

Date of Hearing: September 14, 2023

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Buffy Wicks, Chair

AB 531 (Irwin) – As Amended September 11, 2023

SUBJECT: Veterans Housing and Homeless Prevention Bond Act of 2024

SUMMARY: Creates the Behavioral Health Infrastructure Bond Act of 2024 (Bond) to, subject to voter approval, authorize \$6.380 billion in general obligation (GO) bonds to finance permanent supportive housing for veterans and others, as well as voluntary, unlocked behavioral health treatment and residential settings and locked subacute and acute care for individuals experiencing homelessness or at risk of homelessness with severe behavioral health challenges. Allows for streamlined, ministerial review for capital projects funded by the bond. Specifically, **this bill:**

- 1) Authorizes \$6.380 billion, subject to voter approval, in bond funds to be expended as follows:
 - a) \$1.05 billion for loans or grants to develop supportive housing for veterans experiencing or at risk of homelessness with behavioral health challenges, administered by the Department of Housing and Community Development (HCD) and the Department of Veterans Affairs (CalVet);
 - b) \$922 million for loans or grants to develop supportive housing for people experiencing or at risk of homelessness with behavioral health challenges, administered by HCD;
 - c) \$1.5 billion to be awarded to counties, cities and tribal entities for grants for behavioral health treatment and residential settings eligible under the Behavioral Health Continuum Infrastructure Program (BHCIP), of which \$30 million is designated to tribal entities; and
 - d) \$2.893 billion for grants for behavioral health treatment and residential settings authorized under BHCIP, to be administered by the Department of Health Care Services (DHCS).
- 2) Provides that a housing project funded by bond funds for permanent supportive housing for veterans and other individuals experiencing homelessness with behavioral health challenges shall be a use by right and subject to a streamlined, ministerial review process if it meets, among other things, the following criteria:
 - a) It is located in a zone where multifamily residential use, office, retail, or parking are a principally permitted use;
 - b) It is not on a specified environmentally sensitive site;
 - c) Is not on a site or adjoined to any site where more than a third of the square footage on the site is dedicated to industrial use;
 - d) The development meets specified objective standards;

- e) The project meets specified labor standards; and
 - f) No housing units were obtained by eminent domain.
- 3) Creates a by right, streamlined approval process, not subject to a conditional use permit, discretionary permit, or any other discretionary review for the following behavioral health treatment and residential settings funded by the Bond, as follows:
 - a) Children's residential crisis programs, peer respite, children's and adult substance use disorder residential programs, recovery housing, short-term residential therapeutic programs, and social rehabilitation programs on sites zoned where residential, office, retail, or parking are a principally permitted use; and
 - b) Projects that are real estate assets, as defined under BHCIP, on zones where office, retail, or parking are a permitted use.
 - 4) Requires projects as applicable to comply with the core components of Housing First, including recovery housing, which must comply with U.S. Department of Housing and Urban Development (HUD) guidance.
 - 5) Creates the Behavioral Health Infrastructure Act Finance Committee, made up of the Controller, the Treasurer, and the Director of Finance, for purposes of authorizing the issuance and sale of bonds.

EXISTING LAW:

- 1) Authorizes the Veterans and Affordable Housing Bond Act of 2018 for the purpose of funding various housing programs; includes a \$1 billion increase in the bonding authority of the CalVet Home Loan Program. (Health and Safety Code Section 54000 et al.)
- 2) Authorizes the Veterans Housing and Homeless Prevention (VHHP) Bond Act of 2014 for the purpose of funding \$600 million in multifamily affordable, transitional, and supportive housing for low-income veteran households and veterans experiencing homelessness. (Military and Veterans Code Section 998.540 et al.)
- 3) Authorizes specified housing development projects to be a use by right on specified sites zoned for retail, office, or parking, pursuant to AB 2011. (Government Code Section 65912.100)
- 4) Creates BHCIP at DHCS to award competitive grants to qualified entities to construct, acquire, and rehabilitate real estate assets or to invest in needed mobile crisis infrastructure to expand the community continuum of behavioral health treatment resources to build new capacity or expand existing capacity for the following: short-term crisis stabilization; acute and subacute care; crisis residential; community-based mental health residential; substance use disorder residential; peer respite; mobile crisis; community and outpatient behavioral health services; and other clinically enriched longer term treatment and rehabilitation options for persons with behavioral health disorders in the least restrictive and least costly setting. (Welfare and Institutions Code (WIC) Section 5960.05)

