California Air Resources Board (CARB) staff collaborated with researchers at the University of California at Davis and the University of Southern California to examine the existing literature on the effects of key transportation and land use-related policies as strategies to reduce vehicle miles traveled (VMT) and greenhouse gas emissions. Two policy areas examined were the impacts of parking pricing and transit access on VMT and GHGs.

CARB examined literature on the potential for improved access to transit to reduce VMT and GHGs. The review found that VMT reductions generally begin when people reside ¼ mile from a rail station and within ¾ of a mile from a bus stop. VMT reductions are presumed to increase for developments located closer to rail stations and bus stops, however CARB found that "policies that increase access to transit by reducing distances to transit are generally implemented as part of a larger package of land use and transportation measures, making it difficult to isolate the effect of transit access... External factors such as gas prices and the local and global economy may change the reported effect significantly..."

CARB also conducted a limited review of minimum parking requirements and found that local parking requirements often result in the provision of an over-supply of parking. In reviewing 10 developments in Southern California, CARB noted that while most sites built exactly the minimum parking required by the local agency, the peak parking utilization at these sites ranged from 56% to 72% at each development, suggesting that the minimum requirements established by the local agency created an oversupply of parking.

***Eliminating Local Parking Requirements*:** There is a significant body of academic research regarding the potential impact minimum parking ratios have on car ownership, VMT, use of public transit, and transportation trends generally. However, while significant research exists, the impacts of parking ratios on VMT and car ownership are difficult to quantify due to the potential for residents to self-select and move to developments based on their existing circumstances or preferences. For example, a person that cannot afford, or wishes to forego, car ownership may choose to live in a development that does not include parking and is adjacent to transit. Conversely, an individual with little interest in transit may choose a development with ample parking spaces. This reality has made it difficult to prove whether increased parking standards induce more driving.

In a recent journal article (*What do Residential Lotteries Show us About Transportation Choices?*), researchers from the University of California found that data from affordable housing lotteries in San Francisco provided a unique setting that effectively randomized housing assignments for housing lottery applicants. The research found that lottery applicants applied indiscriminately for available affordable units without respect to attributes such as the amount of off-street parking available for any particular unit. This created a setting that allowed researchers to analyze whether individuals essentially "assigned" a home with more or less parking influenced their propensity for car ownership and their driving frequency.

The study found "that a building's parking ratio not only influences car ownership, vehicle travel and public transport use, but has a stronger effect than public transport accessibility. Buildings with at least one parking space per unit (as required by zoning codes in most US cities, and in San Francisco until circa 2010) have more than twice the car ownership rate of buildings that have no parking." Specifically, the study found, "In buildings with no on-site parking, only 38

percent of households own a car. In buildings with at least one parking space per unit, more than 81 percent of households own automobiles."

Related Legislation: SB 834 (Portantino) prohibits a local authority from issuing any permit or permits conferring preferential parking permit or permits conferring preferential parking privileges to any residents or vendors of any developments within one-half mile of public transit and exempt from parking minimums. This bill is currently in the Assembly Rules Committee.

AB 2097 (Friedman), Chapter 459, Statues of 2022, prohibits a public agency from imposing any minimum automobile parking requirement on any residential, commercial, or other development project, as defined, that is located within one-half mile of public transit, as defined.

Arguments in Support: The Planning and Conservation League write in support, "AB 2712 builds upon the successful groundwork laid by AB 2097, which was enacted in 2022. AB 2097 eliminated minimum parking requirements for homes and commercial buildings within ½ mile of a major transit stop. This legislation has unburdened affordable housing and jobs from the costs of inflated parking requirements and made it easier and cheaper to provide equitable, transit-accessible housing and job opportunities across the state.

"AB 2712 refines parking policy further by diffusing opposition to development – including housing – over concerns of crowded street parking in areas affected by AB 2097's changes. Specifically, the bill will require cities to exclude any development with a less-than-normally-required number of parking spaces from the boundaries of a preferential parking district unless the local authority makes written findings that including the development project would not have a substantially negative impact on the preferential parking area.

"This policy supports low/no parking development, including transit-oriented housing, without overcrowding nearby streets and displacing existing residents from their street parking. By addressing concerns about removing parking minimums and generally increasing support for low-income housing development, AB 2712 fosters inclusive and resilient communities. And, by curbing urban sprawl and induced car usage, AB 2712 contributes to reductions in vehicle miles traveled (VMT), thereby mitigating greenhouse gas emissions and advancing California's climate goals – a win for everyone."

Arguments in Opposition: None on file.

Double referred: This bill is double referred. It was heard in the Assembly Committee on Local Government and passed on a vote of 7-1 on April 17, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Livable California
Planning and Conservation League

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2729 (Joe Patterson) – As Introduced February 15, 2024

SUBJECT: Residential fees and charges

SUMMARY: Removes the authorization in current law that allows a local agency to require the payment of fees or charge on a residential development before the date of the final inspection or the date the certificate of occupancy is issues, whichever occurs first.

EXISTING LAW:

1) Prohibits a local agency that imposes any fees or charges on a residential development for the construction of public improvements or facilities from requiring the payment of those fees or charges until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first, with specified exceptions. (Government Code (GOV) Section 66007)

2) Exempts a local government from the above prohibition if it determines that the fees or charges will be: collected for public improvements or facilities for which an account has been established and funds appropriated, and for which the local government has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy; or the fees or charges are to reimburse the local government for expenditures previously made.

    a. This exception does not apply to units reserved for occupancy by lower income households included in a residential development proposed by a nonprofit housing developer in which at least 49% of the total units are reserved for occupancy by lower income households, as defined. A city or county may require a performance bond or letter of credit to guarantee the payment of the nonprofit housing developer's fees. (GOV 66007)

3) If any fee or charge in (1) is not fully paid prior to the issuance of a building permit, the local agency issuing the building permit may require the property owner, or lessee if the lessee's interest appears of record, as a condition of issuing a building permit, to execute a contract to pay the fee or charge, or applicable portion, within the time specified in (1). If the fee or charge is prorated, the obligation under the contract shall be similarly prorated. (GOV 66007)

4) Permits local agencies to defer the collection of one or more fees up to the close of escrow. (GOV 66007)

FISCAL EFFECT: None.

COMMENTS:

Author's Statement: According to the author, "California is facing a serious housing affordability crisis that is exacerbated by extremely high impact fees that increase the cost of housing for nearly every California resident. While these fees may be necessary for local jurisdictions, requiring developers to pay the fees before a home is even built increases financing

costs and decreases the availability of capital to complete projects.
Assembly Bill 2729 does not impact the ability of local jurisdictions to collect the fees. Rather, it simply requires payment of impact fees when the home is actually going to be occupied. This small change reduces the financial burden, improves cash-flow, and increases the likeliness that projects will be completed."

Cost of Building Housing: It is expensive to build housing in California. The UC Berkeley Terner Center finds that challenging macroeconomic conditions, including inflation and high interest rates, affect the availability and cost of capital, resulting in rising costs for labor and materials.[1] Furthermore, workforce and supply shortages have exacerbated the already high price of construction in California, and economic uncertainty has made equity partners and lenders apprehensive about financing new housing development proposals.[2]

An analysis by the California Housing Partnership compares the cost of market rate development prototypes developed by the Terner Center with the median cost of developing affordable rental homes. In the four regions analyzed, the study found that the cost of developing one unit of affordable housing ranged from approximately $480,000 to $713,000, while the cost of developing one unit of market rate housing in the state ranged from approximately $508,000 to $637,000.[3]

Impact Fees and Exactions: 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 local agency'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 various local 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 the UC Berkeley Terner Center for Housing Innovation, between 2008 and 2015, California fees rose 2.5%, while the national average decreased by 1.2%.[4] Development fees can comprise 17% of the total development costs of new housing, and in California in 2015, impact fees were nearly three times the national average.[5]

The Mitigation Fee Act governs the imposition, collection, and use of impact fees collected by local governments when reviewing and approving development proposals.

Key aspects of the Mitigation Fee Act include:

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[1] David Garcia, Ian Carlton, Lacy Patterson, and Jacob Strawn, *Making It Pencil: The Math Behind Housing Development (2023 Update)*, Terner Center for Housing Innovation, December 2023, https://ternercenter.berkeley.edu/research-and-policy/making-it-pencil-2023/
[2] IBID.
[3] Mark Stivers, *Affordable Housing Compares Favorably to Market-Rate Housing From a Cost Perspective*, California Housing Partnership, January 2024: https://chpc.net/affordable-housing-compares-favorably-to-market-rate-housing-from-a-cost-perspective/#:~:text=It%20turns%20out%20that%20costs,market%2Drate%20developments%20do%20not.
[4] Sarah Mawhorter, David Garcia and Hayley Raetz, *It All Adds Up: The Cost of Housing Development Fees in Seven California Cities*, Terner Center for Housing Innovation, March 2018, https://ternercenter.berkeley.edu/research-and-policy/it-all-adds-up-development-fees
[5] IBID.

1. **Nexus Requirement**: The Act requires a clear "nexus" or connection between the fee charged and the impact created by the development, typically established via a nexus study. This means that the fees collected must be used to address the specific impacts that the new development is expected to have on public facilities and services.

2. **Proportionality**: The fees charged must be proportional to the impact of the development.

3. **Accountability**: Local governments are required to establish separate accounts for the fees collected and to use the funds solely for the intended purposes. They must also provide annual reports on the status of the fees, including the balance and how the funds have been used.

4. **Timing of Fee Payment**: The Act specifies when fees can be collected, generally at the time of final inspection or when certificate of occupancy is issued, with some exceptions, as specified below in the "Collection of Impact Fees" section. This bill would remove those exceptions.

5. **Refunds**: If the fees collected are not used within five years, and specific findings are not made, the Act provides for the refund of the fees.

When imposing a fee as a condition of approving a development project, the Mitigation Fee Act also requires local officials to determine a reasonable relationship between the fee's amount and the cost of the public facility. In its 1987 *Nollan* decision, the U.S. Supreme Court said there must be an "essential nexus" between a project's impacts and the conditions for approval. In the 1994 *Dolan* decision, the U.S. Supreme Court said that conditions on development must have a "rough proportionality" to a project's impacts.

In the 1996 *Ehrlich* decision, the California Supreme Court distinguished between "legislatively enacted" conditions that apply to all projects and "ad hoc" conditions imposed on a project-by-project basis. *Ehrlich* applied the "essential nexus" test from *Nollan* and the "rough proportionality" test from *Dolan* to "ad hoc' conditions. The Court did not apply the *Nollan* and *Dolan* tests to the conditions that were "legislatively enacted." In other words, local officials face greater scrutiny when they impose conditions on a project-by-project basis.

However, in an April 2024 ruling in *Sheetz v. El Dorado County*, the U.S. Supreme Court ruled that exactions imposed legislatively are also subject to the *Nollan/Dolan* tests. This means that the court ruled that legislatively enacted conditions must also have an "essential nexus" between the proposed project's impact and the associated exactions, and be "roughly proportional" to the impact.

Collection of Impact Fees: Generally, cities and counties cannot collect impact fees before they conduct the final inspection or issue a certificate of occupancy, whichever occurs first. Utilities can collect impact fees at the time the utility receives an application for service, which can happen before a final inspection. For residential developments with more than one dwelling, the local agency can determine whether developers pay fees on a pro rata or on a lump sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first.

However, current law allows a local agency to require payment earlier than described above if it has determined that the fees or charges will be collected for public improvement of facilities for which has as account has been established. This requirement does not apply to a nonprofit housing developer that reserve at least 49% of units for lower income households. Cities and counties can require performance bonds or letters of credits to guarantee these specific payments.

If the developer has not fully paid the impact fees before the local agency has issued a building permit for construction of any portion of the residential development, the local agency can require the developer, as a condition of receiving the building permit, to enter into a contract to pay the fees, secured by a lien on the property. Additionally, the local agency can require the developer to provide notification of the opening of any escrow for the sale of the property, and disclose in the escrow instructions that the fees must be paid before disbursing proceeds to the seller. The local agency can defer collection of one or more fees up to the close of escrow.

This bill would remove from existing law the ability of a local agency to collect impact fees or charges on a residential development before the final inspection or the date of the certificate of occupancy for all residential developments in all circumstances. Deferring fees as proposed may increase financial feasibility for housing developments in the current high interest rate environment, by allowing development proponents to pay impact fees after construction, rather than before the construction of a proposed development occurs.

Arguments in Support: According to the California Home Building Alliance, "AB 2729 (Patterson) does not eliminate fees; it simply delays when fees are due to local governments. Deferring fees allows projects to pay impact fees after construction rather than before construction, as is currently the practice. In a high interest rate environment, this change will result in significant savings on financing costs, rendering more projects financially feasible and allowing them to move forward, providing housing, jobs, and tax revenue. California currently has a serious affordability crisis for millions of Californians in the middle-class. Access to market-rate housing has become extremely limited, in part, because of impact fees imposed by local municipalities on housing construction projects. Impact fees, which are a serious portion of "soft costs," become responsible for a serious fluctuation in cost across jurisdictions in the same housing market. The fees can account for 15 percent of overall construction costs."

***Arguments in Opposition*:** According to the California Special Districts Association and the California State Association of Counties, "by universally prohibiting a local agency from collecting fees on any type of development project at any point prior to the completion of that project, AB 2729 risks delaying those vital improvements. Furthermore, it denies the flexibility for communities to work with, and partner with, development proponents to build the thriving and equitable communities that the residents deserve and right-size the timeline of delivery of payments and improvements. This measure creates a one-size fits all approach for all communities and all projects. The additional prohibition on seeking reimbursement for public improvements that are already planned to serve that community only serves to exacerbate this issue."

Committee Amendments: The committee recommends the following amendments to ensure that fees associated with certain fees and costs for approved public improvements or facilities can still be collected at the time of building permit issuance, prior to final inspection or the issuance of a certificate of occupancy, in certain circumstances. The Committee amendments would also reorganize this section of Government Code for improved readability.

66007. (a) Except as otherwise provided in subdivision ~~(e),~~ ***(b)***, any local agency that imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first. However, utility service fees ***related to capacity charge connections*** may be collected at the time an application for utility service is received. If the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first. ***The amount of fees and charges shall be the same amount as would have been paid had the fees and charges been paid prior to the issuance of building permits and the local agency shall not charge interest or other fees on any amount deferred pursuant to this section.***

(b) Except as provided in subdivision (c), a local agency may do any of the following:

(1) (A) Defer the collection of one or more fees up to the close of escrow.

(B) This paragraph does not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.

(2) (A) Require the payment of fees or charges described in subdivision (a) at the time the local agency issues a permit if the local agency determines, and provides supporting documentation to the applicant establishing, that construction for the public improvement or facility for which the fee or charge is required has commenced or will commence within 24 months of the issuance of the permit.

(B) If the construction does not commence within the timeframe described in subparagraph (A) and the local agency has collected moneys pursuant to subparagraph (A), the local government shall return the moneys to the applicant and the fees or charges shall be due at the time of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first.

(3) Require the payment of fees or charges described in subdivision (a) at the time the local agency issues a building permit to reimburse the local agency for planning fees or charges that the local agency has already expended related to the public improvements or facilities.

(4) Require the payment of bond or other interest-bearing instrument fees or costs that are related to the development of public improvements or facilities at the time the local agency issues a building permit if the local agency provides evidence to the entity charged of the costs associated with the bond or other interest-bearing instrument at the time the local agency requires the payment.

(c) (1) Subdivision (b) does not apply to units reserved for occupancy by lower income households included in a residential development proposed by a nonprofit housing developer in which at least 49 percent of the total units are reserved for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable rent, as defined in Section 50053 of the Health and Safety Code, unless the fees and charges

are levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.

(2) In addition to the contract that may be required under subdivision (d), a city, county, or city and county may require the posting of a performance bond or a letter of credit from a federally insured, recognized depository institution to guarantee payment of any fees or charges that are subject to this paragraph.

(3) Fees and charges described in paragraph (1) shall become immediately due and payable when the residential development no longer meets the requirements of that paragraph.

~~(b)~~

(d) (1) If any fee or charge specified in subdivision (a) is not fully paid prior to issuance of a building permit for construction of any portion of the residential development encumbered thereby, the local agency issuing the building permit may require the property owner, or lessee if the lessee's interest appears of record, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge, or applicable portion thereof, within the time specified in subdivision (a). If the fee or charge is prorated pursuant to subdivision (a), the obligation under the contract shall be similarly prorated.

(2) The obligation to pay the fee or charge shall inure to the benefit of, and be enforceable by, the local agency that imposed the fee or charge, regardless of whether it is a party to the contract. The contract shall contain a legal description of the property affected, shall be recorded in the office of the county recorder of the county and, from the date of recordation, shall constitute a lien for the payment of the fee or charge, which shall be enforceable against successors in interest to the property owner or lessee at the time of issuance of the building permit. The contract shall be recorded in the grantor-grantee index in the name of the public agency issuing the building permit as grantee and in the name of the property owner or lessee as grantor. The local agency shall record a release of the obligation, containing a legal description of the property, in the event the obligation is paid in full, or a partial release in the event the fee or charge is prorated pursuant to subdivision (a).

(3) The contract may require the property owner or lessee to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit was issued and to provide in the escrow instructions that the fee or charge be paid to the local agency imposing the same from the sale proceeds in escrow prior to disbursing proceeds to the seller.

~~(c)~~

(e) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

~~(d)~~

(f) "Final inspection" or "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 edition.

~~**(e) A local agency may defer the collection of one or more fees up to the close of escrow. This subdivision shall not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.**~~

(c) (1) If any fee or charge specified in subdivision (a) is not fully paid prior to issuance of a building permit for construction of any portion of the residential development encumbered thereby, the local agency issuing the building permit may require the property owner, or lessee if the lessee's interest appears of record, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge, or applicable portion thereof, within the time specified in subdivision (a). If the fee or charge is prorated pursuant to subdivision (a), the obligation under the contract shall be similarly prorated.

(2) The obligation to pay the fee or charge shall inure to the benefit of, and be enforceable by, the local agency that imposed the fee or charge, regardless of whether it is a party to the contract. The contract shall contain a legal description of the property affected, shall be recorded in the office of the county recorder of the county and, from the date of recordation, shall constitute a lien for the payment of the fee or charge, which shall be enforceable against successors in interest to the property owner or lessee at the time of issuance of the building permit. The contract shall be recorded in the grantor-grantee index in the name of the public agency issuing the building permit as grantee and in the name of the property owner or lessee as grantor. The local agency shall record a release of the obligation, containing a legal description of the property, in the event the obligation is paid in full, or a partial release in the event the fee or charge is prorated pursuant to subdivision (a).

(3) The contract may require the property owner or lessee to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit was issued and to provide in the escrow instructions that the fee or charge be paid to the local agency imposing the same from the sale proceeds in escrow prior to disbursing proceeds to the seller.

(d) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

(e) "Final inspection" or "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 edition.

(f) Methods of complying with the requirement in subdivision (b) that a proposed construction schedule or plan be adopted, include, but are not limited to, (1) the adoption of the capital improvement plan described in Section 66002, or (2) the submittal of a five-year plan for construction and rehabilitation of school facilities pursuant to subdivision (c) of Section 17017.5 of the Education Code.

~~***(g) A local agency may defer the collection of one or more fees up to the close of escrow. This subdivision shall not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.***~~

Related Legislation:

SB 937 (Wiener): This bill proposes various changes to the process for local agencies for local agencies to collect development impact fees for priority residential development projects, and extends development entitlement approvals. SB 937 was heard in the Senate Housing Committee on April 16, 2024, where it passed 9-0.

AB 1386 (Chen) of 2019: This was a substantially similar bill. AB 1386 was never heard in Assembly Local Government Committee.

AB 2604 (Torrico), Chapter 246, Statutes of 2008: Authorized a local agency to defer the collection of one of more fees up to the close of escrow.

AB 641 (Torrico), Chapter 603, Statues of 2007: Prohibited local governments from requiring the payment of local developer fees before the developer has received a certificate of occupancy, pursuant to a specified exemption, for any housing development in which at least 49 percent of the units are affordable to low or very low income households.

Double referred: This bill is double referred. It was heard in the Assembly Committee on Local Government and passed on a vote of 5-4 on April 10, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
California Building Industry Association
California Chamber of Commerce
California Community Builders
California Housing Consortium
California YIMBY
Circulate San Diego
Fieldstead and Company
Housing Action Coalition
Monterey Bay Economic Partnership
SPUR
YIMBY Action

Opposition

California Association of Recreation and Parks
California Fire Chiefs Association
California Special Districts Association
California State Association of Counties
Fire Districts Association of California
League of California Cities
Livable California

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2881 (Lee) – As Introduced February 15, 2024

SUBJECT: The Social Housing Act

SUMMARY: Establishes the California Housing Authority (CHA) for the purposes of developing mixed-income social housing. Specifically, **this bill**:

1) Creates the CHA as an independent state entity with the mission of producing and acquiring social housing for all California residents, eliminating the gap between housing production and regional housing needs assessment targets, and preserving affordable housing.

2) Defines "social housing" to mean housing with the following characteristics:

    a) Units are owned by a public entity such as the CHA, a public entity, or a housing authority;

    b) All social housing developed by the authority must be owned by the authority;

    c) If a housing unit is in a social housing development, the development contains housing units that accommodate a specified mix of household income ranges;

    d) Units that are owned and managed by a mission-driven not-for-profit private entity must be permanently restricted by deed to be affordable;

    e) Residents of CHA units are given, at a minimum, all protections granted to tenants in private property, as specified, but may be evicted for breaking community standards and for non-payment of rent lasting more than one month;

    f) The housing units must be protected for the duration of their useful life from being sold or transferred to a private for-profit entity to prevent the privatization of social housing; and

    g) Residents of the housing units have the right to participate directly and meaningfully in decision making affecting the operation and management of their housing units.

3) Defines the following terms:

    a) "Revenue neutrality" means a system in which all monetary expenditures that result from the development and operation of CHA units are returned through rents, payments on leasehold mortgages, or other specified subsidies;

    b) "Rent and mortgage cross-subsidization" means a system in which the below-cost rents and leasehold mortgages of certain units are balanced by above-cost payments on others within the same multiunit property;

    c) "Cost rent" means a system in which the rent of a dwelling is calculated on the cost of providing for and maintain the dwelling, only allowing for limited or no proceeds;

d) "Limited equity arrangement" means an ownership model in which residents are extended a long-term lease, take out a subsidized leasehold mortgage from the CHA, make monthly mortgage payments, and commit to resell at a price designed to balance ongoing affordability and resident wealth generation;

e) "Regional housing needs assessment" or "RHNA" means a representation of housing needs for all income levels as specified;

f) "Underutilized parcel" means a parcel of property which contains fewer units than the maximum number of units permissible under local zoning regulations;

g) "Multifamily property" means a revenue-neutral collection of units featuring units dedicated to a range of affordability levels from extremely low-income to above-moderate income. It may be a single building, multiple buildings on the same or adjacent parcels, or multiple buildings across several blocks within a single jurisdiction, or may be defined by the CHA; and

h) "Board" means the CHA Board.

4) Specifies income definitions for the following categories, consistent with existing law: extremely low-income, very low-income, low-income, moderate-income, and above moderate-income.

5) Provides that CHA has various powers, including the ability to:

a) Sue and be sued;

b) Have a seal and alter the seal at its pleasure;

c) Make and execute contracts and other instruments;

d) Make rules with respect to its projects, operations, properties, and facilities;

e) Through its executive officer, appoint specified personnel and set various policies;

f) Acquire, by grant or purchase, property or any interest therein and own, hold, clear, improve, rehabilitate, sell, assign, exchange, lease, or otherwise dispose of or encumber it;

g) Enter into development partnerships with municipalities, joint powers of authority, and other public and private entities in order to further its social housing development goals;

h) Arrange for the planning, opening, grading, or closing of roads or other places, for the furnishing of facilities, or for the furnishing of property or services in connection with a project;

i) Prepare project plans for any project, and from time to time modify those plans;

j) Provide advisory, consultative, training, and educational services, technical assistance, and related work as specified;

k) Accept funding in any form from any source; and

l) Call upon the Attorney General for legal services as it may require.

