

Date of Hearing: May 20, 2020

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2553 (Ting) – As Amended May 12, 2020

**SUBJECT:** Shelter crisis declarations

**SUMMARY:** Expands the authority that is limited to specified cities and counties to develop emergency housing, upon the declaration of a shelter crisis in a city, county, or city and county. Extends these provisions until January 1, 2026. Specifically, **this bill:**

- 1) Allows all cities and counties, rather than a limited number, to declare a shelter crisis pursuant to the provisions of Government Code Section 8698.4.
- 2) Requires, on or before July 1, 2021, any newly authorized jurisdiction to develop a plan to address the shelter crisis, including, but not limited to, the development of homeless shelters and permanent supportive housing, as well as onsite supportive services, and a plan to transition residents from homeless shelters to permanent housing. Provides that the locality shall make the plan publicly available.
- 3) Adds “bed capacity” to the list of required information that a jurisdiction that has declared a shelter crisis must report to specified legislative committees on January 1 of each year.
- 4) Makes technical changes to clarify the dates for required initial shelter plans and annual reports for jurisdictions already permitted to use the provisions of Government Code Section 8698.4.
- 5) Extends from January 1, 2023 to January 1, 2026 the sunset date on the statute governing the authority granted to local governments to declare a shelter crisis and suspend any housing, health, habitability, planning and zoning, or safety standards, procedures, or laws for homeless shelters, provided that the locality has adopted health and safety standards and procedures for homeless shelters consistent with ensuring minimal public health and safety and those standards are complied with.

**EXISTING LAW:**

- 1) Provides that upon a declaration of a shelter crisis by an eligible jurisdiction, the following shall apply:
  - a) Emergency housing may include homeless shelters for people experiencing homelessness located or constructed on any land owned or leased by the locality, including land acquired with low- and moderate-income housing funds. (Government Code Section 8698.4(a)(1))
  - b) The locality, in lieu of compliance with local building approval procedures or state housing, health, habitability, planning and zoning, or safety standards, procedures, and laws, may adopt by ordinance reasonable local standards and procedures for the design, site development, and operation of homeless shelters and the structures and facilities therein, to the extent that it is determined at the time of adoption that strict

- compliance with state and local standards or laws in existence at the time of that adoption would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis.
- c) Requires the Department of Housing and Community Development (HCD) to review and approve the draft ordinance to ensure it addresses minimum health and safety standards. These findings shall be provided to the Senate Housing Committee and the Assembly Housing and Community Development Committee within 90 days of receiving the draft ordinance. (Government Code Section 8698.4(a)(2)(A)(i))
  - d) Suspends, during the shelter crisis, any housing, health, habitability, planning and zoning, or safety standards, procedures, or laws for homeless shelters, provided that the locality has adopted health and safety standards and procedures for homeless shelters consistent with ensuring minimal public health and safety and those standards are complied with.
  - e) Specifies that during the shelter crisis, the local and state law requirements that homeless shelters be consistent with the local land use plans, including the general plan, shall be suspended. (Government Code Section 8698.4(a)(2)(A)(ii))
- 2) Suspends landlord tenant laws providing a cause of action for habitability or tenantability, provided that the locality has adopted health and safety standards for homeless shelters and those standards are complied with. (Government Code Section 8698.4(a)(2)(A)(i))
  - 3) Exempts homeless shelters constructed or allowed under this chapter from the Special Occupancy Parks Act, the Mobilehome Parks Act, and the Mobilehome Residency Law. (Government Code Section 8698.4(a)(3))
  - 4) Provides that the California Environmental Quality Act shall not apply to actions taken by a state agency or a city, county, or city and county, to lease, convey, or encumber land owned by a city, county, or city and county, or to facilitate the lease, conveyance, or encumbrance of land owned by the local government for, or to provide financial assistance to, a specified homeless shelter. (Government Code Section 8698.4(a)(4))
  - 5) Requires a locality, on or before January 1 of the year following their authorization, if a shelter crisis has been declared, to report all of the following data to the Senate Committee on Housing and the Assembly Committee on Housing and Community Development:
    - a) The total number of residents in homeless shelters within the locality;
    - b) The total number of residents who have moved from a homeless shelter into permanent supportive housing within the locality;
    - c) The estimated number of permanent supportive housing units;
    - d) The number of residents who have exited the system and are no longer in need of a homeless shelter or permanent supportive housing within the locality;

