Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Matt Haney, Chair
AB 1021 (Wicks) – As Introduced February 20, 2025

SUBJECT: Housing: local educational agencies

SUMMARY: Makes changes to AB 2295 (Bloom), Chapter 652, Statutes of 2022, which authorized a housing development project as an allowable use on any real property owned by a local educational agency (LEA), as specified, and adds housing on LEA property to an existing exemption in the California Environmental Quality Act (CEQA). Specifically, **this bill**:

1) Clarifies that the governing board of a school district may elect not to appoint a school district advisory committee if the sale, lease, or rental of excess real property is to be used for teacher or school district employee utilizing AB 2295 (Bloom).

2) Makes the following changes to AB 2295:

   a) Provides that the calculation for the number of affordable units is the "total" number of units of the development. "Total" unit is defined as excluding a unit added by a density bonus awarded pursuant to state law or any local law granting a greater density bonus and including a unit designated to satisfy an inclusionary zoning requirement of a city, county, or city and county;

   b) Clarifies that units in a housing development on a property owned by an LEA must be prioritized in the following order: for LEA employees, employees of other LEAs, employees of local agencies in the jurisdiction of the LEA, and the general public;

   c) Increases the density allowed on a housing development on a LEA-owned property from the density required by Housing Element Law to two times the density allowed by Housing Element Law;

   d) Deletes the requirement that developments are on infill sites;

   e) Increases the height allowed for sites to 65 feet on sites that are not in single-family zoning and are within one-half mile of a major transit stop;

   f) Narrows the local objective zoning standards, objective subdivisions standards, and objective design review standards to those that apply for the closest zone in the city, county, or city and county that allows multifamily residential use at the residential density proposed by the project;

   g) Provides that if no zone exists that allows the residential density proposed by the project, objective zoning standards, objective subdivisions standards, and objective design review standards shall be those for the zone that allow the greatest density within the city, county or city and county;

h) Provide that housing developments on LEA sites are eligible for a density bonus, incentives or concessions, waivers or reductions of development standards and parking rations under Density Bonus Law;

i) Changes the definition of "affordable rent" to use rent limits set by the California Tax Credit Allocation Committee instead of rents established in the Health and Safety Code;

j) Adds a definition of "housing development" based on the definition in the Housing Accountability Act; and

k) Requires a local government's review of a housing development on a LEA site to determine if it complies with objective development standards to be consistent with the procedural requirements of the HAA.

3) Add housing on LEA property that meets the requirements of this bill to an existing California Environmental Quality Act (CEQA) exemption, except that developments would not need to be funded by low income housing tax credits (LIHTC) to qualify.

EXISTING LAW:

1) Allows the governing board of a school district to elect not to appoint a school district advisory committee in any of the following circumstances:

   a) A lease or rental of excess real property to a to a private educational institution for the purposes of offering summer school in a facility;

   b) A sale, lease, or rental of excess real property to be used for teacher or school district employee housing; and

   c) Until July 1, 2024 the sale or lease of surplus real property that has not previously operated or was not constructed to be operated as an early childhood education facility or a school for elementary and secondary instruction. (Education Code Section 17391)

2) Provides that a housing development project shall be deemed an allowable use on any property owned by a LEA if the housing development satisfies all of the following:

   a) The housing development consists of at least 10 units;

   b) A majority of the units of the housing development shall be set at an affordable rent to lower income or moderate income households; however, 30% of the units must be affordable to lower income households. The housing development shall have a recorded deed restriction of at least 55 years.

   c) One-hundred percent of the housing shall be rented to LEA employees, local public employees, and general members of the public pursuant the following priorities:

      i) The LEA's employees;

      ii) Employees of other LEAs;

iii) Public employees who work for a local agency within the jurisdiction of the LEA;

iv) Members of the general public; and

v) The LEA offers units that become unoccupied or available for rent to the LEA's employees first.

