

Date of Hearing: April 19, 2017

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 932 (Ting) – As Amended March 23, 2017

SUBJECT: Shelter crisis: homeless shelters and permanent supportive housing

SUMMARY: This bill would, upon a declaration of a shelter crisis by the city and county of San Francisco, authorize "emergency housing" to include homeless shelters and permanent supportive housing in San Francisco until January 1, 2027. Specifically, **this bill:**

- 1) Provides that upon a declaration of a shelter crisis by the city and county of San Francisco, the following shall apply during the shelter crisis:
 - a) Emergency housing may include homeless shelters and permanent supportive housing for the homeless located or constructed on any land owned or leased by the city or city and county, including land acquired with low- and moderate-income housing funds.
 - b) The city and county, in lieu of compliance with state and local building, housing, health, habitability, or safety standards and laws, may adopt by ordinance reasonable local standards for the design, site development, and operation of homeless shelters and permanent supportive housing 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) Provides that the Department of Housing and Community Development (HCD) shall review the city and county's draft ordinance to ensure it addresses minimum health and safety standards. HCD must provide its findings to the Senate Committee on Transportation and Housing and the Assembly Committee on Housing and Community Development within 30 calendar days of receiving the draft ordinance.
 - d) Provisions of any state or local building, housing, health, habitability, or safety standards or laws shall be suspended for homeless shelters and permanent supportive housing provided that the city and county has adopted health and safety standards for homeless shelters and permanent supportive housing consistent with ensuring minimal public health and safety and those standards are complied with.
 - e) Landlord tenant laws providing a cause of action for habitability or tenantability shall be suspended for homeless shelters and permanent supportive housing, provided that the city and county has adopted health and safety standards for homeless shelters and permanent supportive housing and those standards are complied with.
 - f) Local and state law requirements for homeless shelters and permanent supportive housing projects, to be consistent with the local land use plans, including the general plan, shall be suspended.

- g) Exempts homeless shelters and permanent supportive housing constructed or allowed under this chapter from the Special Occupancy Parks Act the Mobilehome Parks Act, or the Mobilehome Residency Law.
 - h) Exempts homeless shelters and permanent supportive housing that complies with the applicable requirements of the Americans with Disabilities Act (ADA) from actions under that law for the duration of the shelter crisis.
- 2) Requires, on or before July 1, 2019, the city and county 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 city and county shall make the plan publicly available.
- 3) Requires, on or before January 1, 2019, and annually thereafter until January 1, 2027, if the city and county has declared a shelter crisis, the city and county shall report all of the following to the Senate Committee on Transportation and Housing and the Assembly Committee on Housing and Community Development:
 - (a) The total number of residents in homeless shelters within the city and county;
 - (b) The total number of residents who have moved from a homeless shelter into permanent supportive housing within the city and county;
 - (c) The average time required for a resident to receive permanent supportive housing;
 - (d) The projected number of permanent supportive housing units;
 - (e) The number of residents who have exited the system and are no longer in need of a homeless shelter or permanent supportive housing; and
 - (f) The number of new homeless shelters and permanent supportive housing units built pursuant to this section.
- 4) Provides that this section applies only to a public facility or homeless shelters and permanent supportive housing reserved for the homeless.
- 5) Includes a sunset date of January 1, 2027.
- 6) Provides a legislative finding and declaration 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 need to address the problem of homelessness in the city and county of San Francisco.