- 5) Provides that real estate assets that receive a grant from BHCIP shall be deemed consistent and in conformity with any applicable local plan, standard, or requirement, and allowed as a permitted use within the zone in which the structure is located, and shall not be subject to a conditional use permit, discretionary permit, or to any other discretionary reviews or approvals. (WIC Section 5960.3)
- 6) Exempts from the California Environmental Quality Act (CEQA) real estate that receives a grant from BHCIP if all of the following applicable requirements are satisfied:
 - a) The project is not acquired by eminent domain;
 - b) The project applicant demonstrates that the project is, and will continue to be, licensed by and in good standing with the department or other state licensing entity at the time of, and for the duration of, occupancy;
 - c) The project is in decent, safe, and sanitary condition at the time of occupancy;
 - d) The project applicant requires all contractors and subcontractors performing work on the facility project to pay prevailing wages for any proposed rehabilitation, construction, or major alterations;
 - e) The project applicant obtains an enforceable commitment that all contractors and subcontractors performing work on the project will use a skilled and trained workforce for any proposed rehabilitation, construction, or major alterations;
 - f) The project applicant submits to the lead agency a letter of support, or other durable documentary proof for the project, from a county, city, or other local public entity for any new proposed construction, major alteration work, or rehabilitation;
 - g) The project applicant demonstrates that not less than 95% of the total cost of any new construction, facility acquisition, or rehabilitation project is paid for with public funds, private non-profit funds, or philanthropic funds;
 - h) The project applicant demonstrates that the project expands the availability of behavioral health treatment services in the subject jurisdiction;
 - i) The project applicant demonstrates that there are long-term covenants and restrictions that require the project to be used to provide behavioral health treatment for no less than 30 years, and those covenants and restrictions may not be amended or extinguished by a subsequent title holder, owner, or operator; and
 - j) The project does not result in any increase in the existing onsite development footprint of structures or improvements. (WIC Section 5960.3)

FISCAL EFFECT:

According to the Senate Appropriations Committee:

- *Bond costs:* Total principal and interest costs, in current dollars, of approximately \$7.76 billion to pay off the bonds (\$4.68 billion in principal and \$3.08 billion in interest), with

average annual debt service payments of \$259 million (General Fund), when all bonds are sold, and assuming a 30-year maturity and an interest rate of 3.63% (the rate secured by the Treasurer for new 30-year bonds at the most recent sale). If interest rates increase to 5% in the near future, annual debt service would be approximately \$304 million (General Fund) and total principal and interest costs over the repayment period would be approximately \$9.13 billion.

- *Administrative costs:* HCD and DHCS would incur significant increased staffing and operations costs to administer the allocation of grants funded by this Bond (Behavior Health Infrastructure Fund). HCD and DHCS expect to utilize up to 3% of bond proceeds to design and implement the programs funded by the measure, including program operations and long term monitoring, or up to \$140 million in total for administrative costs over time.
- *Ballot costs:* One-time Secretary of State (SOS) costs in the range of \$784,000 to \$984,000 for printing and mailing costs to place the measure on the ballot for the March 5, 2024 statewide primary election. (General Fund)
- This measure would also create significant cost pressures to maintain the facilities constructed or rehabilitated using bond funds, and to provide ongoing behavioral health services to residents of those facilities. (General Fund, local funds)

COMMENTS:

Author's Statement: According to the author, "The connection between homelessness and behavioral health challenges is significant. In response to what has truly become a behavioral health crisis, I am proud to partner with Governor Newsom and Senator Eggman in proposing a major transformation of California's behavioral health care system. The Behavioral Health Infrastructure Bond Act of 2024 would be the single largest expansion of California's behavioral health system. The Act will expand access to high quality behavioral health treatment for those with the greatest needs. Additionally, it will dedicate funding to veterans with behavioral health needs who are currently experiencing or at risk of experiencing homelessness. Voters would need to approve the Behavioral Health Infrastructure Bond Act of 2024 at the March 5, 2024 statewide primary election."