d) The residential density for the housing development as measured on the development footprint shall be the greater of the following:

i) The residential density allowed on the parcel by the city or county, as applicable; or

ii) The applicable density required to accommodate housing for lower income households as specified in Housing Element Law.

e) The height limit for the housing development shall be the greater of the height limit allowed on the parcel by the city or county or 35 feet.

f) The property is next to a property that permits residential uses as a principally permitted use;

g) The property is located on an infill site in an urban area and meets either of the following criteria:

i) The site has not been previously developed for urban uses and both of the following apply:

I) The site is immediately adjacent to parcels that are developed with qualified urban uses or at least 75% of the perimeter of the site adjoins parcels that are developed with qualified urban uses, and the remaining 25% of the site adjoins parcels that have been previously been developed for qualified urban uses; and

II) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.

ii) The site has been previously qualified for urban uses.

h) The housing development shall satisfy other local objective zoning standards, objective subdivision standards, and objective design review standards that do not preclude the housing development from achieving the allowable density and height.

i) The property is located entirely within any applicable urban limit line or urban growth boundary established by local ordinance.

j) The LEA maintains ownership of a housing development for the length of the 55-year affordability requirements.

k) Includes the following definitions:

i) "Affordable rent" has the same meaning as in Section 50053 of the Health and Safety Code.

ii) "Development footprint" means the portion of the property that is developed for the housing development, inclusive of parking and roadways developed internal to the site to serve the housing development, and other aboveground improvements developed to serve the housing development.

iii) "Local agency" means a city, county, city and county, charter city, charter county, charter city and county, special district, or any combination thereof.

iv) "Local educational agency" means a school district or county office of education.

v) "Local educational agency employee" has the same meaning as "teacher or school district employee," as defined in subdivision (c) of Section 53572 of the Health and Safety Code.

vi) "Local public employee" has the same meaning as defined in subdivision (b) of Section 53572 of the Health and Safety Code.

vii) "Lower income households" has the same meaning as in Section 50079.5 of the Health and Safety Code.

viii) "Moderate-income households" has the same meaning as in Section 50093 of the Health and Safety Code.

ix) "Real property owned by a local educational agency" means real property owned by a local education agency as of January 1, 2023. (Government Code (GOV) Section 65914.7)

3) Defines "housing development project" to means a use consisting of any of the following:

a) Residential units only.

b) Mixed-use developments consisting of residential and nonresidential uses that meet any of the following conditions:

i) At least two-thirds of the new or converted square footage is designated for residential use; or

ii) At least 50% of the new or converted square footage is designated for residential use and the project meets both of the following:

I) The project includes at least 500 net new residential units; and

II) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

iii) At least 50% of the net new or converted square footage is designated for residential use and the project meets all of the following:

I) The project includes at least 500 net new residential units;

II) The project involves the demolition or conversion of at least 100,000 square feet of nonresidential use;

III) The project demolishes at least 50% of the existing nonresidential uses on the site; and

IV) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

c) Transitional housing or supportive housing.

d) Farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code. (GOV 65589.5)

4) Exempts from CEQA a public agency's entitlement, lease, conveyance, purchase, financial assistance or encumbrance for an affordable housing project. It further exempts any action to facilitate those actions and exempts rezoning, specific plan amendments, or general plan amendments required for constructing of an affordable housing project. This exemption sunsets January 1, 2033. Defines "affordable housing project" as a project with 100% lower income households and that meets specified labor provisions. (Public Resources Code Section 21080.40)

5) Exempts a property belonging to the state, a county, a city, a school district, a community college district or any combination thereof, that is used to provide rental housing for employees of one or more public school district or community college from paying property taxes and any interest, including possessory interest. (Revenue and Taxation Code Section 202)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "Our state's affordable housing crisis has a negative effect on so many aspects of our society – including the ability for our local education agencies (LEAs) to attract and retain qualified employees. AB 1021 addresses this issue head-on, by making it easier for LEAs to facilitate housing for their workforce on their property. The fact that 30% of this housing must be affordable to lower income households means that this bill serves the needs of those LEA employees that need the housing the most."