6) Requires the CHA to submit an annual business plan to the Governor and the Legislature which must be made available for public comment at least 60 days before publication.

7) Specifies that the CHA board will consist of nine members who will elect a chair and make decisions by majority vote. The board membership will be as follows:

a) An expert in housing development and finance;

b) An expert in housing construction;

c) An expert in property maintenance;

d) An appointee of the Speaker of the Assembly;

e) An appointee of the Senate Committee on Rules;

f) An appointee of the Governor; and

g) Three representatives of CHA residents, to be appointed initially by specified entities. Following the occupancy of CHA units, resident representatives are to be elected annually according to specified procedures.

8) Tasks the CHA board with the following duties:

a) Establish a strategy to eliminate the gap between housing production and acquisition and RHNA targets, set objective and performance targets to this goal, and monitor CHA's success in achieving the targets;

b) The ability to hire, fire, and monitor performance of an executive officer;

c) Approving the annual budget prepared by the executive officer;

d) Integrating risk management into the authority's strategic planning process and notify the Governor and the Legislature of specified risks facing CHA;

e) Adopting and amend regulations, including on resident board elections; and

f) Holding biannual meetings with resident governance councils.

9) Provides that each CHA-owned multifamily social housing development must form a governance council with specified powers and responsibilities.

10) Requires that the CHA seek to achieve revenue neutrality over the long term and must seek to recuperate the cost of development and operations over the life of its properties through rent cross-subsidization or cost rent.

11) States that the CHA must prioritize development on vacant parcels, certain underutilized parcels without deed-restricted or rent-controlled units, surplus public properties, and parcels near transit.

12) Specifies that if the development requires rehabilitation or demolition of covenanted affordable units, the new development must include a greater number of affordable units.

13) Requires that each multi-unit property must include a variety of mixed income units.

14) Provides that if the development of a property requires the removal of residents, the CHA must cover certain relocation costs and provide displaced residents with the right to live in the new CHA property for their previous rent for one year, or the CHA rent, whichever is lower.

15) Specifies that the CHA will make an annual determination of the required amount of social housing units to be produced as follows:

    a) Annual RHNA targets will be calculated as the total RHNA cycle targets for each jurisdiction divided by the length of the RHNA cycle;

    b) On or before January 1, 2028, and each year thereafter, the CHA will determine the gap between the previous year's RHNA and actual housing construction; and

    c) Within a given year, the CHA may construct at least the number of units to meet the gap between the previous year's construction of units and the RHNA targets.

16) Specifies that, in creating housing, the authority shall employ two different leasing models, the rental model and the ownership model, as specified.

17) Provides that, under the CHA rental model, one-year leases will be used, barring extraordinary circumstances.

18) Puts forth the following requirements for CHA ownership units:

    a) The CHA will extend a 99-year limited equity arrangement lease to individuals who commit to five years of residence. After five years, residents can sell the unit, though the CHA will have first right of refusal to purchase. If the CHA does not purchase then it may be sold to an eligible buyer subject to requirements established by the CHA authority which give the seller a reasonable return on investment;

    b) Upon the death of the owner, the unit may be transferred to the deceased's heir by device or as any other real property may pass. If a transferee is not eligible to be a resident, the transferee shall sell the unit to the authority;

    c) The CHA must strive to ensure that residents pay no more than 30% of income for housing and rent adjustments will be applied annually in a way that does not discourage increased earnings. If resident income changes, the property manager will rent to an appropriate income household;

    d) Residents will pay a 15% down payment with the purchase price set to be affordable for the purchasing household; and

e) Properties will be sold at the price for which the owner purchased the property, plus documented capital improvements, and adjusted for inflation.

19) Puts forth the following requirements for CHA residency and occupancy and specifies penalties for failure to abide by them:

a) Unless an above-moderate income unit, it must be resident's sole residence;

b) Applicant must be living or working in California at the time of their application subject to specified rules;

c) Allows an applicant with a prior criminal record to reside in CHA units unless there is evidence of a clear and manifest danger to the development or its residents;

d) Allows the CHA or the applicable governance council to allow subleasing of units;

e) Permits a resident to terminate their residency due to specified reasons including job relocation, change in household structure, and serious illness; and

f) Specifies that, with the exception of those displaced during construction, resident selection is by a lottery stratified by income category.

20) Provides that the CHA can conduct ground-up construction and rehabilitation of existing structures and may dedicate space to commercial use with leases to qualifying entities.

21) Specifies that, when appropriate, the state shall gift public lands to the CHA, though the CHA can also purchase land from other entities.

22) States that the CHA must accept a local government's preference on project location if certain conditions, including cost and community amenity access, are met. Also directs the CHA to seek input from the jurisdiction's governing body related to specific site development, height, number of units, and development timeline.

23) Specifies that CHA activities much be conducted with a goal of revenue neutrality, establishes the Social Housing Revolving Loan Fund within the State Treasury to provide zero-interest loans for mixed-income housing, and further states that it is the intent of the Legislature to enact legislation to provide financing for the activities of the authority through the issuance of general obligations bonds.

EXISTING LAW:

1) Specifies that a housing authority may engage in a number of activities in order to provide housing to low income individuals, including:

a) Preparing, carrying out, acquiring, leasing and operating housing projects and developments for persons of low income;

b) Providing for the construction, reconstruction, improvement, alteration, or repair of all or part of any housing project;

c) Providing leased housing to persons of low income; and

   d) Offering counseling, referral, and advisory services to persons and families of low or moderate income in connection with the purchase, rental, occupancy, maintenance, or repair of housing. (Health and Safety Code Section 34312)

2) Requires each city and county to prepare, adopt, and administer a general plan for their jurisdiction, which must include a housing element, to shape the future growth of its community. (Government Code (GC) Sections 65300 - 65404)

3) Specifies that each community's fair share of housing be determined through the RHNA process, which involves three main stages: (a) the Department of Finance and HCD develop regional housing needs estimates at four income levels: very low-income, low-income, moderate-income, and above moderate-income; (b) councils of government (COGs) use these estimates to allocate housing within each region (HCD is to make the determinations where a COG does not exist); and (c) cities and counties plan for accommodating these allocations in their housing elements. (GC 65580 - 65589.11)

4) Establishes HCD oversight of the housing element process, including the following:

   a) Local governments must submit a draft of their housing element to HCD for review;

   b) HCD must review the draft housing element and determine whether it substantially complies with housing element law, in addition to making other findings;

   c) Local governments must incorporate HCD feedback into their housing element; and

   d) HCD must review any action or failure to act by local governments that it deems to be inconsistent with an adopted housing element. HCD must notify any local government, and at its discretion the office of the Attorney General, if it finds that the jurisdiction has violated state law. (GC 65585)

5) Requires each city and county to submit an Annual Progress Report (APR) to the Governor's Office of Planning and Research (OPR) and HCD by April 1 of each year, including the following:

   a) The report must evaluate the general plan's implementation, including the implementation of their housing element, and provide specified quantitative outcomes, such as number of applications for housing projects received and housing units approved;

   b) Authorizes a court to issue a judgement to compel compliance should a city or county fail to submit their APR within 60 days of the statutory deadline; and

   c) Requires HCD to post all city and county APRs on their website within a reasonable time after receipt. (GC 65400)

6) Requires HCD no later than December 31, 2026, to complete a California Social Housing Study. The study shall consist of a comprehensive analysis of the opportunities, resources, obstacles, and recommendations for the creation of affordable and social housing at scale, to assist in meeting the need identified in the statewide projections for below market rate

housing affordable to households with extremely low, very low, low, and moderate incomes in the sixth Regional Housing Needs Assessment cycle. (HSC 50613)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "Housing is too expensive for millions of Californians. More than two in five households are considered rent burdened and spend over 30% of their income on housing, and more than one in five households spend over 50% of their income on housing. Over 97% of cities and counties haven't produced enough affordable housing, and existing strategies to address the lack of affordable housing have not been nearly enough to meet demand. Affordable housing relies on government subsidies, and there is significantly more demand for them than supply.

Social housing is an important tool to ensure housing is affordable to people of all income levels. Social housing is publicly backed, self-sustaining housing that accommodates a mix of household income ranges. Housing is protected from being sold to a private for-profit entity for the duration of its life, and residents are granted the same protections as tenants in private property, if not more. Many countries throughout the world have successful social housing programs, and in the US, there are social housing developments such as in Montgomery County, Maryland using a similar model. Social Housing is how we provide and realize housing as a human right."

Background on Social Housing: There is no widely shared consensus on how to define social housing. However, all definitions of social housing distinguish it in various ways from privately-owned, for-profit housing provided through market mechanisms. The Assembly Select Committee on Social Housing held an informational hearing on October 20, 2021 and Rob Weiner from the California Coalition for Rural Housing shared the Organization for Economic Cooperation and Development (OECD) definition of social housing as "the stock of residential rental accommodations provided at sub-market prices and allocated according to specific rules rather than according to market mechanisms."[1]

Under this definition, there are an estimated 480,000 subsidized housing units available for rent in California, or about 3.5% of the state's housing stock. These deed-restricted affordable rental units are generally built using a mix of public and private financing and residency is restricted to low-income households that make no more than 80% of county area median income (AMI). Other versions of social housing specify permanent affordability requirements and ownership by the government or a non-profit entity. Most of California's deed-restricted affordable housing is not publicly owned and the length of affordability requirements varies, though permanent affordability is not required in most cases.

Another variation of social housing involves making accommodations available to all individuals regardless of their household income. In particular, Vienna, Austria is often held up as an example of a large city with widespread mixed-income social housing—an estimated 40% of the city's housing stock is social housing. In the Viennese model higher income households pay market rate rents which then subsidize the below market rents for lower-income households. This

[1] https://www.assembly.ca.gov/media/assembly-select-committee-social-housing-20211020/video

mechanism is referred to as "cross-subsidization" and it is the same logic that underlies California's density bonus law, a policy that allows residential developers to receive added density and other concessions and incentives from a local government in exchange for building a certain percentage of affordable units.

Planning for Housing and the RHNA Process: As noted above, with the exception of deed-restricted affordable housing, California generally relies on the private sector to build most housing accommodations. However, cities and counties are required to plan for a certain amount of housing development across various income categories. This happens through "general plans" for land use that each city and county's legislative body adopts. Every general plan must include a "housing element" that details existing housing conditions within the jurisdiction, the need for new housing at various household income levels, and the strategy that the jurisdiction will use to address that need. The need for new housing is determined through the RHNA process, which involves three main stages:

- The Department of Finance and HCD develop regional housing needs estimates at four income levels: very low-income, low-income, moderate-income, and above moderate-income;
- COGs use these estimates to allocate housing needs within each region to cities and counties. HCD makes the determinations where a COG does not exist; and
- Cities and counties plan for accommodating these allocations in their housing elements.

Local governments must adopt a new housing element every eight years (though some rural jurisdictions must do so every five). These adopted housing elements must be approved by HCD, which must find them in "substantial compliance" with the law. Every eight years a new RHNA cycle begins and the process restarts. Currently the state is in the 6th RHNA cycle and housing element updates in this cycle also need to include information on steps the local government is taking to affirmatively further fair housing objectives.

Each year, the local government's planning agency must submit an APR to HCD and OPR that documents implementation of its housing element and progress towards meetings its RHNA target. The APR must include information about all proposed and approved development projects, a list of rezoned sites to accommodate housing for each income level, and information on density bonus applications and approvals, among other provisions. The APRs provide statewide and local data across California's 539 cities and counties which allow for tracking the amount, type, location, and affordability of new housing development. In addition to providing completed residential construction data in the jurisdiction, APRs also include data on the number residential developments which are still in the initial permitting and entitlement phases.

Planning vs. Building Affordable Housing: While the RHNA process requires local governments to plan to address housing need in their jurisdiction, it does not mean housing will actually get built. A number of factors affect housing development and, in order to build affordable units for low-income and very low-income households, government subsidies are generally needed to make the project economically viable. According to the California Housing Partnership Corporation, while California has more than doubled its production of deed-restricted affordable units in the prior three years, in 2021 the available public funding for

affordable housing provided just 16% of the units that would be needed to meet the state's targets for low-income homes.[2]

The lack of affordable housing disproportionately impacts California's most economically-vulnerable households. According to data from the 2019 American Communities Survey, over half of the state's renter households are considered rent-burdened, which is defined as paying more than 30% of their income towards rent. For low-income renter households in the state the share of cost-burdened families is even higher at 80%. To address the shortage of affordable housing options, HCD's most recent update of the Statewide Housing Plan call for the production of over a million units of affordable housing units for lower income households in the coming years.[3]

Creation of the California Housing Authority (CHA): This bill proposes to establish the CHA as a new, independent entity within the state government to develop social housing, which is defined as mixed-income rental and ownership housing that is publicly owned and permanently affordable. The CHA's mission would be to close the gap between a jurisdiction's current level of housing production and their RHNA amount while maintaining revenue neutrality. The CHA would be governed by a nine-member board consisting of: three resident representatives living in CHA accommodations, a housing development and finance expert, a housing construction expert, a property maintenance expert, an appointee of the Speaker of the Assembly, an appointee of the Senate Committee on Rules, and an appointee of the Governor. Decisions would be made by majority vote of the board and the board would also have the authority to appoint a board chair and an executive officer.

Development of CHA Housing: This bill specifies that the CHA could build residential housing to make up the different between a jurisdiction's RHNA and the actual amount of housing built. These calculations would be made annually using each local government's APR data beginning on January 1, 2027. Development would be prioritized on vacant parcels, surplus public properties, and parcels near transit, though the bill does not indicate a particular distance from transit or the frequency of transit service that would be required for a parcel to be considered "near transit." Additionally, underutilized parcels (i.e., those containing fewer than the maximum number of allowable units per the jurisdiction's zoning) would be prioritized for CHA developments so long as they do not contain rent controlled units or deed-restricted affordable housing.

This bill requires the CHA to seek input from the local government about certain aspects of a proposed development, including the number of units and the timeline for completing the project. When the CHA has multiple potential sites for development in a jurisdiction it would need to defer to the local government on their preferred site if property acquisition costs and amenities are generally similar and if the site would allow the local government to meet its RHNA targets. If a CHA development would lead to the displacement of existing residents, those households would be eligible for relocation assistance and would have the first right of refusal to live in a CHA housing unit.

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[2] https://1p08d91kd0c03rlxhmhtydpr-wpengine.netdna-ssl.com/wp-content/uploads/2022/03/California-Affordable-Housing-Needs-Report-2022.pdf
[3] https://statewide-housing-plan-cahcd.hub.arcgis.com/

CHA housing developments are required to be mixed-income housing developments, though the specific mix is not spelled out in the bill and there is no intent language indicating minimum proportions of affordable units nor the depth of affordability. The CHA also has the ability to develop mixed-use buildings with commercial space.

Policies Governing Residency in CHA-Built Housing: In CHA-built developments, individuals could either rent or purchase a unit through an ownership model and the CHA unit would need to be the person's sole residence unless they fall into the above-moderate income category. In the ownership model, CHA provides the resident a 99-year lease and they would need to commit to a minimum of five years of residency in the CHA building. The ownership model requires a down payment of 15% of the purchase price. When a resident in the ownership model wishes to sell their unit, the CHA would have first right of refusal to purchase the unit. If the CHA declines to repurchase the unit then it can be resold to a qualified buyer in a manner that allows the resident to have a reasonable return on investment. The bill states that ownership units would be sold for the original purchase price plus documented capital improvements and an adjustment for inflation.

Renters in CHA units would be required to commit to a year of residency, though exceptions would be allowed in some cases such as illness or employment changes. Renters living in CHA-owned properties are provided tenant protections including protection against termination of tenancy without just cause. Additionally, the bill specifies that each multifamily social housing development produced by the CHA will have a resident governance council elected by residents of the housing complex. Governance councils will host regular meetings, interact with property management, handle budgeting for development, and represent the community at biannual meetings with the CHA board. Though the bill specifies that the governance council is to be made up of no more than 10% of the overall population for development, it is unclear if this is per unit or per resident. In a 20-unit building with only one individual per unit, there would be only two members on the council, which would pose an issue for any decisions that the two members disagree on.

Financing Start-Up Costs and Revenue Neutrality: This bill states that the CHA would operate according to principles of revenue neutrality, though it does not specify the time period over which revenue neutrality would be achieved. Presumably a significant amount of start-up capital would be needed to create the CHA and it would have ongoing expenses including the costs of developing and managing mixed-income housing, mortgage servicing, staff time, facilities, legal services, and IT. AB 2881 also includes language stating that it is the intent of the Legislature to fund the CHA's activities through the issuance of general obligations bonds, though no specific timeline or dollar amount for bond issuance is included in the bill text. However, because the Legislature lacks the ability to issue general obligation bonds without voter approval, another bill would need to pass with a two-thirds vote of both houses of the Legislature to put the question of CHA general obligation bond issuance before the voters.

Given that there is no other bill this legislative session proposing to put a CHA general obligation bond measure to the voters, it is unclear where the initial funds for the CHA would originate from. The Governor did not specify any funding for social housing or for the creation of an entity like the CHA in his January 2024 budget, and in fact proposed cuts totaling $1.2 billion to existing affordable housing programs. The bill also includes language giving the CHA the ability to issue revenue bonds that would ostensibly be secured with the rental income

generated from CHA-provided housing, but such bonds could only be issued after a reliable stream of rental income is being generated from CHA-owned properties.

Policy Considerations: Without further specificity on initial start-up costs and the timeframe for achieving revenue neutrality it is challenging – if not impossible – to predict the amount of housing the CHA could be reasonably expected to produce. It is also unclear how long it would take for the first units of CHA housing to be built given that the state has not historically undertaken direct construction of rental or ownership housing. The state also generally does not directly manage rental or ownership housing outside of some limited exceptions, such as student housing for California State University campuses and employee housing for a small number of state parks employees.

Moreover, since the goal of the bill is to close the gap between a jurisdiction's RHNA goals and the actual production of housing, presumably a CHA development would not be able to include units from a particular income category (e.g., above moderate) if the jurisdiction has already exceeded their RHNA targets for that category. This may provide an incentive for jurisdictions to quickly approve above moderate income housing to make CHA developments less economically feasible. One way to avoid such an outcome would be to drop the bill's revenue neutrality goal and instead focus the CHA's mission on producing affordable units for low-income households in a more cost-effective manner than the existing affordable housing development process.

CHA and Social Housing in the Context of Other Efforts to Address the Housing Crisis: On the one hand it could be argued that this bill runs counter to the Legislature's recent efforts to streamline and consolidate affordable housing development. For example, AB 434 (Daly), Chapter 192, Statutes of 2020, required HCD to align several rental housing programs administered by HCD with the Multifamily Housing Program (MHP), to allow HCD to issue a single application and scoring system for making coordinated awards under seven different programs. As a result of AB 434 (Daly), HCD released the guidelines for the first MHP "super Notice of Funding Availability (NOFA)" to allow developers to apply for seven different affordable rental programs at one time, and granted the first super-NOFA awards in spring 2023.

On the other hand, the CHA would generally not be aiming to duplicate the funding, oversight, policy, or technical assistance work of other state housing entities. Instead it seeks to do something the state has never attempted to do: build large amounts of permanently affordable mixed-income rental and ownership housing to close the gap between actual housing production and the estimated need for additional housing in a community. This may prove to be a tall order for a state which has a decidedly mixed record with delivering ambitious new programs and infrastructure in recent decades.

Yet, at the same time it is clear that the state's existing approach to housing has left affordable housing out of reach for far too many. As noted above, the current system for producing deed-restricted affordable housing for low-income Californians is not adequately funded. And many of the affordable housing funding sources that the state currently draws on are one-time funds from voter-approved bonds that will be depleted in the coming years. This bill proposes creating a new entity to take on housing development and ongoing management of properties it builds. There may be cost savings and potential efficiencies in state-sponsored housing development through the CHA, but it could also end up costing more to establish a new entity that would be taking on work state governments have not typically engaged in.

SB 555: Stable Housing Act of 2023: Last year, the Governor signed SB 555 (Wahab), Chapter 402, which requires HCD, no later than December 31, 2026, to develop, adopt, and submit to the Legislature a Social Housing Study for achieving the social housing unit goals included in the bill. The study must include a comprehensive analysis of the opportunities, resources, obstacles, and recommendations for the creation of affordable and social housing at scale, to assist in meeting the need identified in the statewide projections for below market rate housing affordable to households with extremely low, very low, low, and moderate incomes in the sixth RHNA cycle.

***Arguments in Support*:** Various organizations are in support of this bill because of they believe allowing state government to develop and own mixed-income housing will help address the deficit in affordable housing. They argue that CHA would deliver housing near transit and would help reduce greenhouse gas emissions.

***Arguments in Opposition*:** The League of Cities is opposed to this bill, because, "AB 2881 would disregard this state mandated planning process and force cities to allow housing developments in nearly all areas of a city. This seriously questions the rationale for the regional housing needs allocation (RHNA) process. If the California Housing Authority can build housing on any parcel they own or acquire, why should cities go through the multiyear planning process to identify sites suitable for new housing units for those plans to be ignored and housing built on sites never considered for new housing."

***Related Legislation*:**

AB 309 (Lee) of 2023 would have created the Social Housing Program (Program) within the Department of General Services (DGS) to identify and develop up to three social housing projects on state-owned surplus land deemed suitable for housing, as specified. This bill was vetoed by the Governor.

Veto message:

> *I am returning Assembly Bill 309 without my signature.*
>
> *This bill would create the Social Housing Program in the Department of General Services (DGS). The program would identify and produce three social housing projects on excess state-owned property through development or acquisition.*
>
> *This bill infringes on state sovereignty over state-owned real property by establishing a new process for local government review of state projects authorized under the bill and could potentially cost the state several hundred million dollars in capital expenditures.*
>
> *State-owned sites identified as suitable for housing development already are being developed as affordable housing through the State Excess Sites program. This program, instituted through Executive Order (EO) N-06-19 and further codified through AB 2233 (Quirk-Silva, Chapter 438, Statutes of 2022) and SB 561 (Dodd, Chapter 446, Statutes of 2022), has already awarded state land for 17 residential or mixed-use projects with significant affordable housing components.*
>
> *While I appreciate the author's commitment to build more affordable housing in the state, this bill creates new additional cost pressures and must be considered in the annual budget*

in the context of all state funding priorities.

In partnership with the Legislature, we enacted a budget that closed a shortfall of more than $30 billion through balanced solutions that avoided deep program cuts and protected education, health care, climate, public safety, and social service programs that are relied on by millions of Californians. This year, however, the Legislature sent me bills outside of this budget process that, if all enacted, would add nearly $19 billion of unaccounted costs in the budget, of which $11 billion would be ongoing.

With our state facing continuing economic risk and revenue uncertainty, it is important to remain disciplined when considering bills with significant fiscal implications, such as this measure.

For these reasons, I cannot sign this bill.

AB 2053 (Lee) of 2022 would have establishes the CHA for the purposes of developing mixed-income social housing. This bill failed passage in the Senate Governance and Finance Committee.