Homelessness in California: Over 173,000 individuals in California experience homelessness on any given night, based on the most recent annual point in time (PIT) count conducted in January 2022. This is largely considered an undercount of the actual number of people experiencing homelessness because it does not consider those that are couch-surfing or temporarily housed in non-traditional shelters. Of those individuals, over 115,000 are unsheltered, meaning they live on the streets, sleep in cars, camp in parks, or are otherwise staying in places not meant for human habitation. In June 2023, the University of California-San Francisco, Benioff Homelessness and Housing Initiative released a study of homelessness in the United States since the mid-1990s. The study provides a comprehensive look at the causes and consequences of homelessness in California and recommends policy changes to shape programs in response. The study found that for most of the participants, the cost of housing had simply become unsustainable. Participants reported a median monthly household income of \$960 in the six months prior to their homelessness, and most believed that either rental subsidies or one-time financial help would have prevented their homelessness. Participants of the study also had experienced multiple forms

of trauma throughout their life, increasing their vulnerability to homelessness and contributing to their mental health and substance use challenges. Two-thirds reported current mental health symptoms and more than a third experienced physical or sexual violence during this episode of homelessness. More than a third had visited an emergency department in the prior six months.

Need for Mental Health Beds and Existing DHCS Programs: According to a recent Rand study, people with mental health conditions require different levels of psychiatric beds, depending on the needs of the patient. Some need short term interventions, while others have chronic, longer-term needs. California currently has a shortage of beds for all needs; according to this study, the state needs 4,767 beds for both acute and subacute needs, and an additional 2,963 community residential beds for those with chronic needs. The report recommends that the state prioritize psychiatric bed infrastructure for those with the greatest needs, and particularly those that have the most difficulty accessing care (such as those involved in the criminal justice system).

Supportive Housing: This bond authorizes \$1.05 billion for permanent supportive housing for veterans experiencing homelessness with behavioral health challenges and \$922 million for permanent supportive housing for individuals experiencing homelessness with behavioral health challenges. The funds would be administered by HCD through the Home Key program. The funds for veterans' specific housing will be administered by HCD in consultation with CalVet. A 2023 UC Berkeley Turner Center report found that proper funding for operating and services is necessary to ensure that supportive housing tenants do not fall back into homelessness. SB 326 (Eggman), the companion bill to this bond, would dedicate 30% of future Mental Health Services Act (MHSA) funds to housing interventions, which can include operating costs for permanent supportive housing. Both AB 531 and SB 326 will be placed on the March 5, 2024 ballot should they pass the Legislature.

BHCIP: This bond would authorize \$4.33 billion for the creation of both locked and unlocked behavioral health treatment and residential settings for the purposes allowed under BHCIP. Administered by DHCS, BHCIP funds the construction, acquisition, and rehabilitation of real estate assets to expand the continuum of behavioral health treatment resources to build new capacity or expand existing capacity for short-term crisis stabilization, acute and subacute care, crisis residential, community-based mental health residential, substance use disorder residential, peer respite, community and outpatient behavioral health services, and other clinically enriched longer term treatment and rehabilitation options for persons with behavioral health disorders in the least restrictive and least costly setting. BHCIP was created in 2021 and to date has received \$2.2 billion in funding. BHCIP has a statutory CEQA exemption if a project meets specified labor standards and is licensed, and meets other specified standards.

Streamlining for Projects: To expedite the construction of housing, the Legislature has enacted several streamlined, by right processes for approving affordable housing and market rate housing with a percentage of affordable housing. These include:

- In 2017, SB 35 (Wiener), Chapter 366 created a streamlined approval process for infill projects with two or more residential units in localities that have failed to produce sufficient housing to meet regional housing allocation numbers.
- AB 2011 (Wicks), Chapter 647, Statutes of 2022 required housing development projects to be a use by right on specified sites zoned for retail, office, or parking. To qualify for by

right, a developer is required to pay prevailing wages for all construction workers on projects with 10 or more units, and with enforcement provisions. Additionally, in projects with over 50 units, all construction workers are entitled to healthcare benefits and paid prevailing wages. These larger projects also require all contactors to either participate in state approved apprenticeship programs or request the dispatch of apprentices. In other words, projects move forward if one trades apprenticeship programs cannot or will not dispatch apprentices.