- e) The number of new homeless shelters built pursuant to this section within the locality; and,
  - f) New actions the locality is taking under the declared shelter crisis to better serve the homeless population and to reduce the number of people experiencing homelessness. (Government Code Section 8698.4(a)(6) *et seq.*)
- 6) Provides that this section applies only to a public facility or homeless shelters reserved entirely for the homeless. (Government Code Section 8698.4(a)(1))
- 7) Requires, on or before July 1, in the year following a jurisdiction's authorization, the locality to develop a plan to address the shelter crisis, including, but not limited to, the development of homeless shelters and permanent supportive housing, as well as onsite supportive services. The locality shall make the plan publicly available. (Government Code Section 8698.4(a)(5)(A) and (B))
- 8) Defines "homeless shelter" as a facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless that is not in existence after the declared shelter crisis. A temporary homeless shelter community may include supportive and self-sufficiency development services. (Government Code Section 8698.4(b)(1))
- 9) Defines "permanent supportive housing" as housing for people who are homeless, with no limit on length of stay, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. (Government Code Section 8698.4(b)(2))
- 6) Establishes that the jurisdictions eligible for using the shelter crisis authority are: the cities of Berkeley, Emeryville, Los Angeles, Oakland, San Diego, and San Jose; any city located within the counties of Alameda or Orange; the counties of Alameda, Orange, and Santa Clara; and the City and County of San Francisco. (Government Code Section 8698.4(c))

**FISCAL EFFECT:** Unknown

**COMMENTS:**

*Author's Statement:* According to the author, "California is facing a devastating homelessness crisis exacerbated by a lack of shelter housing. With siting, planning, and building shelters taking years, business as usual is failing. This bill expands a 2017 pilot program allowing cities and counties to fight homelessness with regulatory flexibility to expedite the construction of shelters that can link people in need with services to achieve self-sufficiency."

*Homelessness in CA:* California is facing a homelessness and affordable housing crisis. As of January 2019, there were an estimated 151,278 people experiencing homelessness in the state on a given day – a 16.4% increase from the prior year. California has 27 percent of the people in the nation experiencing homelessness and over half of all unsheltered people nationally. The homeless crisis is driven by the lack of affordable rental housing for lower income people

combined with decades of stagnating or declining incomes for low-wage workers and reduced social safety net programs.

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 percent of their income toward rent. This number is likely to increase in the wake of the current COVID-19 crisis which has already resulted in millions of Californians facing job losses and reduced hours and wages. Before the impacts of COVID-19, the National Low Income Housing Coalition estimated that the state needed an additional 1.5 million housing units affordable to very-low income Californians.

*Emergency Shelter Crisis:* In 2017, AB 932, Chapter 786, Statutes of 2017 created an option for the City of Berkeley, Emeryville, Los Angeles, Oakland, or San Diego, the County of Santa Clara, or the City and County of San Francisco to declare a shelter crisis and construct emergency housing, including emergency shelters on land owned or leased by a city, county, or city and county. If a city or county determines that local building approval procedures or state housing, health, habitability, planning, zoning, safety standards, procedures or laws would hinder, prevent or delay mitigating the emergency housing crises, the city or county can adopt an ordinance with reasonable standards for the design, development, and operation on emergency shelters.

The city or county is required to submit the ordinance to HCD for review and approval. During the shelter crisis, any housing, health, habitability, planning, and zoning or safety standards or laws are suspended for homeless shelters provided the city or county has adopted health and safety standards consistent with minimal standards. After the passage of AB 932, HCD developed building standards for emergency shelters that local government can adopt voluntarily. In 2019, AB 143, Chapter 336, Statutes of 2019 extended the sunset date to 2023 and broadened the eligible jurisdictions to also include the County of Alameda, the County of Orange, any city located within the County of Alameda, any city located within the County of Orange, and the City of San Jose.