AB 1657 (Wicks) of the current legislative session would place a $10 billion bond on the March 2024 ballot to fund affordable and supportive housing. This bill passed this committee on a vote of 6-1 on April 26, 2023 and is currently pending in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

AIDS Healthcare Foundation
California Community Living Network
California Democratic Party Renters Council
California School Employees Association
City of Gilroy Council Member Zach Hilton
Common Ground California
Culver City Democratic Club
East Bay for Everyone
East Bay YIMBY
Grow the Richmond
Mountain View YIMBY
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
Progress Noe Valley
San Francisco YIMBY
San Luis Obispo YIMBY
Santa Cruz YIMBY
Santa Monica Democratic Club
Santa Rosa YIMBY
South Bay YIMBY
Southside Forward

Streets for People
Urban Environmentalists
Ventura County YIMBY
YIMBY Action

Opposition

Housing Contractors of California

Oppose Unless Amended

Fieldstead and Company
League of California Cities
Livable California

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2903 (Hoover) – As Amended April 15, 2024

SUBJECT: Homelessness

SUMMARY: Requires, beginning June 1, 2025, a state agency or department that administers one or more state homelessness programs to annually report cost and outcome data to the California Interagency Council on Homelessness (Cal-ICH) for each state-funded homelessness program the agency or department administers. Specifically, **this bill**:

1) Requires Cal-ICAH to develop uniform data collection and reporting procedures for the data collection and reporting.

2) Requires Cal-ICH to compile the data reported pursuant to paragraph 1) and beginning September 1, 2025, to annually make the compiled data available to the public.

EXISTING LAW:

1) Establishes the CA-ICH, chaired by the Secretary of the Business, Consumer Services, and Housing (BCSH) Agency and the Secretary of the California Health and Human Services (HHS) Agency, made up of various state departments and agencies. (Welfare and Institutions Code (WIC) Section 8257)

2) Sets the following goals for the CA-ICH:

    a) To identify mainstream resources, benefits, and services that can be accessed to prevent and end homelessness in California;

    b) To create partnerships among state and federal agencies and departments, local government agencies, and nonprofit entities working to end homelessness, homeless services providers, and the private sector, for the purpose of arriving at specific strategies to end homelessness;

    c) To promote systems integration to increase efficiency and effectiveness while focusing on designing systems to address the needs of people experiencing homelessness, including unaccompanied youth under 25 years of age;

    d) To coordinate existing funding and applications for competitive funding, without restructuring or changing any existing allocations or allocation formulas;

    e) To make policy and procedural recommendations to legislators and other governmental entities;

    f) To identify and seek funding opportunities for state entities that have programs to end homelessness and to facilitate and coordinate those state entities' efforts to obtain that funding;

g) To broker 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;

h) To serve as a statewide facilitator, coordinator, and policy development resource on ending homelessness in California;

i) To report to the Governor, federal Cabinet members, and the Legislature on homelessness and work to reduce homelessness; and

j) To ensure accountability and results in meeting the strategies and goals of the council. (WIC 8257)

3) Requires, after July 1, 2017, agencies and departments that implement funds, or administer a program that provides housing or housing-based services to people experiencing homelessness or at-risk of homelessness, with the exception of federally funded programs not consistent with Housing First or programs that fund emergency shelters, to work with the Cal-ICH to adopt guidelines and regulations to incorporate core components of Housing First. (WIC 8256)

4) Requires an eligible city, county, or Continuum of Care (CoC) to submit a local homelessness action plan that includes all of the following to access Homeless Housing Assistance and Prevention Program (HHAP) funds:

a) A local landscape analysis that assesses the current number of people experiencing homelessness and existing programs and funding which address homelessness within the jurisdiction, utilizing any relevant and available data from the Homeless Data Integration System (HDIS), the United States Department of Housing and Urban Development's (HUD's) homeless point-in-time count, CoC housing inventory count, longitudinal systems analysis, and Stella tools, as well as any recently conducted local needs assessments;

b) Identification of the number of individuals and families served, including demographic information and intervention types provided, and demographic subpopulations that are underserved relative to their proportion of individuals experiencing homelessness in the jurisdiction;

c) Identification of all funds, including state, federal and local funds, currently being used, and budgeted to be used, to provide housing and homelessness-related services to persons experiencing homelessness or at imminent risk of homelessness, how this funding serves subpopulations, and what intervention types are funded through these resources;

d) An outline of proposed uses of funds requested and an explanation of how the proposed use of funds will complement existing local, state, and federal funds and equitably close the gaps identified;

e) Evidence of connection with the local homeless Coordinated Entry System;

f) An agreement to participate in a statewide HDIS, and to enter individuals served by this funding into the local Homeless Management Information System (HMIS), in accordance with local protocols;

g) A demonstration of how the jurisdiction has coordinated, and will continue to coordinate, with other jurisdictions, including the specific role of each applicant in relation to other applicants in the region;

h) A demonstration of the applicant's partnership with, or plans to use funding to increase partnership with, local health, behavioral health, social services, and justice entities and with people with lived experiences of homelessness;

i) A description of specific actions the applicant will take to ensure racial and gender equity in service delivery, housing placements, and housing retention and changes to procurement or other means of affirming racial and ethnic groups that are overrepresented among residents experiencing homelessness have equitable access to housing and services; and

j) A description of how the applicant will make progress in preventing exits to homelessness from institutional settings, including plans to leverage funding from mainstream systems for evidence-based housing and housing-based solutions to homelessness. (Health and Safety Code (HSC) Section 502207.5)

1) Requires HHAP applicants to establish goals that prevent and reduce homelessness from July 1, 2021, through June 30, 2024, informed by the findings from the local landscape analysis and the jurisdiction's base system performance measure from the 2020 calendar year data in the HDIS. The outcome goals shall set definitive metrics, based on HUD's system performance measures, for achieving the following

   a) Reducing the number of persons experiencing homelessness;

   b) Reducing the number of persons who become homeless for the first time;

   c) Increasing the number of people exiting homelessness into permanent housing;

   d) Reducing the length of time people remain homeless;

   e) Reducing the number of persons who return to homelessness after exiting homelessness to permanent housing; and

   f) Increasing successful placements from street outreach. (HSC 50220.7)

2) Requires each HHAP applicant to determine its outcome goals in consultation with Cal-ICH, and prohibits them from submitting final outcome goals before consulting with Cal-ICH. (HSC 50220.7)

3) Requires Cal-ICH to assess outcome goals in the application based on the information provided in the local homeless action plan and the applicant's baseline data on the

performance metrics and determine whether the outcome goals adequately further the objectives of reducing and preventing homelessness. (HSC 502207.5)

FISCAL EFFECT: Unknown

COMMENTS:

Author's Statement: According to the author, "California's homelessness crisis continues to be the state's most pressing problem. Many studies show that having an intellectual disability is a risk factor for homelessness. Unsheltered people with developmental disabilities are more likely to have dropped out of school and to experience other problems related to homelessness including substance use disorder and other mental health issues. Despite California creating the California Interagency Council on Homelessness, there is currently no required member from the State Council on Developmental Disabilities. This bill adds a representative from this group to provide a much-needed perspective from an expert with knowledge about developmental disabilities."

Homelessness in California: Based on the 2023 point in time count, California has the largest homeless population in the nation with 181,399 people experiencing homelessness on any given night. Many of those people (113,660) are unsheltered, meaning they are living outdoors and not in temporary shelters. Nearly half of all unsheltered people in the country were in California during the 2023 count. 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 six million renter households in the state, 1.7 million are paying more than 50% of their income toward 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.

State Auditor's Reports: The Joint Legislative Audit Committee requested an audit of the state's homelessness funding, including an evaluation of the efforts undertaken by the State and two cities to monitor the cost-effectiveness of such spending. The auditor released both audits on April 9, 2024. In the audit of state programs, the auditor found that the "state lacks current information on the ongoing costs and outcomes of its homelessness programs, because Cal-ICH has not consistently tracked and evaluated the State's efforts to prevent and end homelessness. Although Cal ICH reported in 2023 financial information covering fiscal years 2018–19 through 2020–21 related to all state-funded homelessness programs, it has not continued to track and report this data since that time, despite the significant amount of additional funding the State awarded to these efforts in the past two years. Cal ICH has also not aligned its action plan to end homelessness with its statutory goals to collect financial information and ensure accountability and results. Thus, it lacks assurance that the actions it takes will effectively enable it to achieve those goals. Another significant gap in the State's ability to assess programs' effectiveness is that it does not have a consistent method for gathering information on the costs and outcomes for individual programs."[1]

Cal-ICH: In 2016, SB 1380 (Mitchell), Chapter 847, created the Homelessness Coordinating and Financing Council, which in 2021 was renamed the California Interagency Council on

[1] https://www.auditor.ca.gov/reports/2023-102.1/index.html#chapter1

Homelessness (CA-ICH) (AB 1220 (L. Rivas), Chapter 398) to coordinate the state's response to homelessness. SB 1380 (Mitchell) set out a list of list of "goals" for CA-ICH to focus on but no clear authority to make changes to state policy or programs that address homelessness. CA-ICH is also responsible for ensuring that all state housing and homeless programs are Housing First.

As the state's homelessness crisis has worsened, the role of the CA-ICH has significantly increased. The council became responsible for administering two large programs dedicated to addressing homelessness, HEAP and HHAP. Recent budgets have included multi-year funding for HHAP. To access this funding, eligible applicants (CoCs, counties, and eligible cities) are required to submit a Local Homelessness Action Plan that demonstrates how HHAP funds and all local dollars for homelessness can reduce the number of people experiencing homelessness. CA-ICH is tasked with working with eligible applicants to develop measurable outcome goals to reduce homelessness. Goals will measure the following and progress will be based on data collected through the local HMIS:

- Reduction in the number of persons experiencing homelessness;
- Reduction in the number of persons who become homeless for the first time;
- Increases in the number of people exiting homelessness into permanent housing;
- Reduction in the length of time persons remain homeless
- Reduction in the number of persons who return to homelessness after exiting homelessness to permanent housing; and
- Increases in successful placements from street outreach.

The governance structure of CA-ICH has also evolved since its creation. In addition to changing the name of council, AB 1220 (L. Rivas) appointed the Secretary of the California HHS Agency as co-chair of CA-ICH with the Secretary of the BCSH Agency. In addition, AB 1220 (L. Rivas) removed people with lived experience of homelessness from the council membership and placed them on an advisory board, and required staff of agencies and departments of the CA-ICH to participate in council work groups or task forces at the request of the council.

Last year, the Legislature moved administration of HHAP and the Encampment Resolution program from Cal-ICH to the Department of Housing and community Development (HCD) in an effort to return Cal-ICH to its core mission of coordinating the state's overall response to homelessness. This bill would assist Cal-ICH in coordinating that overall strategy by giving Cal-ICH better data to determine how the state should invest in the response to homelessness. This bill would require any state agency or department that administers one or more state homelessness programs to annually report cost and outcome data to the California Interagency Council on Homelessness (Cal-ICH) for each state-funded homelessness program the agency or department administers.

Arguments in Support: None on file.

***Arguments in Opposition*:** None on file.

***Related Legislation*:**

AB 23385 (Jones-Sawyer), of the current legislative session, to require the Governor to appoint a Statewide Homelessness Coordinator (Coordinator) within the Governor's Office to serve as the

lead person for ending homelessness in the state. This bill will be heard in Assembly Housing and Community Development Committee on April 24, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2909 (Santiago) – As Amended April 18, 2024

SUBJECT: Historical property contracts: qualified historical property: adaptive reuse

SUMMARY: Allows certain properties within the City of Los Angeles that are at least 30 years old to be eligible for the Mills Act for purposes of adaptive reuse of the property from January 1, 2026 to January 1, 2036. Specifically, **this bill**:

1) Adds, until January 1, 2036, properties that meet all of the following to the requirements of "qualified historic properties" in the Mills Act:

    a) The privately owned property is not exempt from property tax;

    b) The property was constructed at least 30 years prior to the property owner and legislative body entering in to a Mills Act contract under this bill;

    c) The property is located within the City of Los Angeles;

    d) The property is on an infill site that satisfies the site requirements of AB 2011 (Wicks), Chapter 647, Statutes of 2022; and

    e) The legislative body and property owner entered into a Mills Act contract between January 1, 2026 and January 1, 2036.

2) Requires a contract entered into to restrict the use of qualified historical property described in 1) above to do all of the following, until January 1, 2036:

    a) Require adaptive reuse, as defined, of the qualified historical property;

    b) Require the following if the adaptive reuse project is a mixed-use development:

        i) Require 80% of the project total floor area to be dedicated to residential uses; and

        ii) Allow up to 20% of the mixed-use development to be used for nonresidential purposes, and requires these purposes to include at least one community amenity, including, but not limited to, publicly accessible outdoor spaces, community centers, daycares, meeting rooms, shared work spaces, or other amenities found needed by the community in the City of Los Angeles;

    c) Require at least three units of each development to be live-work artist lofts; and

    d) Facilitate, promote, and accommodate active transportation, which may be met by requiring the development to do any one of the following or any combination thereof: provide secured bike storage for residents, provide bike parking for the public, incorporate awnings to provide shade to pedestrian traffic, or other needs as identified by the City of Los Angeles related to active transportation.

3) Requires a contract entered into to restrict the use of qualified historical property described in 1), if it is a contract for a project that converts hotels, motels, short-term rental buildings, or other structures previously used for human habitation, to meet the requirements of 2) and to meet the affordability requirements of the mixed-income housing provisions of AB 2011 (Wicks).

4) Provides that 1) - 3) shall become operative on January 1, 2026, and shall remain effect only until January 1, 2036, and as of that date are repealed.

EXISTING LAW:

1) Allows, pursuant to AB 2011 (Wicks), a housing development project to be subject to a streamlined, ministerial approval process if it located on a site that satisfies all of the following:

    a) The project is located in a zone where office, retail, or parking are a principally permitted use;

    b) The site is a legal parcel that is within a city or an unincorporated area within an urbanized area or urban cluster;

    c) At least 75% of the perimeter of the site adjoins parcels with urban uses;

    d) It is not a site where more than one third of the square footage is dedicated to industrial use, as specified;

    e) The parcel is not located on prime farmland, wetlands, very high fire hazard severity zones, a hazardous waste site, an earthquake fault zone, a special flood hazard area, floodway, land for conservation, habitat for protect species, or lands under conservation easement;

    f) The site is not an existing parcel of land or site that is under the Mobile Home Residency Law, Recreation Vehicle Park Occupancy Law, Mobilehome Parks Act, or Special Occupancy Parks Act;

    g) For sites that are within a neighborhood plan, the site meets specified requirements; and

    h) For vacant sites, the site meets both of the following:

        i) The site does not contain tribal cultural resources, as specified; and

        ii) It is not within a very high fire hazard severity zone, as specified. (Government Code (GOV) Section 65912.111)

2) Requires, pursuant to AB 2011 (Wicks), a development project seeking to utilize the streamlined, ministerial approval process for mixed-income housing developments along commercial corridors to meet the following affordability requirements:

    a) A rental housing development must include either of the following:

i) Eight percent of the units for very low-income households and 5% of the units for extremely low-income households; or

ii) Fifteen percent of the units for lower income households.

b) An owner-occupied housing development must include either of the following:

i) Thirty percent of the units must be offered at an affordable housing cost, as defined, to moderate-income households; or

ii) Fifteen percent of the units must be offered at an affordable housing cost, as defined, to lower income households. (GOV 65912.122)

3) Allows, pursuant to the Mills Act, a city, county, or city and county to contract with the owner or the agent of the owner of a qualified historical property to restrict the use of a qualified historical property, as specified. (GOV 50280)

4) Defines "qualified historical property" to mean a privately owned property which is not exempt from property taxation and which is either listed in the National Register of Historic Places, is located in a registered historic district, as defined, or is listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks. (GOV 50280.1)

5) Requires any contract entered into under the Mills Act to restrict the use of a qualified historical property to contain all the following:

a) The term of the contract must be for a minimum period of 10 years; and

b) Where applicable, the contract must provide the following:

i) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code;

ii) For an inspection of the interior and exterior of the premises by the city, county, or city and county prior to a new agreement, and every five years thereafter, to determine the owner's compliance with the contract; and

iii) For it to be binding upon, and inure to the benefit of, all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract. (GOV 50281)

6) Requires each contract to provide that on the anniversary date of the contract, or other annual date specified in the contract, a year shall be automatically added to the initial term of the contract unless notice of nonrenewal is given. If the property owner or the legislative body desires in any year not to renew the contract, that party must serve written notice of non-renewal of the contract on the other party before the annual renewal date of the contract. Unless the notice of nonrenewal is served by the owner 90 days prior or the legislative body

at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract. (GOV 50282)

7) Requires, if the legislative body or the owner serves notice of intent in any year not to renew the contract, the existing contract to remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract. (GOV 50282)

8) Defines "adaptive reuse" to mean the repurposing of building structures for residential purposes, such as former office use, commercial use, or business parks. When referring to building structures, adaptive reuse means retrofitting and repurposing of existing buildings that create new residential rental units, and expressly excludes a project that involves rehabilitation of any construction affecting existing residential units that are, or have been, recently occupied. (Health and Safety Code Section 53559.1)

9) Provides that when a county assessor is valuing an enforceably restricted historical property, the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value historical property by the capitalization of income method, as defined. (Revenue and Taxation Code (RTC) Section 439.2)

10) Defines how a county assessor will value that restricted historical property when a city, a county, or the owner of a restricted historical property subject to a contract has served a notice of nonrenewal. (RTC 439.3)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "Shifts in current and projected office demand have led declining commercial office building valuations, which threaten local governments' budgets that rely heavily on property taxes on commercial real estate to provide public goods and services. Adaptive reuse of underutilized commercial buildings has the potential to provide quality, infill residential units, offering a potential solution to meeting both housing supply and environmental sustainability goals. AB 2909 will empower local governments to make adaptive reuse a viable tool for tackling our housing crisis while sparking economic recovery for downtowns."

California's Housing Crisis: California is in the midst of a severe housing crisis. Over two-thirds of low-income renters are paying more than 30% of their income toward housing, a "rent burden" that means they have to sacrifice other essentials such as food, transportation, and health care.[1] In 2023, over 181,000 Californians experienced homelessness on a given night, with a sharp increase in the number of people who became homeless for the first time.[2] The crisis is driven in large part by the lack of affordable rental housing for lower income people. According to the California Housing Partnership's (CHP) Housing Need Dashboard, in the current market, nearly 2 million extremely low-income and very low-income renter households are competing for roughly 687,000 available and affordable rental units in the state. Over three-quarters of the state's extremely low-income households and over half of the state's very low-income

[1] https://chpc.net/housingneeds/
[2] https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html

households are severely rent burdened, paying more than 50% of their income toward rent each month. CHP estimates that the state needs an additional 1.3 million housing units affordable to very low-income Californians to eliminate the shortfall.[3] By contrast, production in the past decade has been under 100,000 housing units per year – including less than 10,000 units of affordable housing per year.[4]

The Mills Act: Enacted in 1972, the Mills Act is a state-enabled, locally-administered historic preservation incentive that results in the reduction of property taxes for qualified historical properties under a Mills Act contract. A qualified historical property includes properties that are: listed in the National Register of Historic Places; designated as a historic property by the state of California; located in a historic district; or listed in a city or county's official register of historical or architecturally significant sites, places, or landmarks. Under the Mills Act, a city or county enters into a contract with a property owner of a qualified historical property and provides the owner with a property tax abatement. In exchange for the tax benefit, the owner of the property commits to restoring, rehabilitating, and maintaining the property, as specified in the contract.

The initial Mills Act contract term is for a minimum of ten years, with an additional year added to the contract annually on the anniversary date. The contract remains in effect in perpetuity until either party provides notice to stop renewing the agreement. Municipalities are required to conduct compliance inspections of properties at least every five years.

Cities and counties are the sole administrators of the Mills Act. Although the definition of qualified historical properties includes properties identified in state and national registers, local governments have the discretion to choose to adopt a program that limits Mills Act contracts to properties that are locally designated.

Adaptive Reuse: Adaptive reuse refers to the repurposing of existing building structures for new uses. This can include small projects, like converting an old church into a storefront or restaurant, or large projects, such as converting former offices, malls, or business parks into mixed-use spaces or multifamily housing. In communities with historic architecture, adaptive reuse can serve as a form of historic preservation by maintaining exterior facades of buildings while allowing the conversion of interiors for modernized or different uses. Adaptive reuse for residential projects can also promote greenhouse gas reduction by facilitating infill development near existing jobs, transit, and retail and reducing the need for vehicle trips. In some instances, rehabilitating an existing building can bring new housing online quicker than a traditional new construction project. Adaptive reuse also eliminates the need to demolish the existing building, which can be an expensive component of the overall development costs of a project.

However, a UC Berkeley Terner Center for Housing Innovation report from November 2021, "Adaptive Reuse Challenges and Opportunities in California," finds that adaptive reuse of existing commercial buildings to multifamily housing "tends to be more expensive than new construction, particularly when unexpected expenses (e.g., seismic retrofitting or environmental remediation) are taken into account. The structure of the existing building also determines the feasibility and cost of conversion, meaning that not every commercial property will be a good candidate for redevelopment. Buildings with specific architectural characteristics, such as

[3] https://chpc.net/housingneeds/
[4] https://www.hcd.ca.gov/policy-research/housing-challenges.shtml

shallow floor plates, generous exterior exposure, or unique building features, are especially conducive to adaptive reuse."[5]

The report goes on to note that there are significant differences in building standard requirements for residential and commercial uses, which challenge the viability of these types of development in unique ways. These differences are most complex as they relate to requirements for natural light and ventilation, seismic safety, fire safety, and environmental quality or hazardous material remediation. The success of an adaptive reuse project is highly dependent on the type of building and its initial use. The cost of converting a hotel or motel, which is already used for short-term human habitation, will be significantly less than converting an office building or big box retail, which would very likely need to be completely reconstituted to provide the necessary plumbing and meet light and air quality standards for residential units. These types of projects run the risk of being more expensive than new construction, especially when unexpected expenses are taken into account. Older buildings, particularly those built prior to the 1980's, are also more likely to require more intensive upgrades to align with modern public health and safety standards, seismic retrofitting, fire safety, or environmental remediation. Commercial conversions are relatively rare and are more likely to entail demolition and new construction than the adaptive reuse of any existing structure. Over five years (2014-2019), less than one percent of all commercial zoned parcels were converted to residential use across California's four metro regions.

Mills Act Changes for the City of Los Angeles: This bill allows adaptive reuse projects to use the property tax benefits provided by the Mills Act from January 1, 2026 to January 1, 2036 if the property is located in the City of Los Angeles and was constructed at least 30 years before the date the property owner and the city council enter into a contract restricting the use of the property. The property must be located on a site that meets the requirements of AB 2011 (Wicks) to qualify, and if the property is being adapted into a mixed-use development, 80% of the total floor area must be for residential uses, there must be at least one community amenity included, three live-work artist lofts must be included, and the project must facilitate and promote active transportation, as specified. In addition, if the property is a hotel, motel, or other structure previously used for human habitation, and it is being converted, it must meet the affordability requirements of the mixed-income provisions of AB 2011 (Wicks).

Local governments currently have the discretion to choose to designate sites or properties in their jurisdiction as historically or architecturally significant. They may choose to designate sites or districts on their local registers of historic places and can enter into Mills Act contracts for those properties under current law. In addition, the City of Los Angeles has had a robust adaptive reuse ordinance in place for many years, and has provided exemptions from its Mills Act program's pre-contract property assessed valuation thresholds (currently $1.5 million for single-family residences and $3 million for multifamily, commercial, or industrial properties) for areas of the city designated as adaptive reuse priority areas. Priority consideration for applications is already provided to multifamily and commercial mixed-use properties with more than 20 rental units where "the project will result in the preservation or addition of safe and affordable dwelling units for low and moderate income households."[6] The city has also had a "lost revenue cap" on its Mills Act program of $2 million per year since 2012. In 2020, the city reported it had 932 active

[5] Adaptive Reuse Challenges and Opportunities in California - Terner Center (berkeley.edu)
[6] https://planning.lacity.gov/odocument/a8173f0a-efa6-45fa-a3d3-d004c8e4e4b7/Mills_Act_Ordinance.pdf

Mills Act contracts, 75% of those contracts were for single-family homes, and the total amount of lost revenue was roughly $1.4 million in that fiscal year.[7]

However, the city recently commissioned a study of its Mills Act program, and the Los Angeles City Council directed the planning department on May 23, 2023 to prepare a report with recommendations, ordinance amendments, and administrative changes to its program. Planning staff write: "Due to its success over the years, the total number of Mills Act Historical Property Contracts has expanded beyond the capacity of City staff to properly administer the program. State law has also evolved to require more rigor in program management by municipalities. In addition, since the program's inception, housing affordability, production of housing, and equity considerations have further increased in importance for the City."[8] New applications for Mills Act contracts in the city have been placed on hold while the city prepares its program changes. It is unclear whether the provisions of this bill will align with these forthcoming changes.