***Teacher Housing Act of 2016*:** In 2016, SB 1413 (Leno), Chapter 732, established the Teacher Housing Act of 2016 (the Act) to facilitate the acquisition, construction, rehabilitation, and preservation of affordable housing for teachers and school district employees. That Act authorized school districts to establish and implement programs that address the housing needs

of teachers and school district employees by leveraging funding sources, including state, federal, and local public, private and nonprofit resources available to housing developers, promoting public and private partnerships, and fostering innovative financing opportunities. The Act also created a state policy supporting the use of federal and state LIHTC to fund housing for teachers and school district employees on land owned by the school district and permitted school districts to restrict occupancy to teachers and school district employees.

Generally, under federal IRS rules, if a residential unit is provided for only a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for federal LIHTC. However, federal IRS law also states that a qualified LIHTC project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants (1) with special needs, (2) who are members of a specified group under a federal program or a state program or policy that supports housing for such a specified group, or (3) who are involved in artistic or literary activities.

The Act provided express state statutory authority to permit school districts to construct housing on their property and limit the occupancy to teachers and school districts employees. As mentioned above, federal law creates an exemption to the "general use" requirement that allows the use of federal and state tax credits if a state establishes a policy or program that supports housing for such a specified group. The Act established this policy by allowing school districts to restrict occupancy of affordable housing on school district land constructed with federal or state low income housing tax credits to the district's teachers and school employees.

Housing on School District Land: There are over 1,000 LEAs in California. Collectively, they own more than 150,000 acres of land. According to recent research, of land owned by LEAs, there are 7,068 properties with potentially developable land of one acre or more, totaling 75,000 acres statewide. At a modest density of 30 dwelling units per acre, such properties could contain 2.3 million units of housing – more than enough to house the state's 300,000 teachers and 350,000 other LEA employees.

LEAs who want to build housing for their employees face barriers, including that the land is not zoned for housing. To build housing, a LEA would need to get the site rezoned by a local government which would take time and could face community opposition. AB 2295 (Bloom), Chapter 652, Statutes of 2022 made housing a permissible use on LEA properties with an allowable height of 35 feet, if the housing project provided some affordable housing and prioritized housing units for school employees. To qualify, a development would need to make a majority of the units affordable to moderate-income households (those making less than 120% of the area median income), including that at least 30% would need to be affordable to lower income households (those making less than 80% of the area median income). Priority for housing would go to district employees. However, should there not be enough LEA employees to fill the units, projects would be subject to a sequence where they could fill the units with employees of adjacent LEAs, and if there is still space then other public employees in that jurisdiction, and if there is still space after that, to members of the general public.

While housing would become a permissible use, the project still needs to go through the local government's entitlement process. The local government can apply its own zoning and design review standards, as long as they do not preclude the project from being three stories or 35 feet in height and allow a density that accommodates at least 30 units per acre in urban areas, 20 units per acre in suburban areas, and 10 units per acre in rural areas.

This bill makes changes to AB 2295 (Bloom) to improve its workability. Housing developments would no longer be required to be on infill sites; the allowable density would be doubled from at least 30 units to 60 units per acre in urban areas, 20 units to 40 units per acre in suburban areas, and 10 units to 20 units per acre in rural areas; and the bill would add housing developments that meet the requirements of this bill to an existing CEQA exemption for affordable housing. The allowable height could go to 65 feet on sites that are not surrounded by single-family sites and are within one-half mile of a major transit stop. The objective standards a city could apply to a project would be the same as the closest zone.

CEQA Exemption: Housing developments are generally required to go through CEQA review. The Legislature has created exemptions to CEQA for housing on infill sites with a percentage of affordable housing. Housing developments can also bypass CEQA using various streamlined, by right processes created by the Legislature if a development has a percentage of affordable housing, is not on an environmentally sensitive site, and meets specified labor standards. AB 1449 (Alvarez), Chapter 761, Statutes of 2023 created a new CEQA exemption for 100% affordable housing projects funded by LIHTC, if 75% of the perimeter of the project site adjoins parcels that are developed with urban uses, and the project meets the labor standards required by AB 2011 (Wicks), Chapter 647, Statutes of 2022 – pay prevailing wage, provide health care to workers, and follow enforcement requirements.