Since this legislation has been enacted the City and County of San Francisco, the City of Berkeley, the City of Los Angeles, the County of Santa Clara, and other jurisdictions have declared shelter crises. Cities and counties that declare a shelter crisis are required to report back to the Assembly Committee on Housing and Community Development and the Senate Housing Committee, beginning January 1 of the year following the declaration of the crisis. Reports are required on January 1 of every subsequent year and must include data on the number of people experiencing homelessness, the total number of people that were moved from a homeless shelter into permanent supportive housing, the number of people who exited the shelter system and no longer need shelter or permanent supportive housing, and the actions the city or county has taken to reduce the number of people experiencing homelessness. Since declaring a shelter crisis, the City of Los Angeles reported \$75 million in new resources to address homelessness with the goal of creating 750 to 1500 new crisis and emergency beds. In addition, the city council requested assessment of 22 new sites to determine the feasibility of establishing new shelters – 109 new beds opened with an additional 170 beds under construction.

AB 2553 extends the shelter crisis authority to all local governments in the state and pushes back the sunset date of the code section from January 1, 2023 to January 1, 2026. Additionally, while existing law requires that jurisdictions that have declared a shelter crisis report back to the

Legislature by January 1 of each year on various issues include the number of new homeless shelters built under this code section, this bill also adds in “bed capacity” to the reporting requirement.

By applying the shelter crisis authority to all cities and counties in the state, this bill helps ensure that all local governments have the same tools at their disposal and, if this bill is successful, it would prevent the Legislature from continually adding in eligible jurisdictions in a piecemeal fashion.

*Committee Amendments:* The committee may wish to amend the bill to allow local governments with safe parking programs for recreational vehicles to be exempt from the Recreational Vehicle Park Occupancy Law (commencing with Section 299.20 of the Civil Code). Existing law currently provides that jurisdictions using the shelter crisis authority under this section are not subject to a number of laws regarding mobilehomes and special occupancy parks. However, an additional exemption is needed in Government Code 8698.4 to ensure that local governments providing shelter are not subject to the RV Park Occupancy Law which entitles persons living in an RV park to protections and rights. Additionally, in order ensure that individuals experiencing homelessness do not lose their vehicle, the committee should consider adding a provision concerning the disposition of any vehicle or its contents.

The committee may also wish to consider expanding the definition of “homeless shelter” to cover locations designated as safe parking lots. Finally, an amendment is proposed to add Assemblymember Berman as a joint author on AB 2553.

- Government Code Section 8698.4(a)(3) Homeless shelters constructed or allowed under this chapter shall not be subject to the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), ~~or~~ the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), *or the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 299.20) of Title 2 of Part 2 of Division 2 of the Civil Code), except that disposition of any vehicle or its contents abandoned by its owner shall be performed pursuant to Chapter 5 (commencing with Section 1980) of Title 5 of Part 4 of Division 3.*
- Government Code Section 8698.4(b)(1) “Homeless shelter” means a facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless that is not in existence after the declared shelter crisis. A temporary homeless shelter community may include supportive and self-sufficiency development services. *A parking lot owned or leased by a city, county, or city and county specifically identified as one allowed for safe parking by homeless individuals may also be considered a homeless shelter for purposes of this section.*
- Add Assemblymember Berman as a Joint Author on the bill

#### *Previous Legislation*

*AB 932, Ting, Chapter 786, Statutes of 2017.* Authorized emergency housing, upon the declaration of a shelter crisis by the City of Berkeley, Emeryville, Los Angeles, Oakland, or San

Diego, the County of Santa Clara, or the City and County of San Francisco, to include homeless shelters until January 1, 2021.

*AB 143, Quirk-Silva, Chapter 336, Statutes of 2019.* Authorized emergency housing to include emergency shelter, upon the declaration of a shelter crisis by cities in the County of Orange, the City of San Jose, and the Counties of Orange and Alameda and extended the provisions until January 1, 2023.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

City of Sacramento (Co-Sponsor)  
San Francisco Bay Area Planning and Urban Research Association (Co-Sponsor)  
All Home  
California Community Builders  
California YIMBY  
Casita Coalition  
Facebook  
Habitat for Humanity California  
Larkin street Youth Services  
Non-Profit Housing Association of Northern California  
San Francisco Foundation  
SV@HOME  
TMG Partners  
Working Partnerships USA

**Opposition**

None on file

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