

Date of Hearing: August 30, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Christopher M. Ward, Chair

AB 598 (Wicks) – As Amended June 10, 2024

SUBJECT: San Francisco Bay Area Regional Housing Finance Act: regional and county expenditure plans

SUMMARY: Makes several changes to the Bay Area Housing Finance Authority (BAHFA). Specifically, **this bill:**

- 1) Provides that the regional expenditure plan created by BAHFA shall not render projects ineligible for funding based on the presence or absence of any city or county land use or housing policies.
- 2) Allows BAHFA to impose project-specific conditions to prioritize projects for funding.
- 3) Prohibits BAHFA from imposing any other conditions for a local expenditure plan, beyond what is currently required to deem a plan complete.
- 4) Allows BAHFA to enter into an agreement with a county or city that receives an allocation of county housing revenue to ensure that BAHFA or the city or county take the actions necessary or incidental to implementing the county plan.

EXISTING LAW:

- 1) Establishes BAHFA, and specifies:
 - a) Its jurisdiction includes the nine Bay Area counties;
 - b) Its governance structure, including that it is governed by the same board that governs the Metropolitan Transportation Commission, and any effort to collect revenues or plans to expend them must be approved by the Executive Committee of the Association of Bay Area Governments;
 - c) Its powers, including that:
 - i) It may place a measure on the ballot to raise revenue and allocate funds throughout the San Francisco Bay area;
 - ii) It may allocate and deploy revenues to the cities, counties, other public agencies within the San Francisco Bay area, and private affordable housing developers to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs;
 - iii) It may incur and issue bonds and other indebtedness; and
 - iv) Its powers include any other implied powers necessary to carry out the intent and purposes of the law.

- d) That the requirements for the language in a ballot measure include an expenditure plan prepared by BAHFA, which must include a description of any specific projects planned to be funded.
 - e) The mechanisms by which it may raise revenues, including:
 - i) Special taxes, subject to voter approval;
 - ii) A parcel tax;
 - iii) A gross receipts business license tax;
 - iv) A special business tax; and
 - v) A commercial linkage fee.
 - f) The allocation of resources, including that:
 - i) At least 80 percent of the revenue must return to the county of origin, except for a commercial linkage fee, in which 50 percent would return to the county of origin;
 - ii) A minimum of 52 percent of the revenues must be for production of affordable housing;
 - iii) A minimum of 15 percent of the revenues must be for preservation of affordable housing;
 - iv) A minimum of 5 percent of the revenues must be for tenant protection programs for low- and moderate-income households; and
 - v) For money that is not returned to the counties and is retained by BAHFA, a maximum of 10 percent of the revenues must be used for a grant program for local governments to support technical assistance, infrastructure needs, and homeownership (Government Code (GC) 64650).
- 2) Specifies the following requirements for the BAHFA expenditure plan:
- a) Requires a minimum of 2/3 of funding dedicated to the production and preservation of affordable housing and a minimum of 5% for tenant protection programs for low- and moderate-income households; and a minimum of 10% for a grant program for other specified activities;
 - b) Requires the executive board and the authority to, in consultation with the advisory committee, adopt a regional expenditure plan for the uses of housing revenue by July 1 of each year. The expenditure plan shall set forth: (a) the share of revenue and estimated funding amount to be spent in each of the authorized categories, (b) indicate the household income levels to be served within each category of expenditures, and (c) estimate the number of affordable housing units to be built or preserved and the number of tenants to be protected;

- c) Requires, to the extent feasible, the expenditure plan to include a description of projects to be funded, location, amount of funding, and anticipated outcomes. Beginning in year two, the authority shall include a report in the regional expenditure plan that provides the allocations and expenditures of projects and projects funded;
- d) Requires the regional housing plan to contain specified information for any specific project that has received an allocation of regional housing revenue during the prior year, including whether the project proponent has requested or been eligible to receive a building permit and whether the project proponent has obtained approval or certification that the development is habitable; and
- e) Requires each county to adopt an expenditure plan applicable to county housing revenue that specifies the proposed allocation of funds and demonstrates how the funds will meet the minimum allocations identified, as specified. (GC 64650).

FISCAL EFFECT: None.

COMMENTS:

Author's statement: According to the author, "BAHFA has the potential to be a game-changer for the production of affordable housing in the Bay Area. This bill helps ensure there is alignment among stakeholders by clarifying provisions of the law to ensure that BAHFA does not overstep its bounds and require local land use and housing policies."

BAHFA: In 2019, following a robust regional collaborative effort, the legislature passed and the governor signed AB 1487 (Chiu, Chapter 598, Statutes of 2019) which established BAHFA throughout the San Francisco Bay Area and set forth the governing structure and powers of the board, allowable financing activities, and allowable uses of the revenues generated. Its purpose was to raise, administer, and allocate funding and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production. That bill established Metropolitan Transportation Commission (MTC) as the board of the authority, and Association of Bay Area Governments Bay (ABAG) as the executive board, making ABAG the lead agency.

Since the passage of AB 1487, BAHFA has hired an executive director and staff, and completed a draft Business Plan and Equity Framework. In 2020, BAHFA received \$20 million from the state budget to help pilot large-scale approaches to address regional housing challenges, including a region-wide online portal designed to simplify the process of finding and applying for an affordable unit. More recently, BAHFA voted to place a \$20 billion bond on the November 2024 ballot, the purpose of which is to fulfill its mission of delivering housing affordability at scale. BAHFA voted to not move forward with the bond for the November 2024 ballot.

According to the author, BAHFA convened a variety of stakeholders to develop its Expenditure Plan. Members of the business community expressed concern about regional bond funds being conditioned on localities adopting certain land use or housing policies that they believe impede housing development. While BAHFA does not believe it has authority to condition funding in this manner, the concerns remain. This bill is intended to make it clear that BAHFA may not

condition a project's eligibility for the regional funds based on a jurisdiction's land use or housing policies. It also prohibits BAHFA from imposing conditions on localities' expenditure plans.

Arguments in support: According to the sponsor, MTC and ABAG this bill responds to issues raised by the business community during the stakeholder outreach process for BAHFA's Expenditure Plan. "Members of the business community expressed concern that BAHFA might, at some point, limit eligibility for its 20 percent to projects located in jurisdictions that have adopted specific land use or housing policies. While placing such a requirement on individual projects would run counter to BAHFA's goal of building affordable homes throughout the Bay Area, it is not prohibited by statute. The business community also requested BAHFA refrain from conditioning local funds on a requirement for the locality to adopt specific land use or housing policies. We believe state law implicitly prohibits BAHFA from attaching conditions beyond those specified in the Government Code but agreed to seek legislation to clarify this point as well as BAHFA's intent for allocating its 20 percent."

Arguments in opposition: None on file.

Related legislation:

AB 1487 (Chiu, Chapter 598, Statutes of 2019): This bill established BAHFA throughout the San Francisco Bay Area and sets forth the governing structure and powers of the BAHFA Board, allowable financing activities, and allowable expenditures of the revenues generated.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Bay Area Governments (Sponsor)
 Metropolitan Transportation Commission (Sponsor)
 All Home
 Association of Bay Area Government
 Bay Area Council
 Building Industry Association of The Bay Area
 CFT- A Union of Educators & Classified Professionals, AFT, AFL-CIO
 Community Action Marin
 Enterprise Community Partners, INC.
 Generation Housing
 LISC Bay Area
 Non-profit Housing Association of Northern California
 Resources for Community Development

Opposition

None on file.

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