EXISTING LAW:

- 1) Authorizes a governing body to declare a shelter crisis.
- 2) Defines “declaration of a shelter crisis” to mean the duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety.
- 3) Defines a “governing body” to include:
 - a) The Governor;
 - b) The legislative body for a city or city and county;
 - c) The board of supervisors for a county;
 - d) The governing board or board of trustees for a district or other public agency; and
 - e) An official designated by ordinance or resolution adopted by an entity referenced in b-d above.
- 4) Defines “public facility” to mean any facility of a political subdivision including parks, schools, and vacant or underutilized facilities which are owned, operated, leased, or maintained, or any combination thereof, by the political subdivision through money derived by taxation or assessment.
- 5) Defines “political subdivision” to include the state, any city, city and county, county, special district, or school district or public agency authorized by law (Govt. Code Section 8698).
- 6) Authorizes a political subdivision, upon declaration of a shelter crisis, to allow persons unable to obtain housing to occupy designated public facilities during the duration of the state of emergency (Govt. Code Section 8698.2).
- 7) Provides that during a shelter crisis a political subdivision is immune from liability for ordinary negligence in the provision of emergency housing.
- 8) Restricts the limitation of liability only to conditions, acts, or omissions directly related to, and which would not occur but for, the provision of emergency housing; and does not limit liability for grossly negligent, reckless, or intentional conduct which causes injury.
- 9) Suspends the provisions of any state or local regulatory statute, regulation, or ordinance prescribing standards of housing, health, or safety to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis (Govt. Code Section 8698.1).
- 10) Authorizes the City of San Jose to operate an emergency bridge housing community for homeless persons during a declared shelter crisis (Govt. Code Section 8698.3).

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill: According to the author,

"Like many communities across California, San Francisco is experiencing a housing affordability and homelessness crisis. According to the 2015 Homeless Point in Time Count there were approximately 6,700 people experiencing homelessness. Approximately 3,500 of these people are living unsheltered in our community.

"In May 2016, the San Francisco Board of Supervisors declared a shelter crisis in the City, yet despite this declaration, the process to open new shelters and supportive housing remains slow and complicated. Despite the significant need, San Francisco has approximately 1,600 year-round shelter beds available for adults and families experiencing homelessness.

"Through the creation of Navigation Centers, San Francisco is reforming the way emergency shelter is provided in a low-threshold approach that meets the needs of people moving directly out of encampments. Despite the demonstrated success of navigation centers and supportive housing, these centers face years of red tape just to open. To meet the needs of people in a housing crisis, San Francisco needs more flexibility to open navigation centers, shelters, and supportive housing projects quickly.

"San Francisco has seen a significant increase in calls to 311 requesting services to address homeless encampments and to access shelter. Currently, the City's shelters are full, and there are over 1,100 people on the waiting list. San Franciscans are supportive of the new navigation center model. A poll recently released by the San Francisco Chamber of Commerce showed that 90% of San Franciscans are for navigation centers for the homeless and 77% support such a center in their neighborhood. Despite this support, significant barriers exist to opening new sites.

"This legislation provides the City and County of San Francisco the flexibility to implement a local ordinance outlining reasonable local standards to protect the health and safety of people living in shelters."

Staff comment: The Shelter Crisis law allows a jurisdiction to declare a shelter crisis, and provides that upon such declaration the jurisdiction's liability for the provision of emergency housing is limited. It also provides that the jurisdiction may allow homeless persons to occupy designated public facilities for the duration of the crisis. Further, the Act suspends state and local housing, health, and safety standards for public facilities to the extent full compliance would hamper mitigation of the effects of the shelter crisis. The suspension of state and local standards applies during the shelter crisis.

Emergency housing is typically provided as shelter beds allowing for an overnight stay. AB 932 would, upon a declaration of a shelter crisis by the City and County of San Francisco, authorize "emergency housing" to include homeless shelters and permanent supportive housing in San Francisco until January 1, 2027. The bill requires San Francisco to adopt by ordinance reasonable local standards for the design, site development, and operation of homeless shelters and permanent supportive housing and the structures and facilities. HCD must review this ordinance for compliance with minimum health and safety standards, and provide its findings to the Legislature. San Francisco would be required to develop a plan to address the shelter crisis and, for every year of the declared shelter crisis, submit a progress report to the Legislature.

