Date of Hearing: May 9, 2018

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
David Chiu, Chair
AB 1768 (Steinorth) – As Introduced January 4, 2018

SUBJECT: The County of San Bernardino: housing authority: middle-income housing projects

SUMMARY: Adds a housing authority in the County of San Bernardino to the list of housing authorities allowed, but not required, to implement a pilot program to develop and finance a middle-income housing project as specified in existing law.

EXISTING LAW:

1) Requires a housing authority to rent or lease only to low-income individuals and to provide safe and sanitary accommodations to the occupants, without overcrowding.

2) Allows a housing authority to do all of the following:

   a) Prepare, carry out, acquire, lease, and operate housing projects for low-income persons.

   b) Provide for the construction, reconstruction, improvement, alteration, or development of all or part of a housing development.

   c) Provide financing for the acquisition, construction, rehabilitation, refinancing, or development of dwelling accommodations for low-income persons.

   d) Provide counseling, referral, and advisory services to persons and families that are low- or moderate-income in connection with purchasing, renting, occupying, maintaining, or repairing housing.

   e) Provide security necessary to a project and its inhabitants.

   f) Assist housing projects with financing pursuant to Health and Safety Code Section 34312.3.

3) Allows a housing authority to accept financial or other assistance from any public or private source and expend any funds received for the purposes allowed under state law, including leased housing.

4) Requires not less than 20% of the units financed by a housing authority to be available for occupancy on a priority basis to persons with an income of 80% of AMI or less.

5) Allows a housing authority in the City of San Diego or the County of Santa Clara to implement a pilot program to develop and finance middle-income housing developments, until January 1, 2022, as follows:

   a) Middle-income housing projects may receive funds from public and private sources for gap financing;

b) Prohibits the use of funds from a public source for gap financing for units that will be occupied at or above market-rate rents;

c) Requires gap financing for middle-income housing projects to be approved by a housing authority's legislative body by resolution after a public hearing;

d) Requires notice of the hearing to be noticed in a newspaper as specified;

e) Requires the resolution approving the gap financing agreement to include a finding that gap financing will provide housing for low- and middle-income persons; and

f) Requires a housing authority, on or before January 1, 2020 and on or before January 1, 2022, to report to the Legislature the following information each calendar year that the housing authority implements the pilot program:

   i) The number of units produced using gap financing;

   ii) The amount of gap financing per regulated unit; and

   iii) The levels of affordability of those units produced using gap financing.

6) Defines “middle-income housing project” to mean a housing project that includes at least 40% of the units affordable to and occupied by persons at or below 80% of area median income (AMI) and at least 10% of the units affordable to persons and families at incomes not exceeding 150% of AMI.

7) Defines “persons of low income” to mean persons and families whose income does not exceed 80% of AMI.

8) Defines “persons and families of middle income” to mean persons and families whose income does not exceed 150% of AMI.

9) Defines “gap financing” to mean a loan from a housing authority to fund the remaining cost of development of a middle-income housing project after other funds have been secured, including, but not limited to, bond funds, tax credits, conventional loans, or other private and public funds.

10) Provides that nothing in these provisions shall be construed to change a housing authority’s bond authority beyond current law.

11) Provides that a housing authority in the City of San Diego or the County of Santa Clara is not required to implement a pilot program to finance middle-income housing projects.

FISCAL EFFECT: None

COMMENTS:

<u>Background:</u> In the 1930s, the federal government authorized the creation of housing authorities to develop and manage public housing and complete urban renewal. Housing authorities are also responsible for administering Section 8 vouchers. In the late 1990s, the federal Department of Housing and Urban Development (HUD) designated a small number of housing authorities

"Moving to Work" agencies – an attempt to provide greater opportunities to create and test locally-designed strategies to increase efficiency, help residents find employment that could lead to self-sufficiency, and increase housing choices for low income families. These agencies were given exemptions from many existing public housing and voucher rules and more flexibility in the use of federal funds. After the dissolution of redevelopment agencies (RDA), many housing authorities took over the assets of the former RDAs and responsibility for monitoring those assets.

Housing authorities can issue tax-exempt revenue bonds to finance the acquisition, construction, rehabilitation, refinance, or development of multi-family rental housing. The amount of state tax-exempt bonds that can be issued in the state is capped. Bonding capacity is allocated to local agencies by the California Tax Credit Allocation Committee (TCAC). Tax-exempt bonds require that 20% of the units in a development be limited to households at 50% or less of AMI. The remaining units could be of any income, including market rate. Housing authorities cannot lend on any portion of a rental housing development with affordability levels of more than 80% of AMI. Housing authorities have explicit authority in state law to finance for-sale units up to 150% of AMI.

HUD sets income limits as a percentage of the median income for the county or metropolitan area (AMI) as follows:

1) Extremely low-income: 0-30% AMI
2) Very low-income: 31-50% AMI
3) Low-income: 51-80% AMI
4) Moderate income: 81-120% AMI
5) Above moderate income: 121% AMI and above

Last year, AB 1637 (Gloria, Chapter 801, Statutes of 2017) allowed, but did not require, a housing authority in the City of San Diego or the County of Santa Clara to develop and finance mixed-income developments where 40% of the units are restricted to persons making 80% or less of AMI. Housing authorities in this pilot program can use financial assistance from any (unrestricted) public or private source to finance the remaining units for middle income households – households with incomes that do not exceed 150% of AMI.

This bill adds a housing authority in the County of San Bernardino to the housing authorities permitted, but not required, to operate this type of pilot program. According to the Department of Housing and Community Development, the AMI in San Bernardino County in 2017 was $65,000 for a household of four.

<u>Purpose of this bill:</u> According to the author, "At no cost to the State, AB 1768 will simply expand the pilot program established last year by Chapter 801 by authorizing the County of San Bernardino, which has significantly different housing market conditions than the current pilot program regions, to develop and finance mixed-income developments, where:

- At least 40% of the units are restricted to persons of low income.
- At least 10% of the units are affordable to persons and families of middle income.

"The intent is to give incentives to developers to meet the needs of our middle-class families by building housing projects for both middle- and low-income persons in the County of San

Bernardino that are largely underserved due to the economic conditions necessary to build such housing."

Source of funding: The County of San Bernardino has indicated their intent is to use unrestricted local funds generated from rent revenues collected from the housing authority's existing portfolio of multifamily housing developed or acquired via conventional (private, non-HUD) financing, to provide construction loans (gap financing) for rental units that fall between 80% and 150% of AMI. Under existing law, housing authorities can finance projects that are mixed-income provided that 20% of the units are limited to 80% of AMI or less. Housing authorities can accept financial or other assistance from any public or private source and spend those funds for the purpose and activities allowed under state law. In addition, this pilot program is scheduled to sunset in 2022, and the housing authorities that choose to operate this program are required to submit reports to the Legislature in 2020 and 2022 on the number of units produced, the amount of financing per affordable unit, and the level of affordability of those units.

Policy considerations: This bill proposes to add the County of San Bernardino to a pilot program that was only authorized last year. Before adding other new counties to the pilot program, the Committee may wish to consider whether it would be prudent to wait for the results of the pilot programs (if any are authorized) and review the reports that must be submitted in 2020 and 2022 to evaluate the effectiveness of the program.

Related legislation:

AB 1637 (Gloria, Chapter 801, Statutes of 2017): Allowed, but did not require, a housing authority in the City of San Diego and the County of Santa Clara to develop and finance mixed-income developments where 40% of the units are restricted to persons making 80% or less of AMI.

REGISTERED SUPPORT / OPPOSITION:

Support

California Council for Affordable Housing
County of San Bernardino

Opposition

None on file

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