Arguments in Support: According to the Central City Association of Los Angeles, the bill's sponsor, "While adaptive reuse projects provide many benefits, they are complex and face financial feasibility challenges. Recognizing this barrier, cities across North America have developed various financial incentive programs and tools to support conversion projects, including Calgary, New York City, Atlanta, Chicago, Boston and Washington DC. California too must act in the wake of the pandemic to catalyze adaptive reuse in its cities and it can leverage an established financing mechanism to do so – the Mills Act. Since 1972, the Mills Act has offered a unique tool for local governments to incentivize – through a property tax abatement – significant investment in historic preservation. The Mills Act empowers participating local governments to enter into contracts with owners of "qualified historic properties" who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief. The Mills Act Program has already demonstrated the ability to facilitate adaptive reuse projects in the City of Los Angeles and has the potential to spur commercial to residential conversions across California."

Arguments in Opposition: None on file.

Related Legislation:

AB 2910 (Santiago) of the current legislative session would authorize specified cities to adopt alternative building regulation for the conversion of commercial and industrial buildings to residential uses. This bill recently passed this committee on a vote of 9-0 and is currently pending in the Assembly Committee on Local Government.

AB 3068 (Haney) of the current legislative session would deem an adaptive reuse project a use by right in all zones, regardless of the zoning of the site, and subject to a streamlined ministerial review process if the project meets specified requirements. This bill recently passed this committee on a vote of 9-0 and is currently pending in the Assembly Committee on Local Government.

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[7] https://planning.lacity.gov/odocument/093f88c8-a773-441f-ada7-df4f946b5d89/Mills_Act_Presentation_2020_FINAL.pdf
[8] https://planning.lacity.gov/preservation-design/historic-resources/incentives-resources/mills-act#program-assessment

AB 529 (Gabriel), Chapter 743, Statutes of 2023: Required the Department of Housing and Community Development (HCD) to convene a working group to identify challenges to and opportunities to promote adaptive reuse residential projects. The bill requires HCD and other state agencies in the working group to propose adaptive reuse building standards for adoption by the Building Standards Commission.

AB 1490 (Lee), Chapter 764, Statutes of 2023: Required local governments to approve adaptive reuse projects where 100% of the units are affordable to lower income households and at least half of the units are dedicated to very low-income households.

AB 2011 (Wicks), Chapter 647, Statutes of 2022: Created a streamlined, ministerial approval process for affordable and mixed-income housing developments in commercial areas, subject to specified conditions.

Double Referred: This bill is double referred. It was heard in the Assembly Committee on Local Government and passed on a vote of 9-0 on April 17, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Central City Association (Sponsor)
AARP
Abundant Housing LA
Axis/GFA
California Apartment Association
California Downtown Association
Housing Action Coalition
International Interior Design Association Northern California Chapter
International Interior Design Association Southern California Chapter
Los Angeles County Business Federation
Miyamoto International

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2926 (Kalra) – As Introduced February 15, 2024

SUBJECT: Planning and zoning: assisted housing developments: notice of expiration of affordability restrictions

SUMMARY: Makes several changes to the Preservation Notice Law (PNL), requires an owner of an assisted housing development to accept a bona fide offer from a qualified entity to purchase and to execute a purchase agreement, or to record a new regulatory agreement with a term of at least 30 years that meets specified requirements, and deletes the option for an owner to decline to sell the property. Specifically, **this bill**:

1) Revises the definition of "assisted housing development" in the PNL to include assistance provided by counties or cities in exchange for restrictions on the maximum rents that may be charged for units within a multifamily rental housing development and on the maximum tenant income as a condition of eligibility for occupancy of the unit subject to the rent restriction, as reflected by a recorded agreement or other legally enforceable agreement with a county or city, including housing created pursuant to the following:

    a) The Middle Class Housing Act of 2022;

    b) Streamlining assistance pursuant to the Affordable Housing and High Road Jobs Act of 2022;

    c) The streamlined, ministerial process for mixed-income developments pursuant to SB 423 (Wiener), Chapter 778, Statutes of 2023; and

    d) The Affordable Housing on Faith and Higher Education Lands Act of 2023.

2) Revises the definition of "expiration of rental restrictions" in the PNL to mean the expiration of rental restrictions for an assisted housing development unless the development has other recorded agreements restricting the rent to the same or lesser levels for the same number of units, rather than at least 50% of the units.

3) Revises the definition of "termination" to mean the failure of an owner to extend or renew its participation in a federal, state, or local government subsidy program or private, nongovernmental subsidy program for an assisted housing development, either at or prior to the scheduled date of the expiration of the contract, that may result in an increase in tenant rents or a change in the form of the subsidy from project-based to tenant-based.

4) Requires the existing notice that must be provided by an owner of an assisted housing development at least 12 months prior to the anticipated date of the termination of a subsidy contract, expiration of rental restrictions, or prepayment, to specify whether the owner might increase rents during the 12 months following prepayment, termination, or expiration, rather than whether they intend to increase rents during that period to a level greater than permitted under existing federal Low-Income Housing Tax Credit law.

5) Requires, at least six months prior to the anticipated date of termination of a subsidy contract, expiration of rental restrictions, or prepayment on an assisted housing development, the existing notice to the tenants provided by the owner to also include a statement that the owner shall accept all enhanced Section 8 vouchers if the tenants receive them.

6) Revises the existing requirement for owners of assisted housing developments that are within three years of a scheduled expiration of rental restrictions to provide notice of the scheduled expiration of rental restrictions to prospective tenants, existing tenants, and affected public entities, to also apply the notice obligation to owners of assisted housing developments that are within three years of a scheduled termination of a subsidy contract.

7) Clarifies that the injunctive, legal, and equity relief currently available to affected public entities and affected tenants, as defined, for a violation of specified sections of the PNL includes, but is not limited to, a group of affected tenants that meets the requirements of a legitimate tenant organization, as defined in federal regulations, or a tenant association, as defined.

8) Adds a definition of "qualified entity" to the PNL, to mean an entity to whom an opportunity to purchase must be provided and that meets specified requirements.

9) Increases from 180 to 270 days the time period during which a qualified entity's bona fide offer to purchase an assisted housing development at market value must be submitted after the owner's notice of the opportunity to submit an offer.

10) Requires an owner who has received a bona fide offer from one or more qualified entities within the first 270 days from the notice of opportunity date to notify the Department of Housing and Community Development (HCD) of all such offers within 90 days, and either accept a bona fide offer from a qualified entity to purchase and execute a purchase agreement, or record a new regulatory agreement with a term of at least 30 years that, at a minimum, meets specified criteria relating to preserving the affordability of the property.

11) Deletes the option for an owner to declare under penalty of perjury in writing to the qualified entity or entities and HCD on a form approved by HCD that, if the property is not sold under the PNL during specified timeframes, that the owner will not sell the property for at least five years after the end of such timeframes.

12) Deletes the option for an owner to decline to sell a property to a qualified entity except for the circumstances in 10), and deletes the requirement that in the event the owner declines to sell the property to a qualified entity, the owner must record the declaration with the county in which the property is located immediately after specified timeframes.

13) Deletes the option, during the 180-day period following the initial 180-day notice of opportunity period, for an owner to accept an offer from a person or an entity that does not qualify under the parameters of 8), and the requirement that any such acceptance must be made subject to the owner's providing each qualified entity that made a bona fide offer the first opportunity to purchase the development at the same terms and conditions as the pending offer to purchase, unless those terms and conditions are modified by mutual consent. Further deletes the requirement for the owner to notify HCD and those qualified entities in writing of the terms and conditions of the pending offer to purchase, and repeals the 30-day window during which a qualified entity shall have the opportunity to submit a bona fide offer

to purchase and which must be accepted by the owner. Deletes an exemption to this paragraph that an owner is not required to comply with these provisions if the person or entity making the offer during this time period agrees to maintain the affordability of the development for at least 30 years or as specified.

14) Requires owners of assisted housing developments in which at least 5% of the units on the property, rather than 25% in current law, are subject to affordability restrictions or a rent or mortgage subsidy contract to certify compliance with the PNL to HCD annually, under penalty of perjury, in a form as required by HCD.

15) Prohibits an owner from utilizing the current law exemption from the PNL notice requirement if they terminate a tenancy of a low-income household due to a planned renovation of the property during the escrow period.

16) Makes clarifying and technical changes.

EXISTING LAW establishes the Preservation Notice Law in Government Code (GOV) Sections 65863.10-11 and 65863.13, which includes the following:

1) Defines various terms, including:

   a) "Affected public entities" means the mayor of the city in which the assisted housing development is located, or, if located in an unincorporated area, the chair of the board of supervisors of the county; the appropriate local public housing authority, if any; and HCD;

   b) "Affected tenant" means a tenant household residing in an assisted housing development, as defined, at the time notice is required to be provided pursuant to the PNL, that benefits from the government assistance;

   c) "Assisted housing development" means a multifamily rental housing development of five or more units that receives governmental assistance under any of specified housing programs, including project-based Section 8 vouchers, low-income housing tax credits, redevelopment funds, and density bonus developments;

   d) "Expiration of rental restrictions" means the expiration of rental restrictions for an assisted housing development, unless the development has other recorded agreements restricting the rent to the same or lesser levels for at least 50% of the units; and

   e) "Termination" means an owner's decision not to extend or renew its participation in a federal, state, or local government subsidy program or private, nongovernmental subsidy program for an assisted housing development, either at or prior to the scheduled date of the expiration of the contract, that may result in an increase in tenant rents or a change in the form of the subsidy from project-based to tenant-based. (GOV 65863.10(a))

2) Requires an owner proposing the termination or prepayment of governmental assistance or the owner of an assisted housing development in which there will be the expiration of rental restrictions, at least 12 months prior to the anticipated date of the termination, expiration, or prepayment, to provide a notice of the proposed change to each affected tenant household residing in the assisted housing development and to the affected public entities. Exempts

from this notice requirement an owner who records a new regulatory agreement at the close of escrow of the sale of the property and who complies with specified requirements. Requires the notice to include specified information. (GOV 65863.10(b))

3) Establishes that injunctive relief shall be available to any affected public entities or affected tenants who are aggrieved by a violation of 2) and other specified notice requirements. (GOV 65863.10(j))

4) Prohibits an owner of an assisted housing development from terminating a subsidy contract or prepaying a mortgage unless the owner or its agent has first provided specified preservation entities an opportunity to submit an offer to purchase the development. Requires an owner of an assisted housing development in which there will be an expiration of rental restrictions to provide the same entities an opportunity to submit an offer to purchase the development. Exempts from this first opportunity to purchase requirement an owner who records a new regulatory agreement at the close of escrow of the sale of the property and who complies with specified requirements. (GOV 65863.11(b))

5) Prohibits an owner of an assisted housing development from selling or otherwise disposing of the development at any time within the five years before the expiration of rental restrictions or at any time if the owner is eligible for prepayment or termination within five years unless the owner or its agent has first provided specified preservation entities an opportunity to submit an offer to purchase the development. Exempts from this first opportunity to purchase requirement an owner who records a new regulatory agreement at the close of escrow of the sale of the property and who complies with specified requirements. (GOV 65863.11(c))

6) Requires a preservation entity to do all of the following to qualify as a purchaser of an assisted housing development:

    a) Be certified by HCD, based on 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. Requires HCD to establish a process for certifying qualified entities and maintain a list of entities that are certified, which must be updated at least annually;

    b) Agree to obligate itself and any successors in interest to maintain the affordability of the assisted housing development for households of very low, low, or moderate income for either a 30-year period from the date that the purchaser took legal possession of the housing or the remaining term of the existing federal government assistance, whichever is greater; and

    c) Local nonprofit organizations and public agencies shall have no member among their officers or directorate with a financial interest in assisted housing developments that have terminated a subsidy contract or prepaid a mortgage on the development without continuing the low-income restrictions. (GOV 65863.11(e))

7) Requires an owner who decides to terminate a subsidy contract, prepay the mortgage, or sell or otherwise dispose of the assisted housing development, or if the owner has an assisted housing development in which there will be the expiration of rental restrictions, to first give notice of the opportunity to offer to purchase to each qualified entity on the list provided to

the owner by HCD, as well as to those qualified entities that directly contact the owner. The notice of the opportunity to offer to purchase must be given before or concurrently with the notice required under 2) for a period of at least 12 months. (GOV 65863.11(g))

8) Requires a qualified entity that elects to purchase an assisted housing development to make a bona fide offer to purchase the development at the market value. A qualified entity's bona fide offer to purchase shall be submitted within 180 days of the owner's notice of the opportunity to submit an offer pursuant to 7), identify whether it is a tenant association, nonprofit organization, public agency, or profit-motivated organizations or individuals, and certify, under penalty of perjury, that it is qualified. If an owner has received a bona fide offer from one or more qualified entities within the first 180 days from the date of an owner's notice under 7), the owner must notify HCD of all such offers and either accept a bona fide offer from a qualified entity to purchase, or declare under penalty of perjury in writing to the qualified entity or entities and HCD on a form approved by HCD that, if the property is not sold during the first 180-day period or a second 180-day period, it will not sell the property for at least five years after the end of the second 180-day period. (GOV 65863.11(i))

9) Requires an owner who declines to sell a property to a qualified entity to record the declaration with the county in which the property is located immediately after the end of the second 180-day period. (GOV 65863.11(i))

10) Allows an owner, during the 180-day period following the initial 180-day period required under 8), to accept an offer from a non-qualifying person or entity. This acceptance shall be made subject to the owner's providing each qualified entity that made a bona fide offer the first opportunity to purchase the development at the same terms and conditions as the pending offer to purchase, unless these terms and conditions are modified by mutual consent. The owner must notify in writing HCD and those qualified entities of the terms and conditions of the pending offer to purchase. A qualified entity shall have 30 days from the date the notice is mailed to submit a bona fide offer to purchase, and that offer must be accepted by the owner. The owner is not required to comply with these requirements if the person or the entity making the offer during this time period agrees to maintain the development for persons and families of very low, low, and moderate income. (GOV 65863.11(l))

11) Requires HCD to undertake the following responsibilities:

    a) Maintain a form containing a summary of rights and obligations under the PNL and make that information available to owners of assisted housing developments as well as to tenant associations, local nonprofit organizations, regional or national nonprofit organizations, public agencies, and other entities with an interest in preserving the state's subsidized housing;

    b) Compile, maintain, and update a list of qualified entities that have either contacted HCD with an expressed interest in purchasing a development in the subject area, or have been identified by HCD as potentially having an interest in participating in a right-of-first-refusal program. HCD must publicize the existence of the list statewide. Upon receipt of a notice of intent under 2), HCD must make the list available to the owner;

c) Monitor compliance with the PNL by owners of assisted housing developments and provide a report to the Legislature on or before December 31 of each year that includes specified information relating to properties and units subject to the PNL;

d) Require owners of assisted housing developments in which at least 25% of the units on the property are subject to affordability restrictions or a rent or mortgage subsidy contract to certify compliance with the PNL annually to HCD, under penalty of perjury, in a form as required by HCD; and

e) Refer violations of the PNL to the Attorney General for appropriate enforcement action. (GOV 65863.11(o))

12) Allows the provisions of specified sections of the PNL to be enforced either in law or in equity by any qualified entity entitled to exercise the opportunity to purchase and right of first refusal, any tenant association at the property, or any affected public entity that has been adversely affected by an owner's failure to comply. (GOV 65863.11(p))

13) Exempts from specified sections of the PNL the following:

a) An assisted housing development in which 25% or less of the units are subject to affordability restrictions; and

b) An assisted housing development in which 25% or less of the units are subject to affordability restrictions that was developed in compliance with a local ordinance, charter amendment, specific plan, resolution, or other land use policy or regulation requiring that a housing development contain a fixed percentage of affordable units. (GOV 65863.11(r))

14) Exempts from the notice and opportunity to purchase requirements of the PNL an owner who includes specified conditions in a regulatory agreement that has been or will be recorded against the property at the close of escrow of the sale of the property and the owner complies with those conditions during the escrow period. (GOV 65863.13(a))

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "Subsidized housing is disappearing faster than we can build new housing. AB 2926 will help preserve our existing affordable housing by ensuring we keep these homes from converting to market rate. A recent report by the California Housing Partnership shared that between 1997 and 2022, California lost 22,078 affordable homes due to expired regulatory restrictions on government-assisted homes, which owners then decided to opt out of the restrictions, sell, or convert to market rate. Furthermore, another 4,749 affordable homes are at high risk of being lost in the next year, and 31,309 more over the next ten years. At a time when our state is facing a housing crisis, we must take proactive measures to preserve our affordable housing while continuing to build more to keep families from being displaced. There will be no harm or money loss to the owner who has benefited from the public subsidy. Property owners under this measure will still receive a fair market price and the policy will ensure homes are sold to a preservation buyer or re-restricted as affordable housing. As California is in the

midst of a housing crisis, AB 2926 is a forward-looking measure that will preserve existing subsidized housing and keep people in their homes."

California's Housing Crisis: California is in the midst of a severe housing crisis. Over two-thirds of low-income renters are paying more than 30% of their income toward housing, a "rent burden" that means they have to sacrifice other essentials such as food, transportation, and health care.[1] In 2023, over 181,000 Californians experienced homelessness on a given night, with a sharp increase in the number of people who became homeless for the first time.[2] The crisis is driven in large part by the lack of affordable rental housing for lower income people. According to the California Housing Partnership's (CHP) Housing Need Dashboard, in the current market, nearly 2 million extremely low-income and very low-income renter households are competing for roughly 687,000 available and affordable rental units in the state. Over three-quarters of the state's extremely low-income households and over half of the state's very low-income households are severely rent burdened, paying more than 50% of their income toward rent each month. CHP estimates that the state needs an additional 1.2 million housing units affordable to very low-income Californians to eliminate the shortfall.[3] By contrast, production in the past decade has been under 100,000 housing units per year – including less than 10,000 units of affordable housing per year.[4]

Loss of Affordable Units: Since the 1960s, developers have constructed and preserved over 500,000 units of affordable rental housing in California with the assistance of federal, state, and local subsidies that require owners to maintain rents at affordable levels for specified periods of time. Examples of such subsidy programs include project-based Section 8/Housing Choice Vouchers, Federal Housing Administration mortgages, low-income housing tax credits, the state's affordable housing grant and loan programs, and city and county redevelopment funds. The affordability restrictions on assisted units typically last 30 to 55 years, depending on the program. Once affordability obligations expire, owners may preserve the affordability of the units by renewing assistance or by refinancing with new public subsidies, or they may convert the development to market rate. Under some federal programs, owners can also terminate affordability restrictions early by prepaying the underlying mortgage or opting out of the rental assistance contract.

The California Housing Partnership's April 2024 Affordable Homes at Risk report found that, between 1999 and 2023, California lost 19,249 affordable homes due to expired regulatory restrictions on government-assisted multifamily housing developments and owners deciding to opt-out, sell, or allow their properties to be converted to market rate. Furthermore, another 7,350 affordable homes are at high risk of being lost in the next year, and 33,910 more over the next 10 years. Nearly 60% of the homes at risk of being lost in the next decade currently serve seniors and people with disabilities. The six counties with the highest number of at-risk affordable homes – over 1,000 each – include Los Angeles, Orange, San Diego, Santa Clara, Sacramento, and Alameda counties.[5]

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[1] https://chpc.net/housingneeds/
[2] https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html
[3] https://chpc.net/housingneeds/
[4] https://www.hcd.ca.gov/policy-research/housing-challenges.shtml
[5] https://chpc.net/wp-content/uploads/2024/04/Subsidized-At-Risk-Report_April-2024.pdf

Preservation Notice Law (PNL)*:* California's PNL requires owners of affordable housing looking to convert to market rate to give notice of the opportunity to submit a purchase offer at full market value one year in advance to potential buyers interested in preserving affordability, as well as to notify tenants and the state and local government of the impending affordability expirations. Over the first six months, owners may only sell to a preservation buyer. In the following six months, preservation buyers who submitted a purchase offer have a right of first refusal to match any other offer. However, because owners are not obligated to sell at all, they can instead hold the property, commit to not selling for an additional five years, and after the five years has elapsed, can convert the property to market rate, displacing existing low-income tenants in the process. In general, an owner is exempt from both the notice requirements and priority purchase provisions if they or a successor owner agree to retain existing tenants and extend the affordability of the units for at least 30 years. HCD is obligated to monitor compliance with the law, and the PNL allows affected tenants and local governments the right to enforce the law via legal remedies.

This bill amends various provisions of the PNL, with the most significant change being deleting the option for an owner to hold on to the property for five years; instead, owners of assisted developments with expiring affordability restrictions will be required either to sell the property to a qualified preservation buyer at fair market value, or to re-restrict the development as affordable housing for at least another 30 years. Other notable changes include:

- Updating the list of affordable housing programs covered by the law to include recently enacted streamlining legislation;

- Prohibiting an owner seeking an exemption from notice and sale requirements from terminating a tenancy due to a planned renovation during escrow;

- Requiring an owner, in the 12-month notice to tenants, to state whether any rent increases may occur, as opposed to just rent increases in excess of Low-Income Housing Tax Credit limits;

- Requiring an owner, in the 6-month notice to tenants, to state that they will accept enhanced Section 8 vouchers if existing tenants receive them;

- Requiring owners of developments with at least 5% affordable units, as opposed to 25%, to certify compliance with the law annually; and

- Clarifying that tenant associations, not just individual tenants, may enforce the law.

These changes will increase the chances that thousands of affordable homes at risk of conversion will be preserved, reduce the displacement of existing low-income residents, and prevent the state's already large shortage of affordable rental homes from growing.

Arguments in Support: According to the California Housing Partnership, the California Rural Legal Assistance Foundation, and the National Housing Law Project, the bill's cosponsors, "AB 2926 would help ensure the long-term preservation of existing affordable housing by requiring owners who receive a bona fide purchase offer from a preservation buyer to either accept the offer or re-restrict the development as affordable housing. The public has an overwhelming interest in saving scarce affordable homes. Allowing a property to convert to market rate when there is a buyer willing to maintain the affordability makes little sense. Under this proposal,

affordable housing is preserved with no harm to the owner, who has already received the benefit of public subsidy and who receives a fair market price for the property."

Arguments in Opposition: None on file.

Related Legislation:

AB 1521 (Bloom), Chapter 377, Statutes of 2017: Strengthened the PNL by requiring an owner of an assisted housing development to accept a bona fide offer to purchase from a qualified purchaser, if specified requirements are met, and by giving HCD additional enforcement authority.

REGISTERED SUPPORT / OPPOSITION:

Support

California Housing Partnership
California Rural Legal Assistance Foundation
Disability Rights California
East Bay Housing Organizations
Housing California
Legal Aid of Sonoma County
Legal Services of Northern California
National Housing Law Project
Nonprofit Housing Association of Northern California
Public Counsel
Southern California Association of Non-profit Housing

Opposition

None on file.

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Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2934 (Ward) – As Introduced February 15, 2024

SUBJECT: Residential developments: building standards: review

SUMMARY: Requires the Department of Housing and Community Development (HCD) to convene a working group to research and consider identifying and recommending amendments to state building standards to allow residential developments between three and 10 units to be built under the California Residential Code, and to perform a review of residential construction cost pressures. Specifically, **this bill**:

1) Requires HCD to convene a working group, with membership including, but not limited to, the California Building Standards Commission (CBSC), State Fire Marshal, Energy Commission, and other stakeholders, to research and consider identifying and recommending amendments to state building standards allowing residential developments of between three and 10 units to be built under the requirements of the California Residential Code, and any necessary modifications to maintain health and safety standards for the developments.