This bill would add housing developments on LEA sites using the re-zoning option in this bill to this CEQA exemption. To qualify, a development would need to meet all of the standards of the exemption, except that the affordability level required would be 30% of the total units rather than 100% and the development would not need to be funded using LIHTC.

Property Tax Exemption: Section One of Article XIII of the California Constitution provides that all property is taxable unless explicitly exempted by the Constitution or federal law, which include properties either owned by LEAs or used by nonprofit organizations for educational purposes. The Legislature has provided a statutory exemption for both property taxes and possessory interest on school district properties. To be exempt, the property must be exclusively used for education purposes. Courts have generally interpreted this requirement to include any facilities which are reasonably necessary to fulfil the function of the educational institution. AB 1157 (Mullin), Chapter 717, Statutes of 2017 clarified this exemption to allow rental housing belonging to a school district or community college district to access the welfare exemption if employees of one district are living in housing owned by another. Housing that is deed-restricted and affordable to households making 80% of the area median income (AMI) also receives a welfare exemption from property taxes.

This bill would add properties developed on school district property using the zoning provisions of this bill to the existing exemption for rental housing belonging to school districts. This exemption would apply to employees of the school district developing the property and employees of another school district. It is unclear if this exemption also applies to employees for a local agency or members of the public if those units do not also qualify for the exemption for lower-income units. This could create a challenge for both school districts and renters – if the local assessor does not apply the exemption to this class of renters, they could be charged possessory interest on the unit.

Arguments in Support: According to the sponsors of this bill, "AB 1021 makes targeted policy reforms to ensure that the LEAs struggling to provide infill housing for educators and students

can succeed—and the completed projects to date prove they will indeed make a difference. Addressing the issue of housing affordability takes on particular importance when viewed through an equity lens. More than one-third of all public school employees who rent are housing-cost burdened, which disproportionately impacts students of color. Thus, these disparities have negative implications for addressing equity gaps among student outcomes, given evidence that students of color, and especially Black and Latino students, are impacted disproportionately by the lack of access to credentialed and highly qualified teachers."

Arguments in Opposition: None on file.

Committee Amendments: To align the height allowed for housing authorized by this bill more closely with the surrounding housing, the committee may wish to consider amending the bill as follows:

Delete the following:

> ~~Thirty-five feet, or for sites that are not surrounded by single-family zoning and that are within one-half mile of a major transit stop, as defined in Section 21072 subdivision (b) of Section 21155 of the Public Resources Code. Code, 65 feet~~.

Add the following:

> *For sites not in a metropolitan jurisdiction, as determined pursuant to subdivisions (d) and (e) of Section 65583.2, 45 feet.*
>
> *For sites in a metropolitan jurisdiction as determined pursuant to subdivisions (d) and (e) of Section 65583.2, that are not surrounded by single family zoning, and are within one-half mile of a major transit stop as defined in subsection b) of Section 21155 of the Public Resources Code, 65 feet.*

***Related Legislation*:**

AB 2295 (Bloom), Chapter 652, Statutes of 2022: Authorized a housing development project as an allowable use on any real property owned by a local educational agency (LEA), as specified.

Double-referred: This bill was also referred to the Assembly Committee on Local Government, where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California School Boards Association (Co-Sponsor)
City LAB-UCLA; TRIO Plus (Co-Sponsor)
Black Educator Advocates Network (BEAN)
California School Employees Association
End Poverty in California (EPIC)
Greenbelt Alliance
Kingmakers of Oakland
LeadingAge California

Oakland Fund for Public Innovation (OFPI)
Watts of Power Foundation

Opposition

None on file.

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