While expediting the development of homeless shelters and permanent supportive housing is a laudable goal, this bill would give San Francisco the discretion to temporarily suspend certain health, safety, and tenant protections for what could amount to long-term housing arrangements. Homeless shelters typically provide temporary shelter beds, but permanent supportive housing, as evidenced by the name, is intended to be long-term. The Committee may wish to consider narrowing the bill to clarify that state and local health, safety, and tenant protections still apply to permanent supportive housing throughout a shelter crisis.

Committee amendments:

The proposed Committee amendments do the following:

1. Provide that, for the design, site development, and operation of permanent supportive housing, the city and county may, in lieu of compliance with state and local building, planning and zoning standards and procedures, adopt its own building, planning, and zoning standards and procedures for the duration of a shelter crisis. HCD shall review these procedures to ensure full compliance with health and safety standards. Landlord tenant laws providing a cause of action for habitability or tenantability shall not be suspended for permanent supportive housing, nor shall the ADA, the Special Occupancy Parks Act, the Mobilehome Parks Act, or the Mobilehome Residency Law.
2. Define "homeless shelter" and "permanent supportive housing."
3. Make technical, clarifying changes.

The Committee amendments are as follows:

1. On page 3, line 2, insert:

(b)(1) "Homeless shelter" is defined as a facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless.

(2) "Permanent supportive housing" is defined 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.

2. On page 3, line 3, strike "b" and insert "c"
3. On page 3, line 4, after "habitability," insert:
planning and zoning.
4. On page 3, line 4, after "standards" insert:
, procedures,
5. On page 3, line 5, after "standards" insert
and procedures

6. On page 3, line 7, strike "and permanent supportive housing"

7. On page 3, line 22, after "habitability," insert:

planning and zoning.

8. On page 3, line 22, after "standards" insert:

, procedures.

9. On page 3, line 23, strike "'and permanent supportive housing"

10. On page 3, line 24, after "standards" insert

and procedures

11. On page 3, line 25, strike "and permanent supportive housing"

12. On page 3, line 30, strike "and permanent supportive housing"

13. On page 3, line 32, strike "and permanent supportive housing"

14. On page 3, line 34, strike "and permanent supportive housing"

15. On page 3, line 37, insert:

(3) The city and county, in lieu of compliance with state and local building, planning and zoning standards, procedures, and laws, may adopt by ordinance reasonable local building, planning and zoning standards and procedures for the design, site development, and operation of permanent supportive housing 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 building, planning and zoning standards, procedures, 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. The Department of Housing and Community Development shall review the city and county's draft ordinance to ensure it addresses health and safety standards. The department shall, as set forth in Section 9795 of the Government Code, provide its findings to the Senate Committee on Transportation and Housing and the Assembly Committee on Housing and Community Development within 30 calendar days of receiving the draft ordinance.

(4) During the shelter crisis, except as provided in this section, provisions of any state or local building, planning and zoning standards, procedures, or laws shall be suspended for permanent supportive housing provided that the city and county has adopted building, planning and zoning standards and procedures for permanent supportive housing consistent with ensuring public health and safety and those standards are complied with.

16. On page 3, line 37, strike "3" and insert "5"

17. On page 4, line 1, strike "and permanent supportive housing"

18. On page 4, line 1, strike "c" and insert "d"

19. On page 4, line 9, strike "d" and insert "e"
20. On page 4, line 9, strike "and permanent supportive housing"
21. On page 4, line 16, strike "e" and insert "f"
22. On page 4, line 21, strike "f" and insert "g"
23. On page 5, line 1, strike "g" and insert "h"

Related legislation:

AB 2176 (Campos), Chapter 691, Statutes of 2016: Authorized the City of San Jose to operate an emergency bridge housing community for homeless persons during a declared shelter crisis.

Double-referred: This bill was also referred to the Judiciary Committee where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Oakland
Eric Garcetti, Mayor, City of Los Angeles

Opposition

None received

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