2) Requires each entity in the working group to provide input relative to its area of expertise and oversight.

3) Requires HCD, no later than December 31, 2026, to provide a one-time report of its findings to the Legislature in the annual report, as specified.

4) Requires HCD, if the working group identifies and recommends amendments to building standards in the report in 3), to research, develop, and consider proposing for adoption by the CBSC such standards for the next triennial update of the California Building Standards Code that occurs on or after January 1, 2026.

5) Requires HCD, no later than December 31, 2025, to perform a review of construction cost pressures for single-family and multifamily residential construction as a result of new or existing building standards requirements in the California Building Standards Code and provide a one-time report of its findings to the Legislature in the annual report, as specified.

6) Requires HCD, commencing with the next triennial edition of the California Building Standards Code and every three years thereafter, to perform a review as described in 5) and propose revisions or update to the California Building Standards Code, as needed, with a goal of maintaining or reducing by 30% the cost of construction for new residential development.

EXISTING LAW:

1) Establishes the CBSC within the Department of General Services, and requires the commission to approve and adopt building standards and to codify those standards in the California Building Standards Code. Requires CBSC to publish editions of the code in its entirety once every three years. In the intervening period the commission must publish supplements as necessary. (Health and Safety Code (HSC) Sections 18942 and 18930)

2) Requires CBSC to receive proposed building standards from a state agency for consideration in an 18-month code adoption cycle. Requires CBSC to adopt regulations governing the procedures for 18-month code adoption cycle, which must include adequate provision of the following:

    a) Public participation in the development of standards;

    b) Notice in written form to the public of the compiled building standards with justifications;

    c) Technical review of the proposed building standards and accompanying justification by advisory boards appointed by CBSC; and

    d) Time for review of recommendations by the advisory boards prior to CBSC taking action. (HSC 18929.1)

3) Requires proposed building standards that are submitted to CBSC for consideration to be accompanied by an analysis completed by the appropriate state agency that justifies approval based on the following criteria:

    a) The building standard does not conflict with, overlap, or duplicate other building standards;

    b) The proposed standard is within the parameters of the agency's jurisdiction;

    c) The public interest requires the adoption of the building standard;

    d) The standard is not unreasonable, arbitrary, unfair, or capricious;

    e) The cost to the public is reasonable, based on the overall benefit to be derived from the building standard;

    f) The standard is not unnecessarily ambiguous or vague; and

    g) The applicable national specifications, published standards, and model codes have been appropriately incorporated into the standard. (HSC 18930)

4) Requires HCD to propose the adoption, amendment, or repeal of building standards to CBSC for residential buildings, including hotels, motels, lodging houses, apartment houses, dwellings, buildings, and structures. (HSC 17921)

5) Provides that only those building standards that are approved by the CBSC and are in effect at the local level at the time an application for a building permit is submitted shall apply to the plans and specifications for construction. (HSC 18938.5)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "AB 2934 would direct HCD to create a working group to explore allowing 'missing middle' developments between three and 10 units to be built

under the requirements of the California Residential Code, rather than the California Building Code. This change could unlock the production of triplexes and other smaller multi-family housing types by streamlining code requirements, while preserving health and safety and opening up a broader workforce to build these projects. Additionally, this bill would also require HCD to perform an analysis of cost pressures created by current building code requirements and to complete the same analysis in future building code cycles with a goal of maintaining or reducing the costs of construction for new housing."

California's Housing Crisis: California is in the midst of a severe housing crisis. Over two-thirds of low-income renters are paying more than 30% of their income toward housing, a "rent burden" that means they have to sacrifice other essentials such as food, transportation, and health care.[1] In 2023, over 181,000 Californians experienced homelessness on a given night, with a sharp increase in the number of people who became homeless for the first time.[2] The crisis is driven in large part by the lack of affordable rental housing for lower income people. According to the California Housing Partnership's (CHP) Housing Need Dashboard, in the current market, nearly 2 million extremely low-income and very low-income renter households are competing for roughly 687,000 available and affordable rental units in the state. Over three-quarters of the state's extremely low-income households and over half of the state's very low-income households are severely rent burdened, paying more than 50% of their income toward rent each month. CHP estimates that the state needs an additional 1.3 million housing units affordable to very low-income Californians to eliminate the shortfall.[3] By contrast, production in the past decade has been under 100,000 housing units per year – including less than 10,000 units of affordable housing per year.[4] In addition, information from the California Association of Realtors' Housing Affordability Index indicates the median cost of a single-family home in the state reached $822,000 in 2023.[5]

Building Standards: The California Building Standards Law establishes the process for adopting state building standards by the Commission. Statewide building standards are intended to provide uniformity in building across the state. The CBSC's duties include the following: receiving proposed building standards from state agencies for consideration in each triennial and intervening building code adoption cycle; reviewing and approving building standards submitted by state agencies; adopting building standards for state buildings where no other state agency is authorized by law; and publishing the approved building standards in the California Building Standards Code (CCR, Title 24).

There are approximately 20 state agencies that develop building standards and propose them for adoption to the CBSC. After the proposal of building standards by state agencies, the standards undergo a public vetting process. A code advisory committee composed of experts in a particular scope of code reviews the proposed standards, followed by public review. The proposing agency considers feedback and may then amend the standards and re-submit them to the CBSC for consideration. HCD is responsible for the standards for residential buildings, hotels and motels. The California Building Code and California Residential Code govern general standards for multifamily and single-family residential construction, while the California Plumbing Code

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[1] https://chpc.net/housingneeds/
[2] https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html
[3] https://chpc.net/housingneeds/
[4] https://www.hcd.ca.gov/policy-research/housing-challenges.shtml
[5] https://www.car.org/marketdata/data/haitraditional

governs plumbing requirements for a variety of buildings. Within the codes, there are certain requirements that are mandatory for all newly constructed dwellings or buildings, and certain provisions that are optional or voluntary – meaning the requirements must be followed only if an entity chooses to construct certain items or systems.

Updates and changes to building standards are adopted on two timelines: through the triennial code adoption cycle which occurs every three years, and through the intervening code adoption cycle which provides an update to codes 18 months after the publication of the triennial codes. Regulatory activities for each cycle begin over two years before the effective date of the codes. The standards adopted in the current intervening code cycle will be effective on July 1, 2024 and the next triennial cycle's standards will be effective on January 1, 2026.

As a matter of practice, the Legislature typically offers guidelines or directs agencies to consider certain standards, rather than requires the adoption of specific standards, in order to provide flexibility and allow for subject matter experts to determine appropriateness and weigh the many considerations that must be evaluated when recommending new or modified building standards.

Housing Costs and Missing Middle Housing: The cost of housing in California is the highest of any state in the nation. Additionally, the pace of cost increase has far outstripped that in other parts of the county. One result of this is that homeownership has become much more difficult to attain, and the median priced home in California has continued to climb even during the high interest rate environment. Construction costs have also continued to increase, though there are many drivers of this, including the cost of materials, cost and availability of labor, complexity of building code requirements, availability of construction loan financing, and more. Currently, only 15% of California households can afford to purchase the median priced home – compared to 35% for the country as a whole, the lowest level since 2007.[6]

One of the many reasons that housing is too expensive is the type of housing that is being built. Much of the housing built in California is large single-family homes (which can be an inefficient use of land) and mid- and high-rise construction (which are expensive to build). One strategy to lower the cost of housing is to facilitate the construction of "missing-middle" housing types that accommodate more units per acre, but are not as inherently expensive to build. This includes medium-density typologies such as accessory dwelling units, townhomes, duplexes, fourplexes, and the like. Such units are more likely to be affordable to moderate-income households that cannot afford typical market-rate homes, but that earn too much income to qualify to receive publicly-subsidized affordable housing.

The California Residential Code (CRC) governs construction of one- and two-family dwellings and townhouses of three stories or less. The California Building Code (CBC) establishes requirements for all other buildings, including medium and high-density housing. These are based on model international codes commonly used around the world. However, certain reasonable requirements in the CBC for larger buildings can make development prohibitively complicated or render the economics infeasible for smaller ones. As a result, several jurisdictions across the United States have begun to allow smaller, missing-middle housing types, including triplexes and fourplexes, to be built under the requirements of the Residential Code.

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[6] https://www.car.org/marketdata/data/haitraditional

Additionally, the unit cutoffs in the CRC do not align with the current financing offerings for constructing one- to four-unit dwellings. FHA-backed mortgages allow recipients to take advantage of more affordable financing for construction up to a fourplex, but the rigidity of the CBC hinders this possibility. In addition, some jurisdictions have reported that the construction of new units that increase the unit count of a parcel from two to three (or more) are triggering the heightened requirements of the CBC, including instances of adding an ADU to properties with a duplex, or adding a second ADU to a lot with a single-family home and an existing ADU.

This bill would direct HCD to set up a working group, similar to the working group established in AB 529 (Gabriel), Chapter 743, Statutes of 2023, to examine the possibility of modifying the CBC/CRC here in California for smaller developments between three and 10 units in size, without creating negative impacts on health and safety.

The city of Memphis, which pioneered this new flexibility, identified several immediate benefits to the shift, including no longer requiring separate mechanical, engineering, and plumbing drawings to be submitted for project permitting; providing simpler egress requirements; and safely modifying seismic and fire protections. In addition, more small-scale residential contractors are now available to build these homes, as commercial contractors tend to work on larger projects like block-size apartment complexes and large commercial buildings.

Cost Study: New building standards being proposed by various code entities (like HCD) to CBSC must be accompanied by an analysis that justifies approval based on the following criteria:

- The building standard does not conflict with, overlap, or duplicate other building standards;
- The proposed standard is within the parameters of the agency's jurisdiction;
- The public interest requires the adoption of the building standard;
- The standard is not unreasonable, arbitrary, unfair, or capricious;
- The cost to the public is reasonable, based on the overall benefit to be derived from the building standard;
- The standard is not unnecessarily ambiguous or vague; and
- The applicable national specifications, published standards, and model codes have been appropriately incorporated into the standard. (HSC 18930)

While the law currently requires the proposing entity to analyze the cost to the public of individual building code modifications, it is not apparent that any entity is reviewing the accumulation of those many changes at a holistic level to form a reasonable estimate of the cumulative cost impacts. These changes and any new or heightened requirements in the code have a direct impact on the cost of new housing in the state. This bill would require HCD to begin performing a more holistic cost pressure analysis of proposed standards, to better identify the impacts and ensure the residential building standards process evaluates not just with the granular cost of individual modifications, but the overall impact of the totality of standards.

Arguments in Support: According to the American Planning Association, California Chapter, "While the Legislature has passed many changes to the housing entitlement and permitting process, we are excited to see interest in looking at other potential constraints to housing development. Reviewing the California Building code to determine areas where changes can be safely made that could address financial constraints to developing smaller multi-family

developments could allow these type of projects to pencil out, providing more housing opportunities for communities throughout the state. With construction costs increasing due to interest rates, material costs and labor, in addition to building standards, we believe looking more closely at ways to provide a path for this 'missing middle' housing type will serve as an important resource to address the state's severe housing crisis."

Arguments in Opposition: None on file.

Related Legislation:

AB 2933 (Low) of the current legislative session requires HCD to investigate whether additional water conservation and efficiency measures are warranted for existing and new multifamily housing during the next triennial code cycle. This bill passed this committee on a 7-1 vote and is currently pending before the Assembly Committee on Environmental Safety and Toxic Materials.

SB 597 (Glazer) of the current legislative session requires HCD to conduct research and develop recommendations, and authorizes them to propose, building standards for the installation of rainwater catchment systems in newly constructed residential dwellings. The bill requires HCD to provide a report to the Legislature regarding the outcomes of its research and the recommendations developed by January 1, 2025. This bill passed out of this committee on a 6-0 vote and is currently pending before the Assembly Appropriations Committee.

AB 529 (Gabriel), Chapter 743, Statutes of 2023: Requires HCD to convene a working group regarding adaptive reuse residential projects, including identifying and recommending amendments to state building standards, and makes other changes to state law related to adaptive reuse projects.

AB 835 (Lee), Chapter 345, Statutes of 2023: Requires the California State Fire Marshal to research standards for single-exit, single stairway apartment houses, with more than two dwelling units, in buildings above three stories, as specified, and to provide a report to the relevant legislative committees by January 1, 2026, as specified.

SB 745 (Cortese), Chapter 884, Statutes of 2023: Requires HCD and the CBSC to research, develop, and propose building standards to reduce potable water use in new residential and nonresidential buildings, and requires CBSC to perform a review of water efficiency and water reuse standards every three years, and update them as needed.

REGISTERED SUPPORT / OPPOSITION:

Support

American Planning Association, California Chapter
California Building Industry Association
California Community Builders
Livable California

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 2945 (Alvarez) – As Amended April 18, 2024

SUBJECT: Reconnecting Communities Redevelopment Act

SUMMARY: Authorizes the formation of reconnecting communities investment agencies (RCIAs). Specifically, **this bill**:

1) Defines the following terms:

   a) "Affected taxing entity" as any governmental agency that levied or had levied on its behalf an ad valorem property tax on all or a portion of the property located in the proposed agency in the fiscal year before the designation of the RCIA district.

   b) "Affected taxing entity equity amount" as the amount of ad valorem property tax revenue that the affected taxing entity would have received from property located within the redevelopment project area in absence of the RCIA, calculated as specified.

   c) "Agency" as a RCIA created by this bill.

   d) "County" as a county or a city and county.

   e) "Debt" as any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

   f) "Designated official" as the appropriate office, such as an engineer of a city or county that is an affected taxing entity, designated pursuant to this bill.

   g) "Governing board" as the governing board of a RCIA.

   h) "Landowner" as any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the governing board. The governing board has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this title. A public agency is not a landowner or owner of land for purposes of this title, unless the public agency owns all of the land to be included within the proposed RCIA.

   i) "Legislative body" as the city council or the city or board of supervisors of the county.

   j) "Redevelopment project" as any undertaking of an agency pursuant to this bill.

   k) "Special district" as an agency of the state formed for the performance of governmental or proprietary functions within limited geographic boundaries.

2) Declares that this bill constitutes the Community Redevelopment Law within the meaning of Article XVI of Section 16 of the California Constitution, and that a RCIA formed pursuant to this bill shall have all powers granted to a redevelopment agency (RDA), as specified.

3) Allows the legislative body of a city or county to propose to form a RCIA by adopting a resolution of intention to establish the RCIA. The resolution of intention shall contain all the following:

   a) A statement that a RCIA is proposed to be established in accordance with the terms of this bill.

   b) A statement of the need for the proposed RCIA and the goals that the proposed RCIA seeks to achieve.

   c) A preliminary project plan prepared by the legislative body. The preliminary project plan shall, at a minimum, include the following:

      i) A description of the proposed boundaries of the project area. The project area shall be an area that is centered around a highway with a radius of one-half mile. This may be accomplished by reference to a map on file in the office of the clerk of the city or in the office of the recorder of the county, as applicable.

      ii) A general statement of the land uses, layout of principal streets, population densities and building intensities, and standards proposed as the basis for the redevelopment of the project area.

      iii) Evidence that redevelopment will achieve the purposes of this bill.

      iv) Evidence that the proposed redevelopment is consistent with the general plan of each applicable city or county in which the projects are proposed to be located.

      v) A general description of the impact of the project upon the area's residents and upon the surrounding neighborhood.

      vi) A description of the reconnecting communities infrastructure and other infrastructure projects that are proposed to be financed by the RCIA. A reconnecting communities infrastructure project means an infrastructure project that is located on top, below or immediately adjacent of a highway, that will increase mobility and active transportation by reuniting communities split by the creation of the interstate highway system.

   d) A financing section that shall contain all specified information.

   e) A statement that the city or county adopting the resolution thereby elects to not receive, whether by passthrough or otherwise, a portion of those ad valorem property tax revenues that are in excess of the base year amount that the city or county would have otherwise been entitled to from property in the redevelopment project area in the absence of the RCIA. This statement is irrevocable unless and until the agency ceases to exist pursuant

to the redevelopment project plan.

f) A statement that a public hearing shall be held on the proposal, and a statement of the time and place of that hearing.

4) Requires the legislative body to direct the city clerk or county recorder, as applicable, to mail a copy of the resolution of intention to each affected taxing entity.

5) Authorizes the legislative body of two or more cities to propose to jointly form a RCIA by adoption of a resolution of intention by each city proposing to jointly form the agency.

6) Provides that in order to jointly form a RCIA, each city shall do the following:

a) Include all of the required elements in its resolution of intention.

b) Comply with all other applicable requirements of this bill with respect to the formation of a RCIA.

7) Specifies that the proposed boundaries of the project area of a RCIA proposed to be jointly formed may include any or all territory within each city proposing to jointly form a RCIA.

8) Provides that the city or county that adopted the resolution of intention, or each of the cities that adopted a resolution of intention, as applicable, shall consult with each affected taxing entity. Any affected taxing entity may suggest revisions to be included in the resolution of formation.

9) Provides that any affected taxing entity entitled to receive a passthrough may submit a written election to the city or county that adopted the resolution of intention and the county auditor to not receive an amount that the entity otherwise would have received under a passthrough provision. The affected taxing entity shall include in that written election a statement that the affected taxing entity consents to not receive any amount that would have been received under a passthrough provision, and that the entity is aware that statement is irrevocable unless and until the agency ceases to exist pursuant to the redevelopment project plan.

10) Requires the legislative body, no sooner than 60 days after the resolution of intention was provided to each affected taxing entity, to hold a public hearing on the proposal.

11) Specifies that the legislative body shall provide notice of the public hearing by publication not less than once a week for four successive weeks in a newspaper of general circulation published in each city or county in which the proposed agency is located. The notice shall state that the RCIA will be used to finance reconnecting communities infrastructure or other infrastructure projects; briefly describe the proposed reconnecting communities infrastructure or other infrastructure projects; briefly describe the proposed financial arrangements, including the proposed commitment of incremental tax revenue; describe the boundaries of the proposed RCIA; and state the day, hour, and place when and where any persons having any objections to the proposed RCIA or the regularity of any of the prior proceedings may appear before the legislative body and object to the formation of the RCIA.

12) Requires, at the public hearing, the legislative body to proceed to hear and pass upon all written and oral objections to the formation of the RCIA. The hearing may be continued from time to time. The legislative body shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the formation of the RCIA.

13) Provides that at the conclusion of the public hearing, the legislative body may adopt a resolution proposing the formation of the RCIA. The resolution of formation shall contain all required information, and shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the adoption of the plan. The legislative body shall direct the city clerk or county recorder, as applicable, to mail the resolution of formation to each affected taxing entity.

14) Requires the legislative body that adopted the resolution of formation to submit that resolution, along with all supporting documents, to the Strategic Growth Council (SGC) for review.

15) Specifies that the SGC shall determine whether establishment of a RCIA, as provided in the resolution of intention, would promote statewide greenhouse gas reduction goals. In making the determination as required, the SGC shall ensure that the projects proposed in the resolution of intention equitably represent rural, suburban, and urban communities, and that establishing the agency would not result in an inequitable geographic distribution of agencies throughout the state.

16) Requires the SGC to approve the resolution of formation of a RCIA if it determines that the formation of the RCIA would promote statewide greenhouse gas reduction goals.

17) Specifies that if the SGC approves the resolution of formation, the agency shall be deemed to be in existence as of the date of that approval. If the SGC determines that either or both of the criteria specified in 16) above, are not met, it shall disapprove the formation of the agency and provide a written explanation of its disapproval to the legislative body and to each affected taxing entity.

18) Requires the SGC to adopt policies and procedures for the receipt and evaluation of resolutions of intention.

19) Specifies that the SGC shall establish a program to provide technical assistance to a city or county that desires to form a RCIA. The SGC shall provide that technical assistance by entering into a contract with that city or county, and may include a provision in that contract to recover the reasonable cost of the SGC in providing the technical assistance. In providing technical assistance, the SGC shall encourage that the proposed RCIA promote statewide greenhouse gas reduction goals.

20) Requires the governing board of the RCIA to consist of the following:

    a) One member appointed by the legislative body that adopted the resolution of intention. In the case of an agency jointly formed by two or more cities, one member appointed by the legislative body of each city that adopted the resolution of intention.

b) One member appointed by each affected taxing entity.

c) Two public members initially appointed by the members appointed by the board composed of the members described in a) and b) above, and then thereafter appointed by the board as a whole. The public members shall not be elective officers or employees of any affected taxing entity.

21) Specifies that a majority of the membership of the board constitutes a quorum for the transaction of any business, the performance of any duty, or the exercise of any power of the board. If a vacancy in the board occurs, then a majority of the remaining members of the board constitutes a quorum.

22) Provides that the members of the governing board shall not receive compensation but may receive reimbursement for actual and necessary expenses incurred in the performance of official duties.

23) Specifies that members of the governing board are subject to existing ethics training requirements and that the RCIA shall be a public agency subject to the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act.

24) Authorizes a RCIA to finance the following:

a) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that constitutes reconnecting communities infrastructure and other infrastructure projects, as defined.

b) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

c) Costs related to the replacement of dwelling units that are removed or destroyed.

25) Specifies that facilities financed pursuant to this bill are not required to be physically located within the boundaries of the RCIA. However, any facilities financed outside of an RCIA's boundaries shall have a tangible connection to the work of the RCIA, as detailed in the redevelopment project plan.

26) Provides that a RCIA shall not finance routine maintenance, repair work, or the costs of an ongoing operation or providing services of any kind.

27) Specifies that a RCIA shall only finance redevelopment projects the agency finds appropriate or necessary in the interests of the general welfare. For purposes of this bill, redevelopment projects shall only include the following reconnecting communities infrastructure and other infrastructure projects:

a) Highways and associated highway infrastructure, including lids, tunnels, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

b) Facilities for collection, transportation, and diversion of water, including interceptor pipes and drainage channels.

c) Childcare facilities.

d) Libraries.

e) Parks, recreational facilities, and open space.

f) Facilities that capture or reduce air emissions caused by a highway located within the proposed boundaries of the project plan.

g) Brownfield restoration and other environmental mitigation.

h) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as defined, for rent or purchase. The RCIA may finance mixed-income housing developments, but may only finance those units in mixed-income developments that are restricted to occupancy by persons of very low, low, or moderate income, as defined, and those onsite facilities for childcare, after school care, and social services that are integrally linked to the tenants of the restricted units. An agency may reimburse a developer of a project within the boundaries of that agency for any permit expenses incurred and to offset additional expenses incurred by the developer in constructing affordable housing units, as specified.

i) Transit priority projects, as defined.

j) Projects that implement a sustainable communities strategy, as specified.

k) Port or harbor infrastructure, as defined.

l) Acquisition of air leases.

28) Provides that a RCIA shall not finance any project that is not described in 27) above.

29) Specifies that the RCIA shall require, by recorded covenants or restrictions, that housing units built pursuant to this bill shall remain available at affordable housing costs to, and occupied by, very low-, low-, or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

30) Authorizes a RCIA to utilize any powers under the Polanco Redevelopment Act and other existing laws related to hazardous material cleanup.

31) Allows a RCIA to enter into a public-private partnership for the purpose of financing any action necessary to implement this bill.

32) Prohibits a RCIA from directly or indirectly allocating or transferring any funds received by the RCIA to any city, county, or special district, unless otherwise specified.

33) Requires a RCIA to make any payment required by a passthrough provision that was included in the financing section of its resolution of formation and included within the redevelopment project plan. In making payments, the RCIA shall comply with specified requirements. A RCIA shall not, directly or indirectly, make passthrough payments to any affected taxing entity, including by entering into a passthrough agreement, unless that passthrough provision was included in the resolution of formation.

34) Authorizes a RCIA, within the area established in an approved redevelopment project plan, to do either of the following:

    a) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise, any real or personal property, any interest in property, and any improvements on it, including repurchase of developed property previously owned by the RCIA, to be used in a redevelopment project. A RCIA shall obtain an appraisal from a qualified independent appraiser to determine the fair market value of property before the RCIA acquires or purchases real property.

    b) Acquire real property by eminent domain to be used in a redevelopment project. Property already devoted to a public use may be acquired by the agency through eminent domain, but the agency shall not acquire property of a public body without the consent of that public body.

35) Allows a RCIA to rent, maintain, manage, operate, repair, and clear real property owned by the agency within the area established in an approved redevelopment project plan for the purpose of providing reconnecting communities infrastructure or other infrastructure projects.

36) Specifies that a city or county that created a former RDA shall neither initiate the creation of a RCIA, either on its own or jointly, nor participate in the governance or financing of a RCIA, until each of the following has occurred:

    a) The successor agency for the former RDA created by the city or county has received a finding of completion.

    b) The city or county certifies to the Department of Finance (DOF) and to the agency that no former RDA assets that are the subject of litigation involving the state, where the city or county, the successor agency, or the designated local authority are a named plaintiff, have been or will be used to benefit any efforts of an agency formed under this bill, unless the litigation and all possible appeals have been resolved in a court of law. The city or county shall provide this certification to the DOF within 10 days of its legislative body's action to participate or initiate the formation of an agency under this bill.

    c) The Controller has completed its review, as specified.

    d) The successor agency and the entity that created the former RDA have complied with all of the Controller's findings and orders stemming from the reviews, as specified.

37) Authorizes a RCIA to include any portion of a former redevelopment project area, as specified.

38) Provides that a RCIA may finance only those facilities authorized by this bill to the extent that the facilities are in addition to those provided in the territory of the RCIA before the RCIA was created. The additional facilities may not supplant facilities already available within that territory when the agency was created but may supplement, rehabilitate, upgrade, or make more sustainable those facilities.

39) Specifies that a RCIA may include areas that are not contiguous.

40) Provides requirements for the replacement of dwelling units that are removed or destroyed in the course of public works construction within the area of the RCIA.

41) Specifies that any action or proceeding to attack, review, set aside, void, or annul the creation of a RCIA or adoption of a redevelopment project plan, including a division of taxes thereunder, shall be commenced within 30 days after the formation of the RCIA or adoption of the redevelopment project plan, as applicable. Consistent with the time limitations of this bill, action or proceeding with respect to a division of taxes under this bill may be brought pursuant to existing validation proceeding laws.

42) Allows an action to determine the validity of the issuance of bonds pursuant to this bill to be brought pursuant existing validation proceeding laws. However, notwithstanding the time limits specified the existing validation proceedings laws, the action shall be commenced within 30 days after adoption of the resolution providing for issuance of the bonds if the action is brought by specified interested persons. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment.

43) Requires a RCIA to maintain detailed records of every action taken by the RCIA, as specified.

44) Specifies that a RCIA shall adopt an annual budget containing all of the following specific information:

    a) The proposed expenditures of the RCIA.

    b) The proposed indebtedness to be incurred by the RCIA.

    c) The anticipated revenues of the RCIA.

    d) The work program planned by the RCIA with respect to projects approved for the coming year, including goals.

    e) An examination of the previous year's achievements and a comparison of the achievements with the goals of the previous year's work program.

45) Allows a RCIA to amend the annual budget from time to time. All expenditures and indebtedness of the agency shall be in conformity with the adopted or amended budget.

46) Requires a RCIA to submit an annual report to its governing board within six months of the end of the RCIA's fiscal year. The RCIA shall also submit the final report of any audit taken by any other local, state, or federal governmental entity to its governing board within 30 days of receipt of that audit. The annual report shall contain specified information, including an independent financial audit report and a fiscal statement for the previous fiscal year, as specified.

47) Specifies that the RCIA shall file with the Controller within six months of the agency's fiscal year a copy of the annual report. In addition, the RCIA shall file with the Department of Housing and Community Development (HCD) a copy of the audit report. The reports shall be made in the time, format, and manner prescribed by the Controller after consultation with HCD.

48) Requires the RCIA to provide a copy of the annual report upon written request of any person or any affected taxing entity, as specified.

49) Specifies that when the RCIA presents the annual report to the governing board, the RCIA shall inform the governing board of any major audit violations based on the independent financial audit report. The agency shall inform the governing board that the failure to correct a major audit violation may result in the filing of an action by the Attorney General, as specified.

50) Requires the governing board to review any report that is submitted and take any action it deems appropriate on that report no later than the first meeting of the governing board occurring more than 21 days from the receipt of the report.

51) Provides that the State Controller shall develop and periodically revise the guidelines for the contents of the report. The Controller shall appoint an advisory committee to advise in the development of guidelines. The advisory committee shall include representatives from among those persons nominated by HCD, the Legislative Analyst, the California Society of Certified Public Accountants, and any other authorities in the field that the Controller deems necessary and appropriate.

52) Specifies requirements for the purposes of compliance with the annual reporting requirements.

53) Requires, on or before May 1 of each year, HCD to compile and publish reports of the activities of each RCIA for the previous fiscal year, based on the information reported and reporting the types of findings made by agencies, including the date of the findings. The department shall publish this information for each redevelopment project of each agency. These reports may also contain the biennial review of any required relocation assistance and shall contain a list of those project areas that are not subject to the requirements for the replacement of dwellings that are removed or destroyed.

54) Specifies that HCD shall send a copy of the executive summary of its report to each agency for which information was reported for the fiscal year covered by the report. The department shall send a copy of its report to each RCIA that requests a copy.

55) Provides that, on or before April 1 of each year, the Controller shall compile a list of agencies that appear to have major audit violations based on the independent financial audit reports filed with the Controller.

56) Defines "major audit violation" and contains numerous additional requirements that the Controller, the Attorney General, RCIAs, and courts shall adhere to when a major audit violation is identified.

57) Specifies that after a RCIA is formed, the governing board of the RCIA shall designate an appropriate official, such as an engineer of a city or county that is an affected taxing entity, to prepare a redevelopment project plan, as specified.

58) Requires the designated official to prepare a proposed redevelopment project plan. The redevelopment project plan shall be consistent with the general plan of each city or county with the RCIA's boundaries, with the general plan of the city or county that the project is located. The plan shall include specified information, including:

    a) A map and legal description of the proposed RCIA.

    b) A description of the public facilities and other forms of development or financial assistance that is proposed in the area of the agency.

    c) If tax increment funding is incorporated into the financing plan, a finding that the development and financial assistance further the purposes of this bill and are for redevelopment purposes.

    d) A financing section that contains specified information.

    e) A housing program that describes how the RCIA will comply with this bill's provisions, as specified.

    f) Those components required to be included regarding replacement housing requirements.

    g) The goals the RCIA proposes to achieve for each financed project.

59) Specifies that, when preparing the plan, the designated official shall consult with each affected taxing entity, and, at the request of any affected taxing entity, shall meet with representatives of an affected taxing entity. Any affected taxing entity may suggest revisions to the plan.

60) Requires the designated official to mail the redevelopment project plan to each owner of land within the agency's boundaries and to each affected taxing entity together with any report required by the California Environmental Quality Act that pertains to the proposed public facilities or the proposed development project for which the public facilities are needed, and to be made available for public inspection. The report shall also be sent to the governing board.

61) Specifies that the governing board shall, no sooner than 60 days after the redevelopment project plan was submitted to each affected taxing entity, hold a public hearing on the

proposal and specifies the process for noticing the public hearing and what shall take place at the hearing.

62) Authorizes, at the conclusion of the public hearing, the governing board to adopt a resolution proposing the adoption of the redevelopment project plan, or it may adopt a resolution to abandon the proceedings. If the proceedings are abandoned, then the RCIA shall cease to exist with no further action required of the legislative body that initially proposed to form the RCIA and the legislative body may not enact a resolution of intention to form an RCIA that includes the same geographic area within one year of the date of the resolution abandoning the proceedings.

63) Specifies that the redevelopment project plan shall take effect upon the adoption of the resolution. The redevelopment project plan shall specify if the RCIA shall be funded solely through the RCIA's share of tax increment, governmental or private loans, grants, bonds, assessments, fees, or some combination thereof. However, the RCIA shall not issue bonds or levy assessments or fees that may be included in the redevelopment project plan before one or more of the following:

   a) Approval, as specified, to issue bonds to finance the redevelopment project plan.

   b) Compliance with this bill's required procedures to levy assessments or fees to finance the redevelopment project plan.

64) Authorizes the RCIA to expend up to 10% of any accrued tax increment in the first two years of the effective date of the formation of the agency on planning and dissemination of information to the residents within the RCIA's boundaries about the redevelopment project plan and planned activities to be funded by the RCIA.

65) Provides that any redevelopment project plan may contain a provision that taxes, if any, levied upon taxable property in the area included within the RCIA each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the resolution approving the redevelopment project plan, shall be divided as follows:

   a) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the agency as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the formation of the RCIA, shall be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid. For the purpose of allocating taxes levied by or for any affected taxing entity or entities that did not include the territory in a redevelopment project on the effective date of the resolution but to which that territory has been annexed or otherwise included after that effective date, the assessment roll of the county last equalized on the effective date of the resolution shall be used in determining the assessed valuation of the taxable property in the project on the effective date.

   b) That portion of the levied taxes each year in excess of the amount specified in a) above, shall be allocated to and when collected shall be paid into a special fund of the RCIA to

pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the RCIA to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in that project as shown by the last equalized assessment roll referred to in a) above, all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid to the affected taxing entities. When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid to the affected taxing entities as taxes on all other property are paid. When the RCIA ceases to exist pursuant to the adopted redevelopment project plan, all moneys thereafter received from taxes upon the taxable property in the RCIA shall be paid to the respective affected taxing entities as taxes on all other property are paid.

c) That portion of the taxes in excess of the amount identified in a) above, that are attributable to a tax rate levied by an affected taxing entity for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that affected taxing entity. This subdivision shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the affected taxing entity on or after January 1, 1989.

66) Specifies, where an RCIA's boundaries overlap with the boundaries of any former RDA project area, any debt or obligation of an agency shall be subordinate to any and all enforceable obligations of the former RDA, as approved by the Oversight Board and DOF, as specified. Specifies that the division of taxes allocated to the RCIA, as specified, shall not include any taxes required to be deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund (RPTTF).

67) Allows the legislative body of the city or county forming the RCIA, or of each city that jointly formed the RCIA, to choose to dedicate any portion of its net available revenue to the agency through the redevelopment project plan, and defines "net available revenue" for its purposes.

68) Requires that portion of any ad valorem property tax revenue annually allocated to a city or county pursuant to existing law related to the Educational Revenue Augmentation Fund (ERAF) that is specified in the adopted plan and that corresponds to the increase in the assessed valuation of taxable property, to be allocated to, and when collected to be apportioned to a special fund of the RCIA for all lawful purposes of the RCIA.

69) Provides that when the RCIA ceases to exist pursuant to the adopted redevelopment project plan, the revenues described in the division of taxes section of the bill shall be allocated to, and when collected, shall be apportioned to the respective city or county.

70) Provides that the bill's provisions shall not be construed to prevent a RCIA from utilizing revenues from any of the following sources to support its activities provided that the applicable voter approval has been obtained, and the redevelopment project plan has been approved: the Improvement Act of 1911; the Municipal Improvement Act of 1913; the

Improvement Bond Act of 1915; the Landscaping and Lighting Act of 1972; the Vehicle Parking District Law of 1943; the Parking District Law of 1951; the Park and Playground Act of 1909; the Mello-Roos Community Facilities Act of 1982; the Benefit Assessment Act of 1982; and, the so-called facilities benefit assessment levied by the charter city of San Diego or any substantially similar assessment levied for the same purpose by any other charter city pursuant to any ordinance or charter provision.

71) Provides that the portion of specified taxes shall be allocated and paid into a special fund held in trust for the RCIA by the county auditor or officer responsible for the payment of taxes into funds of the affected taxing entities pursuant to specified procedures.

72) Requires, not later than October 1 of each year, for each redevelopment project for which the redevelopment project plan provides for the division of taxes, the RCIA to file, with the county auditor or officer, a statement of indebtedness, a reconciliation statement, a passthrough statement, and an override passthrough statement, as specified, and requires each statement to include specified information. All statements required to be filed shall be certified by the chief financial officer of the RCIA.

73) Specifies that available revenues for the required statements shall include all cash or cash equivalents held by the RCIA that were received by the agency, as specified, and all cash or cash equivalents held by the RCIA that are irrevocably pledged or restricted to payment of a loan, advance, or indebtedness that the agency has listed on a statement of indebtedness. However, available revenue shall not include the amount of any payment that the RCIA is required to make under a passthrough provision as described in the passthrough statements.

74) Contains a provision for county auditors to allocate funds, as specified.

75) Provides that the statement of indebtedness constitutes prima facie evidence of the loans, advances, or indebtedness of the agency and provides a process for a county auditor or other officer to dispute the statement of indebtedness, as specified.

76) Requires the Controller to prescribe a uniform form for a statement of indebtedness, reconciliation, passthrough, and override passthrough. These forms shall be consistent with this bill, and in preparing these forms, the Controller shall obtain the input of county auditors, agencies, and organizations of county auditors and agencies.

77) Provides that for the purposes of the above statements, a fiscal year shall be a year that begins on July 1 and ends the following June 30.

78) Provides provisions declaring that this bill fulfills the intent of specified constitutional requirements.

79) Requires the county auditor to, after deducting its administrative costs for activities as specified, allocate the funds deposited in a special trust fund established for a RCIA and shall distribute those taxes in the same manner and at the same time or times as the payment of taxes into the funds of the affected taxing entities of the county, as specified.

80) Requires not less than 30% of all taxes allocated to the RCIA from any affected taxing entity, as specified, to be deposited into a separate fund established pursuant to this bill, which shall be used for the purposes of increasing, improving, and preserving the community's supply of

low- and moderate-income housing available at affordable housing cost, as specified. Provides for the powers the RCIA may exercise and the requirements the RCIA must follow in carrying out these specified purposes, and limits on how the agency can use the funds.

81) Requires each RCIA to expend over each 10-year period of the project plan the moneys in the separate fund, as specified.

82) Requires every redevelopment project plan to contain both of the following:

    a) A provision that requires, whenever dwelling units housing persons and families of low or moderate income are destroyed or removed as part of a project, the agency to, within two years, rehabilitate, develop or construct an equal number of replacement dwelling units, as specified.

    b) A provision that prohibits the number of housing units occupied by extremely low-, very low-, and low-income households, including the number of bedrooms in those units, at the time the plan is adopted, from being reduced in the plan area during the effective period of the plan.

83) Specifies that programs to assist or develop low- and moderate-income housing pursuant to this bill shall be entitled to priority consideration after a program implemented by a housing successor, as specified, for assistance in housing programs administered by the California Housing Finance Agency, HCD, and other state agencies and departments, if those agencies or departments determine that the housing is otherwise eligible for assistance under a particular program.

84) Provides that assistance provided by an agency to preserve the availability to lower income households of affordable housing units within the plan area that are assisted or subsidized by public entities and that are threatened with imminent conversion to market rates may be credited and offset against an agency's obligations, as specified.

85) Allows an agency to adopt a plan for expenditure of all moneys in the separate fund, in the event that an excess surplus accumulates, as specified.

86) Contains procedures specifying what happens if the agency fails to expend or encumber excess surplus in the separate fund, as specified.

87) Provides that certain required covenants or restrictions may be subordinated under specified alternatives.

88) Specifies that certain subsidies may include payment of a portion of the principal and interest on bonds issued by a public agency to finance housing for specified persons and families if the agency ensures by contract that the benefit of the subsidy will be passed on to those persons and families in the form of lower housing costs.

89) Provides that, for each interest in real property acquired using moneys from the separate fund, the agency shall, within five years from the date it first acquires the property interest for the development of housing affordable to persons and families of low and moderate

income, initiate activities consistent with the development of the property for that purpose.

90) Allows the agency, by majority vote of its governing board, to initiate proceedings to issue bonds by adopting a resolution stating its intent to issue bonds. The resolution shall contain specified information.

91) Provides requirements for the clerk of the RCIA to publish the resolution to issue bonds to publish the resolution in specified newspapers.

92) Specifies requirements if the RCIA adopts a resolution proposing initiation of proceedings to issue bonds for port or harbor infrastructure.

93) Requires the RCIA to issue bonds by adopting a resolution with specified information regarding the bonds.

94) Allows the RCIA to provide for the refunding of bonds, as specified.

95) Prohibits the RCIA or any person executing the bonds from being personally liable on the bonds by reason of their issuance, and provides that the bonds and other obligations of an agency are not a debt of the city, county, or state or any of its political subdivisions, other than the RCIA, and none of those entities, other than the RCIA, shall be liable on the bonds. Requires the bond obligations to be payable exclusively from funds or properties of the RCIA. Requires the bonds to contain a statement to this effect on their face. States that the bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation.

96) Allows the bonds to be sold at a discount not to exceed 5% of par at public sale. Requires, at least five days prior to the sale, notice to be published, as specified, in a newspaper of general circulation and in a financial newspaper published in the City and County of San Francisco and in the City of Los Angeles. Prohibits bonds from being sold at not less than par to the federal government at a private sale without any public advertisement.

97) Provides that, if any member of the RCIA whose signature appears on bonds ceases to be a member of the agency before delivery of the bonds, the member’s signature is as effective as if the member had remained in office. Provides that bonds issued pursuant to the bill's provisions are fully negotiable.

98) Authorizes, upon approval of its legislative body, a city, county, or special district, as specified, to loan moneys to the RCIA, as specified.

99) Requires the agency to contract for an independent financial and performance audit every two years after the issuance of debt, conducted according to guidelines established by the Controller, as specified. A copy of the completed audit shall be provided to the Controller, the Director of Finance, and to the Joint Legislative Budget Committee.

100) Provides that, upon request of the governor or of the Legislature, the Bureau of State Audits may conduct financial and performance audits of districts, as specified.

101) Provides that if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school district for those costs shall be made.

EXISTING LAW: 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).

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "During the 1960s and 1970s, California undertook its largest infrastructure development to modernize the roadway system into an extensive network of freeways. Many of them tore through urban areas, often with intention and indifference, and carved up minority communities. Overall, within the first two decades of highway construction alone, more than 1 million people had lost their homes nationwide.

In recent years, there's been a reckoning of the damage caused and efforts have been made, such as state and federal grant programs with over $3 billion, to undo some of these wrongs. AB 2945 is intended to create a framework to better leverage the funds that have been made available.

Redevelopment Agencies (RDA) were entities that funded development projects through tax increment financing. Although the intent was good, historically RDAs lacked oversight and robust protections resulting in superfluous projects and financial inefficiencies. RDAs were dissolved in 2012. Recognizing the significant contributions RDAs made to communities and the inefficiencies that led to their dissolution, AB 2945 re-establishes them with stricter protections and oversight, and shifts their intent to help develop areas that have been split by a highway. Several communities in California have already received funds to begin planning and designing Reconnecting Communities projects, such as freeway lids, and AB-2945 can provide a valuable framework in order to access these resources.

This bill focuses RDAs to be located near a Reconnecting Communities project such as a freeway lid, in addition to strengthening oversight powers, requiring annual audits of the agencies and includes housing development requirements. With these provisions and protections, AB 2945 would be an important tool for some of California's neighborhoods that were divided by freeway development."

***Redevelopment*:** 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). Generally, property tax increment financing involves a local government forming a tax increment financing district to issue bonds and use the bond proceeds to pay project costs within the boundaries of a specified project area. To repay the bonds, the district captures

increased property tax revenues that are generated when projects financed by the bonds increase assessed property values within the project area.

To calculate the increased property tax revenues captured by the district, the amount of property tax revenues received by any local government participating in the district is "frozen" at the amount it received from property within a project area prior to the project area's formation. In future years, as the project area's assessed valuation grows above the frozen base, the resulting additional property tax revenues — the so-called property tax "increment" revenues — flow to the tax increment financing district instead of other local governments. After the bonds have been fully repaid using the incremental property tax revenues, the district is dissolved, ending the diversion of tax increment revenues from participating local governments.

Prior to Proposition 13, 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. At the time of dissolution, over 400 RDAs statewide were diverting 12% of property taxes, over $5.6 billion yearly.

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, ABX1 26 (Blumenfield), Chapter 5 and ABX1 27 (Blumenfield), Chapter 6 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 ABX1 26. However, the Court did grant CRA's petition with respect to ABX1 27. As a result, all RDAs were required to dissolve as of February 1, 2012.

Attempts to Replace RDAs: After the Supreme Court's 2011 Matosantos decision dissolved all RDAs, legislators enacted several measures creating new tax increment financing tools to pay for local economic development. The Legislature authorized the creation of Enhanced Infrastructure Financing Districts (EIFDs) [SB 628 (Beall), Chapter 785, Statutes of 2014] quickly followed by Community Revitalization and Investment Authorities (CRIAs) [AB 2 (Alejo), Chapter 319, Statutes of 2015]. Similar to EIFDs, CRIAs use tax increment financing to fund infrastructure projects. CRIAs may currently only be formed in economically depressed areas.

The Legislature has also authorized the formation of affordable housing authorities (AHAs), which may use tax increment financing exclusively for rehabilitating and constructing affordable housing and also do not require voter approval to issue bonds [AB 1598 (Mullin), Chapter 764, Statutes of 2017]. SB 961 (Allen), Chapter 559, Statutes of 2018, removed the vote requirement for a subset of EIFDs to issue bonds and required these EIFDs to instead solicit public input, and AB 116 (Ting), Chapter 656, Statutes of 2019, removed the voter requirement for any EIFD to issues bonds in favor of a formal protest process. SB 852 (Dodd), Chapter 266, Statutes of 2022, created climate resilience districts (CRDs), which can also utilize tax-increment financing. CRDs were also given the authority to issue general obligation bonds and impose special taxes. While these entities share fundamental similarities with RDAs in terms of using various forms of tax-increment financing, they differ in two significant aspects: 1) not having access to the schools'

share of property tax increment, and 2) not automatically including the tax increment of other taxing entities.

Governor's Office of Planning and Research (OPR) Report: SB 961 (Allen), Chapter 559, Statutes of 2018, required OPR to, on or before January 1, 2021, complete a study and make recommendations on: 1) the effectiveness of tax increment financing tools, 2) the relative advantages and disadvantages of different types of tax increment financing tools, and 3) the impacts of extending the Second Neighborhood Infill Finance and Transit Improvement Act (NIFTI-2s) to areas around bus stops, including segregated bus lanes. The first report identified several key limitations current tax increment financing districts share:

a) They have limited revenue potential to make district formation worthwhile.

b) Unlike redevelopment, where taxing entity participation was mandatory, current tax increment financing districts rely on volunteer participation.

c) They have limited powers compared to RDAs.

d) Some technical challenges interfere with their development.

***RDA 2.0*?:** RDAs were dissolved during a severe budget shortfall and were often criticized for a number of reasons. The February 2011 Legislative Analyst's Office (LAO) report, "Should California End Redevelop Agencies?" proclaimed that there was no reliable evidence that redevelopment increased regional or statewide economic development, and that RDAs "lacked key accountability elements that are common to state-supported local assistance programs. Specifically, no state agency reviews redevelopment economic development activities or ensures that projects areas focus on the program's mission."

The LAO also reported that, "In terms of housing production efficiency and effectiveness, we are not aware of any studies that compare redevelopment agencies' results in producing affordable housing with other financing approaches. We note, however, that state audits and oversight reports frequently conclude that a significant number of redevelopment agencies take actions that have the effect of reducing their housing program productivity, including:

a) Maintaining large balances of unspent housing funds. ([HCD]'s most recent report indicates that the agencies collectively had an unencumbered balance of more than $2.5 billion.)

b) Using most of their housing funds for planning and administrative costs.

c) Spending housing funds to acquire land for housing, but not building the housing for a decade or longer."

AB 2945 includes the following provisions, among others:

a) Robust replacement housing policies and anti-displacement policies.

b) Requires agencies to keep detailed records of use of funds. Creates a $10,000 fine per violation of the record keeping requirements.

c) Requires an independent audit each year by a certified public accountant. Requires the audit be submitted to the Controller.

d) The Controller annually determines major audit violations and refers any violations that are not corrected to the Attorney General.

e) Authorizes fines for major audit violations that are not corrected up to $250,000.

f) The agency is governed by a board that includes members of the public.

Property Taxes and Schools: Unlike non-school taxing entities without a minimum funding guarantee, school districts receive both local property tax revenue and state General Fund dollars, if necessary, to meet their minimum funding guarantee under Proposition 98 (1988). The state calculates the minimum guarantee by comparing three main formulas or "tests." Which test is used depends on certain inputs, such as State General Fund revenue, per capita personal income, and K-12 student attendance.

In Test 1 years, where schools receive a set percentage of State General Fund Revenue, decreased property tax revenues, which could occur by annually reducing the total amount of ad valorem property tax that is otherwise required to be allocated to ERAF, would not be backfilled by the State General Fund. Test 1 is expected to be the operative test for at least the next few years. If economic circumstances change, and Test 2 or Test 3 becomes the operative test, which guarantee funding based on prior year funding levels (including local property tax revenue) and other economic factors, the State General Fund would backfill decreased property tax revenues for nonbasic aid districts, which need both local property tax revenue and State General Fund revenue to meet their minimum funding guarantee.

Impact on Schools: The report conducted by OPR identified several key limitations current tax increment financing districts share, including the limited revenue potential to make district formation worthwhile. In addition, unlike RDAs, where taxing entity participation was mandatory, current tax increment financing districts rely on volunteer participation, and they have limited powers compared to RDAs. The reports found that, despite the multitude of tax increment financing tools available for local agencies to choose from, only five EIFDs had been created by the end of 2020.

Despite the authority to finance infrastructure with tax increment financing, these financing mechanisms have been used infrequently in part because they do not have access to the schools' share of property tax increment like RDAs did. However, AB 2945 does allow an agency to access to the schools' share of property tax increment, allowing for agencies created under this bill to collect more funding than other existing tax increment financing tools. In light of this, the Committee may wish to consider the potential effect on school financing and if the schools' share of tax increment will make these agencies more successful.

Arguments in Support: According to Habitat for Humanity California, "The California Constitution, with respect to any taxes levied on taxable property in a redevelopment project established under the Community Redevelopment Law, authorizes the Legislature to provide for the division of those taxes under a redevelopment plan between the taxing agencies and the RDA, as provided. Existing law dissolved redevelopment agencies as of February 1, 2012, eliminating $2 Billion in funding for low and moderate income housing production. Habitat for

Humanity affiliates throughout the state relied on that funding source, which has never been replaced by state or local funding alternatives.

"This bill, the Reconnecting Communities Redevelopment Act, would authorize a city or county, or two or more cities acting jointly, to propose the formation of a reconnecting communities investment agency by adoption of a resolution of intention that meets specified requirements, including that the resolution of intention include a passthrough provision and an override passthrough provision. This would require the city or county to submit that resolution to each affected taxing entity and would authorize an entity that receives that resolution to elect not to receive a passthrough payment. The city or county that adopted that resolution is also required to hold a public hearing on the proposal to consider all written and oral objections to the formation, as well as any recommendations of the affected taxing entities, and would authorize that city or county to adopt a resolution of formation at the conclusion of that hearing.

"This will allow cities and counties greater flexibility to collaborate and coordinate with other local governments to promote the state's housing and greenhouse gas reduction goals. In order for the state to proportionately address the housing supply crisis in the state, it must adopt bold funding proposals to address the needs in our local communities to construct new housing units for low and moderate income homebuyers and tenants."

Arguments in Opposition: The California Teachers Association states that, "We agree that the state's affordable housing crisis cannot be ignored. The state's shortage of affordable housing directly impacts many of the families and the students we serve, as well as members of our own organization. We continually hear from our teachers, school staff and countless others about the high cost of housing or how they must commute hours each day because they cannot afford to live in the communities in which they work. While we agree with the goal of addressing the state's affordable housing shortage, we cannot support a solution that would harm California's schools and destabilize education funding.

"Proposition 98, passed by voters as an amendment to the California Constitution in 1988, is designed to guarantee a minimum level of funding for public schools and community colleges that keeps pace with growth in the K–12 student population and the personal income of Californians. Proposition 98 funds include both state and local property tax revenues. The minimum spending level under Proposition 98 is determined by one of three "tests" or formulas. Under "test 1," K–14 education receives a minimum percentage of General Fund revenues (about 38 percent) plus its share of local property tax revenues, which account for approximately 25 percent of all education funding. Any reduction in property taxes in "test 1" years would have a dollar-for-dollar impact on the overall Proposition 98 calculation. The 2023-24 budget projects "test 1" would be operable in three-year budget period. Therefore, any reduction in property tax revenues would have an impact on the Proposition 98 funding level.

"The elimination of redevelopment agencies was stirred in large part by a desire to increase schools' share of local property tax revenue, which remains stable even when General Fund revenues decline. While we support finding solutions to the state's affordable housing crisis, we urge the Legislature to consider other solutions that do not harm our schools."

Related Legislation:

AB 1476 (Alvarez) of 2023 was similar to this bill and would have created the Community Redevelopment Law of 2023. AB 1476 was never heard in the Assembly Appropriations Committee.

AB 11 (Chiu) of 2019 was almost identical to this bill and would have created the Community Redevelopment Law of 2019. AB 11 was held in the Assembly Appropriations Committee.

AB 3037 (Chiu) of 2018 was very similar to this bill and would have created the Community Development Law of 2018. AB 3037 was held in the Assembly Appropriations Committee.

Double Referred: This bill is double referred. It was heard in the Assembly Committee on Local Government and passed on a vote of 7-0 on April 17, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Habitat for Humanity California
Mayor Victor M. Gordo, City of Pasadena

Support If Amended

California Association of Realtors

Opposition

California Teachers Association
Howard Jarvis Taxpayers Association
State Association of County Auditors

Oppose Unless Amended

Fieldstead and Company

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 3012 (Grayson) – As Amended April 18, 2024

SUBJECT: Development fees: fee schedule template: fee estimate tool

SUMMARY: Requires cities and counties to make a fee estimate tool available on their internet websites that the public can use to calculate an estimate of fees and exactions for a proposed housing development, and requires the Department of Housing and Community Development (HCD) fee schedule template and a list of best practices, as specified. Specifically, **this bill**:

1) Defines the following terms:

    a) "Affordability requirement" as a requirement imposed as a condition of a development of residential units, that the development include a certain percentage of the units affordable for rent or sale to households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households, as specified in existing law.

    b) "Housing development project" as a use consisting of any of the following:

        i) Residential units only;

        ii) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use; or

        iii) Transitional housing or supportive housing.

2) Requires a city or county that has an internet website to make a fee estimate tool that the public can use to calculate an estimate of fees and exactions for a proposed housing development project available on its internet website. A city or county may choose the format for the fee estimate tool.

3) Specifies that the fee estimate tool shall calculate an estimate of fees for a proposed housing development project including, but not limited to, the following:

    a) A fee or charge described in the Mitigation Fee Act, as specified;

        i) Utility fees for water connections, sewer connections, and capacity charges are exempt from this requirement.

    b) In-lieu fees for affordability requirements;

    c) A construction excise tax;

    d) In-lieu fees for a requirement that the housing development project provide public art;

    e) In-lieu fees for dedications of parkland pursuant to the Quimby Act; and

f) A special tax levied on new housing units pursuant to the Mello-Roos Community Facilities Act of 1982.

4) Provides that a city or county shall not be responsible for the accuracy of the estimate provided by the fee estimate tool. A city or county may include a disclaimer regarding the accuracy of the estimate calculated on its website.

5) Specifies that a city or county with a population of greater than 500,000 shall meet the requirements of this bill on or before July 1, 3031, and a city or county with a population of 500,000 or less shall meet the requirements of this bill on or before July 1, 2032.

6) Requires on or before July 1, 2028, the HCD to create a fee schedule template for proposed housing development projects that may be used by cities and counties.

7) Provides that the template in 6) above, shall, at a minimum, contain the following:

   a) A list of the fees and exactions, as specified, with the approximate cost per unit or per square foot;

   b) The districts and neighborhoods where each fee applies;

   c) The uses that each fee applies to; and

   d) Who should be contacted in order to calculate total fees.

8) Specifies that, to the extent practicable, the template in 6) above, shall include, but not be limited to, the following:

   a) A fee or charge described in the Mitigation Fee Act, as specified;

   b) In-lieu fees for affordability requirements;

   c) A construction excise tax;

   d) In-lieu fees for a requirement that the housing development project provide public art;

   e) In-lieu fees for dedications of parkland pursuant to the Quimby Act; and

   f) A special tax levied on new housing units pursuant to the Mello-Roos Community Facilities Act of 1982.

9) Requires on or before July 1, 2028, HCD to create a list of best practices regarding presenting information for fees and exactions levied by local jurisdictions.

10) Authorizes HCD to create a fee estimate tool that may be used by cities and counties for the purpose of meeting the requirements of 2) through 5) above.

11) Allows HCD to contract with nonprofit or academic institutions to complete the fee schedule template, list of best practices, and fee estimate tool.

EXISTING LAW:

1) Establishes the Mitigation Fee Act (GOV 66000-66025) that requires a local agency to do all of the following when establishing, increasing, or imposing a fee on a development project:

    a) Identify the purpose of the fee;

    b) Identify the use to which the fee is to be put;

    c) Determine how there is a nexus between the fee's use and the type of development project on which the fee is imposed; and

    d) Determine how there is a nexus between the need for a public facility and the type of development project on which the fee is imposed.

2) Requires a city, county, or special district that has an internet website to make information available on its internet website, including the current schedule of fees, exactions, and affordability requirements imposed by that city, county, or special district, applicable to a proposed housing development project. (GOV 65940.1)

3) Requires a city or county to request from a development proponent, upon certificate of occupancy or final inspection, whichever occurs last, the total amount of fees and exactions associated with the project, and post that information on its internet website. (GOV 65940.1)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "AB 1483 (Grayson, 2019) was a significant step forward in providing greater transparency on development impact fees, and it required jurisdictions to provide information on impact fee schedules, nexus fees studies, and other information that could help inform a developer of a jurisdiction's impact fees. Despite the progress made on providing greater transparency on development impact fees, recent reports by SPUR and the Terner Center found that there were significant shortcomings in compliance with the requirements of AB 1483 by many jurisdictions. While many jurisdictions have provided the information required by AB 1483, fee schedules often did not provide all applicable fees and calculating fees remained confusing.

AB 3012 will help improve impact fee transparency and eliminate inconsistencies that may exist by requiring HCD to develop a fee schedule template and list of best practices that jurisdictions can utilize. This will harmonize State law with HCD's goals on data sharing, and make it easier for the public and for developers to understand the potential fees that may be encountered during the development process. Additionally, this bill would help advance transparency by requiring that jurisdictions provide a fee estimate calculator by 2032. This will help ensure that developers can arrive at a more accurate estimate for the fees that are required during the development process. This bill will further remove barriers to development by helping ensure that impact fee information is accurate and easy to understand."

Cost of Building Housing: It is expensive to build housing in California. The UC Berkeley Terner Center finds that challenging macroeconomic conditions, including inflation and high

interest rates, affect the availability and cost of capital, resulting in rising costs for labor and materials.[1] Furthermore, workforce and supply shortages have exacerbated the already high price of construction in California, and economic uncertainty has made equity partners and lenders apprehensive about financing new housing development proposals.[2]

An analysis by the California Housing Partnership compares the cost of market rate development prototypes developed by the Terner Center with the median cost of developing affordable rental homes. In the four regions analyzed, the study found that the cost of developing one unit of affordable housing ranged from approximately $480,000 to $713,000, while the cost of developing one unit of market rate housing in the state ranged from approximately $508,000 to $637,000.[3]

Impact Fees and Exactions – Added Uncertainty and Costs: 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 local agency'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 various local 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 the UC Berkeley Terner Center for Housing Innovation, between 2008 and 2015, California fees rose 2.5%, while the national average decreased by 1.2%.[4] Development fees can comprise 17% of the total development costs of new housing, and in California in 2015, impact fees were nearly three times the national average.[5]

The Mitigation Fee Act governs the imposition, collection, and use of impact fees collected by local governments when reviewing and approving development proposals.

Key aspects of the Mitigation Fee Act include:

1) **Nexus Requirement**: The Act requires a clear "nexus" or connection between the fee charged and the impact created by the development. This means that the fees collected must be used to address the specific impacts that the new development is expected to have on public facilities and services.

2) **Proportionality**: The fees charged must be proportional to the impact of the development.

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[1] David Garcia, Ian Carlton, Lacy Patterson, and Jacob Strawn, *Making It Pencil: The Math Behind Housing Development (2023 Update)*, Terner Center for Housing Innovation, December 2023, https://ternercenter.berkeley.edu/research-and-policy/making-it-pencil-2023/
[2] IBID.
[3] Mark Stivers, *Affordable Housing Compares Favorably to Market-Rate Housing From a Cost Perspective*, California Housing Partnership, January 2024: https://chpc.net/affordable-housing-compares-favorably-to-market-rate-housing-from-a-cost-perspective/#:~:text=It%20turns%20out%20that%20costs,market%2Drate%20developments%20do%20not.
[4] Sarah Mawhorter, David Garcia and Hayley Raetz, *It All Adds Up: The Cost of Housing Development Fees in Seven California Cities*, Terner Center for Housing Innovation, March 2018, https://ternercenter.berkeley.edu/research-and-policy/it-all-adds-up-development-fees
[5] IBID.

3) **Accountability**: Local governments are required to establish separate accounts for the fees collected and to use the funds solely for the intended purposes. They must also provide annual reports on the status of the fees, including the balance and how the funds have been used.

4) **Timing of Fee Payment**: The Act specifies when fees can be collected, generally at the time of final inspection or when certificate of occupancy is issued, with some exceptions.

5) **Refunds**: If the fees collected are not used within five years, and specific findings are not made, the Act provides for the refund of the fees.

The Mitigation Fee Act plays a crucial role in ensuring that new developments contribute to the cost of expanding and maintaining public infrastructure and services, while also providing a legal framework to ensure that fees are fair, transparent, and directly related to the impacts of the development.

AB 1483 (Grayson), Chapter 662 Statutes of 2019, required all local agencies to post fees applicable to new housing developments under the Mitigation Fee Act on their website. This information included the following:

1) A current schedule of fees, exactions, and affordability requirements imposed by the city, county, or special district, including any dependent special districts, of the city or county applicable to a proposed housing development project, which must be presented in a manner that clearly identifies the fees, exactions, and affordability requirements that apply to each parcel.

2) All zoning ordinances and development standards, which must specify the zoning, design, and development standards that apply to each parcel.

3) A list that cities and counties must develop under existing law of projects located within military use airspace or a low-level flight path.

4) Specified annual fee reports or specified annual financial reports.

5) An archive of impact fee nexus studies, cost of service studies, or equivalent, conducted by the city, county, or special district on or after January 1, 2018.

Additionally, AB 602 (Grayson), Chapter 347, Statutes of 2021, required local agencies, among other things, to do the following:

1) Post a written fee schedule or a link directly to the written fee schedule on its internet website.

2) Request from a development proponent, upon issuance of a certificate of occupancy or the final inspection, whichever occurs last, the total amount of fees and exactions associated with the project for which the certificate was issued. The city or county must post this information on its website, and update it at least twice per year. A city or county is not responsible for the accuracy of the information received by the development proponent.

However, a 2021 policy brief prepared by SPUR in consultation with the UC Berkeley Terner Center for Housing Innovation analyzed compliance with AB 1483 and found that less than half of the jurisdictions examined complied with this requirement.[6] A Terner Center study found that even when local jurisdictions did post the nexus fee studies mandated under the Mitigation Fee Act, those studies were often difficult to find or outdated.[7]

The fees and exactions charged from local agency to local agency vary, but often add up to between 6% and 18% of total construction cost for a housing development project.[8] Various local agencies, including cities and counties, utility districts, and special districts (of which there are over 5,000 in the state) all may levy their own fees and exactions, and have varied approaches to complying with the posting requirements established in AB 1483.[9] This lack of transparency around fees and exactions, particularly at the outset of a project, result in unforeseen project costs, increased risks for developers, and project delays – all of which may result in fewer homes ultimately being built. This especially creates barriers for smaller and newer community-led developers, who often lack the experience, connections, and up-front capital to navigate the uncertainty associated with local fees and exactions.[10]

As such, although AB 1483 requires transparency around fees to help developers assess costs, the general lack of compliance with that bill on behalf of local agencies makes it difficult for housing development proponents to gain the certainty around which fees will apply to their development proposals. Even if all fees were posted to a local agency's website in compliance with AB 1483, it would be difficult for the development proponent to verify the accuracy of the posted materials, or in some instances, even to locate those materials.

AB 3012 would provide developers with a ballpark estimate of the fees that they will be expected to pay for their housing development proposal at the onset of their project. This certainty will help to mitigate delays in advancing a project, or in some instances, the inability to pay for unexpected fees associated with housing projects under the Mitigation Fee Act.

Arguments in Support: According to the California Home Building Alliance coalition, "Currently, cities impose development fees on developers to pay for services necessary to build new housing or to offset impacts of growth in a community. The fees can become a large portion of the cost to build new housing throughout the state. UC Berkeley's Terner Center for Housing Innovation found in previous studies that development fees for multifamily housing in California can be as high as $75,000 per unit. In some areas, fees for a single family home can total about $157,000 per unit.

To help tackle issues regarding impact fee transparency, AB 1483 was passed in 2019 to ensure that local jurisdictions make information revolving housing impact fees more accessible. The bill mandated that localities post impact fee schedules, impact fee nexus studies, and other information on their websites for developers to stay informed of that jurisdiction's impact fees.

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[6] SPUR. *How Much Does It Cost to Permit a House?* May 2021, www.spur.org/sites/default/files/2021-07/SPUR_How_Much_Does_It_Cost_To_Permit_A_House_0.pdf.
[7] Hayley Raetz et al., *Residential Impact Fees in California*, Terner Center for Housing Innovation, August 2019, https://ternercenter.berkeley.edu/wp-content/uploads/pdfs/Residential_Impact_Fees_in_California_August_2019.pdf
[8] Sarah Mawhorter, et al.
[9] SPUR.
[10] SPUR.

Additionally, the Department of Housing and Community Development ('HCD') released the Statewide Housing Plan in 2022, which outlines the state's strategy to address its housing crisis. Included in the plan was a 10-year Housing Data Strategy that looked to reduce barriers to building more housing.

This bill aims to improve impact fee transparency and eliminate inconsistencies by ensuring HCD develops a fee schedule template and list of best practices that jurisdictions can use on their websites. Many jurisdictions currently post fee schedules but they do not cover all the applicable impact fees that are charged. Many jurisdictions also lack consistency about how they present the information, making it hard for a developer to calculate the amount of impact fees that could affect the project. This bill will enable state law and HCD's goals to be better synthesized when it comes to data sharing. It will also allow for the public and developers to better understand fees they might face throughout the development process."

Arguments in Opposition: None on file.

Related Legislation:

AB 1820 (Schiavo), 2024. This bill would establish a process through which development proponents can request preliminary project fee and exaction estimates when submitting a preliminary application, and receive a final list of all fees and exactions related to the project after final approval, within a specified timeframe. This bill passed out of the Assembly Housing Committee as amended 9-0, and is pending hearing in the Assembly Committee on Local Government.

AB 602 (Grayson), Chapter 347, Statutes of 2021. This bill established several new requirements for local governments in connection with adopting and imposing fees and exactions, including new nexus study and capital facilities planning obligations. The bill also requires local governments to request fee and exaction information from developers and then post whatever information is voluntarily provided on the local agency's to increase transparency with respect to the overall level of fees and exactions imposed on new housing in the jurisdiction.

AB 1483 (Grayson), Chapter 662, Statutes of 2019. This bill requires a city, county, or special district to maintain on its internet website, as applicable, a current schedule of fees, exactions, and affordability requirements imposed by the city, county, or special district, including any dependent special district and annual fee reports or annual financial reports, as specified. The bill requires a city, county, or special district to provide on its internet website an archive of impact fee nexus studies, cost of service studies, or equivalent, as specified.

AB 1484 (Grayson), 2019: This bill would have required local agencies to publish fees for housing development projects on their internet website, and would have frozen "impact and development fees that are applicable to housing developments" for two-years after a development application was deemed complete. This bill died in the Senate Committee on Rules.

SB 330 (Skinner), Chapter 654, Statutes of 2019. This bill established a process for a project applicant to file a preliminary application for a housing development project, and established that a housing development project that has submitted a preliminary application must be subject only to the ordinances, policies, and standards adopted and in effect when the preliminary application was deemed to be complete.

Double referred: This bill is double referred. It was heard in the Assembly Committee on Local Government and passed on a vote of 9-0 on April 17, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Abundant Housing LA
California YIMBY
Housing Action Coalition
Housing Action Coalition
Housing Trust Silicon Valley
MidPen Housing Corporation
SPUR
YIMBY Action

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 3035 (Pellerin) – As Amended March 21, 2024

SUBJECT: Agricultural employee housing: streamlined, ministerial approval: Counties of Santa Clara and Santa Cruz

SUMMARY: Expands the existing streamlined, ministerial approval process for farmworker housing established by AB 1783 (R. Rivas), Chapter 866, Statutes of 2019. Specifically, **this bill**:

1) Allows, for the Counties of Santa Clara and Santa Cruz, the streamlined, ministerial approval process for farmworker housing established by AB 1783 (R. Rivas) to apply to agricultural housing developments that are 150 units or less and within 15 miles of an area designated as farmland or grazing by the Department of Conservation.

2) Clarifies existing law provisions that H-2A farmworkers are not eligible to be housed in developments constructed using AB 1783.

EXISTING LAW:

1) Establishes that the funding predevelopment of, 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. (Health and Safety Code (HSC) Section17021.8)

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. (HSC Section17021.8)

3) Defines "agricultural employee housing" to mean housing occupied by an employee of an agricultural employer or by a farm labor contractor. (HSC Section17021.8)

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 Civil Rights Department and allege a violation of housing discrimination law or assert any other right under the California Fair Employment and Housing Act;

    b) Any protections under the Civil or Labor Code; and

    c) Any protection under the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975. (Cite)

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, lands under conservation easement, and lands with specified groundwater levels; and

    c) The development does not contain dormitory-style housing; and

    d) The development consists of no more than 36 units or spaces designed for use by a single family or household. (HSC Section17021.8)

6) Provides that a local government may subject an eligible agricultural employee housing development to specified written, objective development standards, including, but not limited to, adequate water and wastewater facilities and dry utilities to serve the project; connection to municipal sewer system, as specified; proximity to duly designated collector road, as specified; and off-street parking, as specified. (HSC Section17021.8)

7) Requires the Department of Housing and Community Development (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. (HSC Section17021.8)

8) Requires HCD to establish and maintain a roster of all affordable housing organizations certified under 7) above. (HSC Section17021.8)

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. (HSC Section17021.8)

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. (HSC Section17021.8)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "While Santa Cruz and Santa Clara Counties have a rich agricultural legacies, both counties currently face serious shortfalls of seasonal and long-term housing units designated for agricultural workers. This extreme housing insecurity will often leave agricultural workers with no choice but to live in substandard living conditions, including temporary shelters, motels, garages, and vehicles.

To address the farmworker housing shortage, California enacted AB 1783 (Rivas, 2019), the Farm Worker Housing Act of 2019, which created ministerial standards for qualifying agricultural employee housing with up to 36 units that are operated by affordable housing organizations or public housing agencies. Currently these streamlining provisions are generally restricted to areas zoned for agriculture, which often lack access to cost-effective, safe, and reliable drinking water and wastewater services, as well as other municipal services and amenities including nearby access to commercial enterprises and civic institutions.

To better facilitate the development of affordable housing for agricultural workers, AB 3035 establishes a pilot project that allows streamlined development of agricultural worker housing in areas within 15 miles of an area designated as farmland, and that allows eligible housing projects to build more units per development. AB 3035 currently proposes these solutions as a pilot project with Santa Cruz and Santa Clara counties."

AB 1783 (R. Rivas): AB 1783 is modelled after the process to expedite and increase the certainty of housing approval created in SB 35 (Wiener), Chapter 366, Statutes of 2017, but for farmworker housing instead of infill housing. The bill establishes a streamlined, ministerial process for approval of qualifying agricultural employee housing projects. To qualify, projects must be on land zoned for agricultural uses and cannot be located in environmentally unsafe or sensitive areas, including a coastal zone, wetlands, a high or very high fire hazard 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. The agricultural employee housing cannot be dormitory style housing, and must be maintained and operated by a qualified affordable housing organization, as certified by HCD. Such organizations include non-profits and public agencies with prior experience and current capacity to capably maintain and operate the housing. Except for local public housing agencies with elected legislative bodies, to be qualified the applicant does not have a member among its officers or directorate with a financial interest in an agricultural employer or a farm labor contractor.

Additionally, the housing must be affordable and for agricultural employees for at least 55 years, and the housing must be eligible for state funding. Cities and counties must determine whether requirements are met within a specified time, depending on the size of the project, and if so, the project is approved ministerially, within specified time of submission, depending on project size. A city or county could impose design review, but under specified circumstances. AB 1783 prohibits state funding from being provided for the purposes of planning, developing, or operating any housing used to comply with the requirements under federal law to furnish housing to H-2A workers, and requires any recipient of state funding who does so to reimburse the state or state agency. The bill applies these state funding requirements to Community Services Block

Grants, Building Homes and Jobs Trust Fund, Joe Serna, Jr. Farmworker Housing Grant Program, and other programs for migratory workers.

The H-2A Visa Program*:* The H-2A Visa program is a federal program that allows U.S. employers or U.S. agents who meet specific regulatory requirements to bring foreign nationals to the United States to fill temporary agricultural jobs. Petitioners requesting to utilize this program must demonstrate that there are not enough U.S. workers who are able, willing, qualified, and available to do the temporary work. They must also show that employing H-2A workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. Importantly for this bill, employers must provide clean and safe housing to H-2A workers at no charge to the employee. Employees are responsible for their food costs, but employers must provide a place for workers to prepare their meals. An employer must arrange for a worker's transportation from the originating country to the place of employment or reimburse the worker for transportation costs.

Since its introduction in 1986, the H-2A program has grown steadily in size. Per the U.S. Department of Labor, in 2000 there were approximately 30,000 visa-holders, in 2010 there were approximately 55,000, and in 2016 there were over 134,000 (including 11,000 in California). This represents about 4-7% of farmworkers nationwide, and 2-3% in California. According to the Economic Policy Institute, this increase is because "(m)ost crop workers are unauthorized, and farmers are turning to H-2A guestworkers as unauthorized migration from Mexico to the United States slows, to replace current workers who leave agriculture to find non-farm jobs."

The H-2A program is not uncontroversial. Farmers convey that the additional costs for housing and transportation without reduction in wages are limiting factors on their use of the program. However, they cite its practical necessity in the face of a diminishing labor supply and the inability of Congress to pass immigration reform that meets the well-documented needs of the nation's food producers. Opponents point to the fact that the H-2A visa ties the worker to the employer. They cite this power imbalance as enabling substantial abuses, including lack of access to legal resources, wage theft, poor housing, denial of medical benefits for on-the-job injuries, and withholding of documents.

As stated above, current federal law requires employers utilizing the H-2A program to provide clean and safe housing to H-2A workers. This housing must be provided at no charge to the employee. AB 1783 did not preclude utilization of the H-2A program or the development of housing for H-2A visa-holders. However, it does make such housing ineligible for state funding for its planning, development, or operation.

AB 1783 required that housing projects for H-2A workers that receive funding from the state after January 1, 2020 must reimburse that money to the state.

Modifications to AB 1783: Like the Employee Housing Act, AB 1783 only applies to developments of 35 units or less. AB 1783 also requires that developers use state funding in conjunction with the by-right streamlining allowed under the bill. State funding programs, like the Joe Serna Farmworker Housing Program, tend to fund larger projects, with more units. As a result, it has been difficult for developers to marry these two criteria. This bill would allow developments up to 150 units, in Santa Clara and Santa Cruz counties, to use the by-right process established under AB 1783.

AB 1783 also limits the application of the by-right to land zoned for primarily agricultural uses. According to the author, these areas lack access to drinking water and wastewater services, as well as other municipal services and amenities, including nearby access to commercial enterprises and civic institutions. This bill would allow AB 1783 streamlining to be used on sites within 15 miles of an area designated as farmland or grazing by the Department of Conservation.

Arguments in Support: According to the sponsor, Santa Clara County, "Unfortunately, despite the promise of AB 1783, the bill appears to have been underutilized across the State. In Santa Clara County, no applications for development under this legislation have been submitted. One key reason for this appears to be that AB 1783's streamlining provisions are generally restricted to areas zoned for agriculture, which often lack access to cost-effective, safe, and reliable drinking water and wastewater services, as well as other municipal services and amenities including nearby access to commercial enterprises and civic institutions. To overcome this geographic limitation, AB 3035 would, in the Counties of Santa Clara and Santa Cruz, expand existing law to allow streamlined development of agricultural worker housing to encompass broader geographic areas surrounding agricultural land that have access to municipal services."

Arguments in Opposition: None on file.

Related Legislation:

AB 1783 (R. Rivas) Chapter 866, Statutes of 2019: Established a streamlined, ministerial process for the development of agricultural housing.

REGISTERED SUPPORT / OPPOSITION:

Support

County of Santa Clara (Sponsor)
California League of United Latin American Citizens
City of Gilroy Council Member Zach Hilton
City of Morgan Hill
City of San Jose, Councilmember Omar Torres
City of San Jose, Councilmember Ortiz
Community Agency for Resources, Advocacy and Services
Farmworker Caravan
Latina Coalition of Silicon Valley
Santa Clara County Board of Supervisor Sylvia Arenas
The Salvador E. Alvarez Institute for Non-violence
University of California Cooperative Extension

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 3057 (Wilson) – As Amended April 8, 2024

SUBJECT: California Environmental Quality Act: exemption: junior accessory dwelling units ordinances

SUMMARY: Expands a California Environmental Quality Act (CEQA) exemption for city or county adoption of an ordinance facilitating accessory dwelling units (ADUs) to also include adoption of an ordinance facilitating junior ADUs (JADUs).

EXISTING LAW:

1) CEQA requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000 *et seq.*)

2) CEQA includes many statutory exemptions for residential projects, including the adoption of an ordinance by a city or county to implement specified provisions of the Planning and Land Use Law authorizing approval of granny flats and ADUs. (PRC 21080.17)

3) Authorizes any city, including a charter city, county, or city and county, until January 1, 2007, to issue a zoning variance, special use permit, or conditional use permit for construction of an attached or detached dwelling unit on a parcel zoned for a single-family residence, if the dwelling unit is intended for the sole occupancy of one adult or two adult persons who are 62 years of age or over, and the area of floor space of the attached dwelling unit does not exceed 30 percent of the existing living area or the area of the floor space of the detached dwelling unit does not exceed 1,200 square feet. (Government Code (GC) 65852.1)

4) Authorizes a local agency to provide, by ordinance, for the creation of ADUs in areas zoned to allow single-family or multifamily dwelling residential use, as specified. (GC 66314 *et seq.*)

5) Authorizes a local agency to provide, by ordinance, for the creation of JADUs in single-family residential zones. (GC 66333 *et seq.*)

6) Defines a JADU as a unit that is no more than 500 square feet in size and contained entirely within a single-family residence, which unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. (GC 66403)

FISCAL EFFECT: None.

COMMENTS:

***Author's Statement*:** According to the author, "the expansion of ADU development in recent years has led to the creation of thousands of affordable rental properties throughout California. AB 3057 is a technical fix designed to ensure local Junior Accessory Dwelling Unit (JADU)

regulations receive the same exemption from environmental assessments as is already afforded to conventional ADUs. Junior ADUs are small living areas situated within existing single-family residences. However under current law, only ADUs are exempt from the California Environmental Quality Act (CEQA). Allowing JADU ordinances to qualify for the same CEQA exemption is a much-needed step towards thousands of new, budget-friendly rental properties throughout California."

***Background**:* CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines, for a wide range of residential projects. Since 1978, CEQA has included statutory exemptions for housing. There are now at least 15 distinct CEQA exemptions for housing projects. The majority of residential projects are approved via exemption or negative declaration under CEQA, or through ministerial permits where CEQA does not apply. The exemption for ordinances facilitating ADUs has been in effect for 40 years.

JADUs are smaller accessory units created entirely within the envelope of existing single family homes. This bill adds a CEQA exemption for the adoption of a local ordinance regarding JADUs. This bill provides a non-controversial technical fix to allow for JADUs to benefit from the same CEQA exemption for JADU ordinances as ADU ordinances benefit from.

Arguments in Support: According to the California Home Building Alliance (HBA), "JADUs are smaller accessory units (no more than 500 square feet) created entirely within the envelope of existing single-family homes, often to create privacy for multi-generational households living under one roof. While state law treats these housing projects similar to attached or detached ADUs, offering the same provisions for ministerial approvals and limiting local governments' discretion to deny permits, JADU regulations fall under a different state code section.

As such, the adoption of local JADU ordinances remains subject to CEQA challenges, even when those ordinances are adopted to conform with state law. The concern over potential CEQA litigation may inhibit some cities from updating their JADU ordinance to comply with state law. AB 3057 is a technical fix to existing law that will grant Junior ADU ordinances the same exemption to environmental review that is already granted to standard ADUs."

Arguments in Opposition: None on file.

Double referred: This bill is double referred. It was heard in the Assembly Committee on Natural Recourses and passed on a vote of 11-0 on April 22, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

California YIMBY (Sponsor)
Abundant Housing LA
Apartment Association of Greater Los Angeles
California Apartment Association
California Building Industry Association (CBIA)
California Chamber of Commerce
California Hispanic Chambers of Commerce
California Rental Housing Association
Circulate San Diego

City of Rancho Cucamonga
Fieldstead and Company
Fremont for Everyone
Housing Action Coalition
Housing Action Coalition
MidPen Housing
San Diego Housing Commission
SPUR
YIMBY Action

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AB 3276 (Ramos) – As Amended March 21, 2024

SUBJECT: Mitigation Fee Act: reports

SUMMARY: Requires local agencies to post on their internet websites specified information they must already provide to the public pursuant to the Mitigation Fee Act. **Specifically, this bill:**

1) Requires a local agency to post on its internet website the information it must provide to the public pursuant to the Mitigation Fee Act for each separate account or fund that a local agency establishes for the payment of development fees. This information includes the following, for the preceding five years:

    a) A brief description of the type of fee in the account or fund;

    b) The amount of the fee;

    c) The beginning and ending balance of the account or fund;

    d) The amount of the fees collected and the interest earned;

    e) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees; and

    f) Specified information on incomplete public improvements, interfund transfers or loans, and specified refunds.

2) Requires the information that must be posted on a local agency's website pursuant to 1), to be posted on or before the last day of the 2029–30 fiscal year, and on or before the last day of each fifth fiscal year thereafter.

EXISTING LAW:

1) Establishes the Mitigation Fee Act, which governs fees local agencies may levy on development projects. (Government Code (GOV) Section 66000-66025)

2) Requires local agencies to deposit fees they collect with the other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected. Any interest income earned by moneys in the capital facilities account or fund shall also be deposited in that account or fund and shall be expended only for the purpose for which the fee was originally collected. (GOV 66006)

3) Requires a local agency to make the following information publicly available within 180 days of the last day of each fiscal year, and on or before the last day of each fiscal year: (GOV 66006)

    a) A brief description of the type of fee in the account or fund;

    b) The amount of the fee;

    c) The beginning and ending balance of the account or fund;

    d) The amount of the fees collected and the interest earned; and,

    e) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

4) Requires a city, county, or special district that has an internet website to make information available on its internet website, including the current schedule of fees, exactions, and affordability requirements that will be imposed by that city, county, or special district, applicable to housing development projects. (GOV 65940.1)

5) Requires a city or county to request from a development proponent, upon certificate of occupancy or final inspection, whichever occurs last, the total amount of fees and exactions associated with the project, and post that information on its internet website. (GOV 65940.1)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "AB 3276 will provide communities and business with greater sense of transparency into what their local governments are spending on using the money they collected from the collection of Mitigation Fees. This bill would ensure that the people have easy access to this information and that local agencies do their due diligence to maintain a level of transparency that is expected of them by the people of California."

The Mitigation Fee Act: 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 local agency'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 various local 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 the UC Berkeley Terner Center for Housing Innovation, between 2008 and 2015, California fees rose 2.5%, while the national average decreased by 1.2%.[1] Development fees can comprise 17% of the total

[1] Sarah Mawhorter, David Garcia and Hayley Raetz, *It All Adds Up: The Cost of Housing Development Fees in Seven California Cities*, Terner Center for Housing Innovation, March 2018, https://ternercenter.berkeley.edu/research-and-policy/it-all-adds-up-development-fees

development costs of new housing, and in California in 2015, impact fees were nearly three times the national average.[2]

The Mitigation Fee Act governs the imposition, collection, and use of impact fees collected by local governments when reviewing and approving development proposals.

Key aspects of the Mitigation Fee Act include:

1. **Nexus Requirement**: The Act requires a clear "nexus" or connection between the fee charged and the impact created by the development, typically established via a nexus study. This means that the fees collected must be used to address the specific impacts that the new development is expected to have on public facilities and services.

2. **Proportionality**: The fees charged must be proportional to the impact of the development.

3. **Accountability**: Local governments are required to establish separate accounts for the fees collected and to use the funds solely for the intended purposes. They must also provide annual reports on the status of the fees, including the balance and how the funds have been used.

4. **Timing of Fee Payment**: The Act specifies when fees can be collected, generally at the time of final inspection or when certificate of occupancy is issued, with some exceptions, as specified below in the “Collection of Impact Fees” section. This bill would remove those exceptions.

5. **Refunds**: If the fees collected are not used within five years, and specific findings are not made, the Act provides for the refund of the fees.

When imposing a fee as a condition of approving a development project, the Mitigation Fee Act also requires local officials to determine a reasonable relationship between the fee’s amount and the cost of the public facility. In its 1987 *Nollan* decision, the U.S. Supreme Court said there must be an “essential nexus” between a project's impacts and the conditions for approval. In the 1994 *Dolan* decision, the U.S. Supreme Court said that conditions on development must have a "rough proportionality" to a project's impacts.

In the 1996 *Ehrlich* decision, the California Supreme Court distinguished between “legislatively enacted” conditions that apply to all projects and “ad hoc” conditions imposed on a project-by-project basis. *Ehrlich* applied the “essential nexus” test from *Nollan* and the “rough proportionality” test from *Dolan* to “ad hoc’ conditions. The Court did not apply the *Nollan* and *Dolan* tests to the conditions that were “legislatively enacted.” In other words, local officials face greater scrutiny when they impose conditions on a project-by-project basis.

However, in an April 2024 ruling in *Sheetz v. El Dorado County*, the U.S. Supreme Court ruled that exactions imposed legislatively are also subject to the *Nollan/Dolan* tests. This means that the court ruled that legislatively enacted conditions must also have an “essential nexus” between

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[2] IBID.

the proposed project's impact and the associated exactions, and be "roughly proportional" to the impact.

***Fee Transparency*:** In response to a 2019 Terner Center for Housing Innovation report that studied fee transparency, among other issues, AB 1483 (Grayson), Chapter 662, Statutes of 2019, required cities, counties, and special districts to post specified housing related information on their websites. This information included the following:

1) A current schedule of fees, exactions, and affordability requirements imposed by the city, county, or special district, including any dependent special districts, of the city or county applicable to a proposed housing development project, which must be presented in a manner that clearly identifies the fees, exactions, and affordability requirements that apply to each parcel.

2) All zoning ordinances and development standards, which must specify the zoning, design, and development standards that apply to each parcel.

3) A list that cities and counties must develop under existing law of projects located within military use airspace or a low-level flight path.

4) Specified annual fee reports or specified annual financial reports.

5) An archive of impact fee nexus studies, cost of service studies, or equivalent, conducted by the city, county, or special district on or after January 1, 2018.

Since the passage of AB 1483, the information required to be posted on a local agency's website has changed. SB 1473 (Senate Committee on Governance and Finance), Chapter 371, Statutes of 2020, required local agencies to separately post their schedule for connection fees and capacity charges, without being tied to specific parcels, and made technical fixes to ensure that special districts were properly accounted for by AB 1483. Additionally, AB 602 (Grayson), Chapter 347, Statutes of 2021, required local agencies, among other things, to do the following:

1) Post a written fee schedule or a link directly to the written fee schedule on its internet website.

2) Request from a development proponent, upon issuance of a certificate of occupancy or the final inspection, whichever occurs last, the total amount of fees and exactions associated with the project for which the certificate was issued. The city or county must post this information on its website, and update it at least twice per year. A city or county is not responsible for the accuracy of the information received by the development proponent.

***Impact Fee Audit Requirements*:** Any person may request an independent audit of how impact fees have been collected and spent, including an assessment of whether the fees exceed the amount reasonably necessary to cover the costs of the stated projects or services. If a person makes that request, the local agency must retain an independent auditor to conduct the audit, provided that an audit has not been performed for the same fee within the previous 12 months and the requestor deposits the estimated cost for the audit with the local agency. A local agency must adjust its fees if the audit finds that the fees are set too high.

In response to reports of some local agencies not filing the annual impact fee reports in a timely fashion, the Legislature enacted SB 1202 (Stone) Chapter 357, Statutes of 2018, which required local agencies that do not complete their impact fee annual reports for three consecutive years to pay the costs of any requested audits.

This bill would require local agencies to post on their internet websites specified information they must already track and make available to the public pursuant to the Mitigation Fee Act. Making it a requirement for local governments to include this information on their website would help to increase transparency and clarity at the local level regarding the use of development impact fees, to ensure that the fees collected are used promptly, effectively, and appropriately.

Arguments in Support: None on file.

Arguments in Opposition: None on file.

Double Referred: This bill is double referred. It was heard in the Assembly Committee on Local Government and passed on a vote of 9-0 on April 17, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
AJR 14 (Ward) – As Introduced April 1, 2024

SUBJECT: Federal homelessness funding

SUMMARY: Requests that the United States Secretary of Housing and Urban Development (HUD) revisit the formula used to allocate federal homelessness dollars to local continuums of care (CoCs) and housing authorities to more equitably support communities with the highest rates of homelessness.

EXISTING FEDERAL LAW, Section 427 of the federal McKinney-Vento Homeless Assistance Act, as amended by the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009, directs the Secretary of HUD to establish, by regulation, a funding formula based upon specified factors that are appropriate to allocate funds to meet the goals and objectives of the CoC Program.

FISCAL EFFECT: None.

COMMENTS:

Author's Statement: According to the author, "The Continuum of Care (CoC) program is the core federal funding stream to aid communities' ability to address homeless. Unfortunately, the CoC formula was last updated in 1977 and is extremely outdated. A March 2013 report found that San Diego had the third-highest homeless population in the country, but received the 18th highest level of federal homelessness funding. This funding disparity hurts the San Diego region's homeless assistance providers, who do an excellent job providing services to those in need of aid. However, they are limited in what they can do with the funding allocated by the current CoC formula. AJR 14 respectfully requests that the United States Secretary of Housing and Urban Development revisit the formula used to allocate federal homelessness dollars to local continuums of care and housing authorities to more equitably support communities with the highest rates of homelessness."

California's Housing Crisis: California is in the midst of a severe housing crisis. Over two-thirds of low-income renters are paying more than 30% of their income toward housing, a "rent burden" that means they have to sacrifice other essentials such as food, transportation, and health care.[1] In 2023, over 181,000 Californians experienced homelessness on a given night, with a sharp increase in the number of people who became homeless for the first time.[2] The crisis is driven in large part by the lack of affordable rental housing for lower income people. According to the California Housing Partnership's (CHP) Housing Need Dashboard, in the current market, nearly 2 million extremely low-income and very low-income renter households are competing for roughly 687,000 available and affordable rental units in the state. Over three-quarters of the state's extremely low-income households and over half of the state's very low-income households are severely rent burdened, paying more than 50% of their income toward rent each

[1] https://chpc.net/housingneeds/
[2] https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html

month. CHP estimates that the state needs an additional 1.2 million housing units affordable to very low-income Californians to eliminate the shortfall.[3] By contrast, production in the past decade has been under 100,000 housing units per year – including less than 10,000 units of affordable housing per year.[4]

Background: HUD's Continuum of Care Program is the core federal funding stream to aid communities in addressing homelessness through a coordinated community-based process of identifying needs and building a system of housing and services to address those needs. Section 427 of the federal McKinney-Vento Homeless Assistance Act, as amended by the HEARTH Act of 2009, directs the Secretary of HUD to establish a funding formula based upon specified factors that are appropriate to allocate funds to meet the goals and objectives of the program.

Since 2012, the CoC funding formula has been based on the higher of a pro rata need formula for awarding Emergency Solutions Grants and Community Development Block Grants (CDBG), or a performance baseline Annual Renewal Demand amount, to ensure that no community receives less funding than in the prior year. The CDBG formula, last updated in 1977, may not be an appropriate basis for this formula because it utilizes urban blight, as reflected in the age of housing stock, and population growth lag factors to allocate funds, which may measure community development needs generally, but are not specifically tailored to measure homelessness in communities.

Though most communities now receive their Annual Renewal Demand amount as it is higher than their pro rata need formula amount, this original imbalance has led, over time, to a mismatch between the amount of people experiencing homelessness in California communities and the amount of funding awarded via the CoC formula.

The Obama Administration reopened public comment on the CoC funding formula in 2016 and proposed for comment several alternative formulas with better attention to factors that have a clearer empirical link to rates of homelessness in communities than the existing formula. Regrettably, the Obama Administration did not finalize a rule before departing office, leaving some communities in California with insufficient CoC funding relative to their populations experiencing homelessness.

Modifications to the funding formula would be most helpful if coupled with significant increases to funding for the program, in particular given significant increases in costs due to inflation and the growing recognition of the importance of increasing pay and job quality for workers in the homelessness services sector. In addition, the 2023 Point-in-Time Count showed an increase in homelessness nationwide, and a 6% increase in homelessness counts in California.

The Biden Administration has an opportunity to revisit this issue and this resolution urges them to consider reopening the CoC funding formula rulemaking to address the needs of communities on the front lines of the homelessness crisis, as was recently proposed by HUD in the fall of 2023. This resolution also urges Congress to significantly increase funding for the program, given the continued growth in homelessness across California and across the nation.

Arguments in Support: None on file.

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[3] https://chpc.net/housingneeds/
[4] https://www.hcd.ca.gov/policy-research/housing-challenges.shtml

Arguments in Opposition: None on file.

Related Legislation:

AJR 9 (McKinnor) would request the Congress of the United States to pass, and the President to sign, the Housing Crisis Response Act of 2023 (H.R. 4233), the Ending Homelessness Act of 2023 (H.R. 4232), and the Downpayment Toward Equity Act of 2023 (H.R. 4231). This resolution passed this committee on a vote of 6-1 and is currently pending in the Senate Housing Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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