- In addition, AB 2162 (Chiu), Chapter 753, Statutes of 2018 created a by right approval process for developments that are 100% affordable to lower income households that restrict at least 20% of the units to supportive housing for people experiencing homelessness.

AB 531 allows for a by right, streamlined approval process for developments funded by the bond. Permanent supportive housing would be eligible for streamlining on residential, office, parking, and retail sites provided developers met specified labor standards and locate developments on infill sites. A subset of developments that fall under the category of a behavioral health treatment and residential setting – including children’s residential crisis programs, peer respite, children’s and adult substance use disorder residential programs, recovery housing, short-term residential therapeutic programs, and social rehabilitation programs – are also eligible for by right streamlining and are exempt from CEQA on residential, office, parking, and retail sites.

Other types of real estate assets funded by the bond, including short-term crisis stabilization, acute and subacute care, crisis residential, community-based mental health residential, substance use disorder residential, peer respite, mobile crisis, community and outpatient behavioral health services, and other clinically enriched longer term treatment and rehabilitation options for persons with behavioral health disorders in the least restrictive and least costly setting would be eligible for streamlining on office, parking and retail sites but not on residential sites.

Arguments in Support: Various cities, housing and health organizations write in support of the bond, citing the need for additional permanent supportive housing and residential health beds to address the crisis of homelessness, serious mental illness, and substance abuse disorders.

Arguments in Opposition: According to Disability Rights California, “last-minute amendments to the bill undermine its original intent. Numerous presentations to the public have represented grants from AB 531 bonds will be for ‘supportive housing’ and ‘unlocked’ ‘community based settings.’ The recent amendments delete ‘voluntary, unlocked,’ ‘community-based treatment settings’ and explicitly permit these grants to be used for ‘acute and subacute care.’ This shift raises serious concerns regarding the extensive expansion of institutional care that AB 531 could facilitate...These changes are inconsistent with the stated intent of the bill and with the purpose of the MHSA itself, which prioritizes community-based services over institutional care.”

Related Legislation:

SB 326 (Eggman) of the current legislative session recasts the MHSA as the Behavioral Health Services Act (BHSA) and modifies local and state spending priorities under the BHSA, including requiring 30% of all local BHSA funds to be spent on housing interventions, in addition to other changes. This bill is pending on the Senate Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP
AIDS Healthcare Foundation
All Home
Alzheimer's San Diego
Big City Mayors
Board of Supervisors for the City and County of San Francisco
CalChamber
California Apartment Association
California Association of Veteran Service Agencies
California Builders Alliance
California Business Roundtable
California Conference of Carpenters
California Downtown Association
California Hospital Association
California Housing Partnership Corporation
California Professional Firefighters
California Retailers Association
California State Association of Psychiatrists (CSAP)
California State Association of Public Administrators, Public Guardians, and Public Conservators
Cedars Sinai
Chicano Federation of San Diego County
City of Alameda
City of Bakersfield
City of Carlsbad
City of Chico
City of Compton
City of El Cajon
City of El Monte
City of Fountain Valley
City of Fowler
City of Fullerton
City of Hayward
City of La Mesa
City of Lemon Grove
City of Lindsay
City of Monterey, Mayor Tyller Williamson
City of Moorpark
City of Moreno Valley
City of Newark, California
City of Oakland
City of Paramount
City of Parlier
City of Perris
City of Riverside

City of Sacramento, Mayor Darrell Steinberg
City of Salinas
City of San Diego
City of San Fernando
City of San Rafael
City of Santa Barbara
City of Santa Monica
City of Santa Rosa
City of Thousand Oaks
City of Tracy
City of West Hollywood
Clinica Sierra Vista
Comite Civico Del Valle
Councilmember Raul Campillo, City of San Diego
County of Santa Clara
Devine & Gong
Eden Housing
El Camino Homeless Organization
Father Joe's Villages
Greater Riverside Chambers of Commerce
Greater Sacramento Urban League
Hope the Mission
Housing California
HousingMV.org
Humboldt County Board of Supervisors
Illumination Foundation
Inland Empire Coalition of Mayors (IECOM)
Jerry Dyer, Mayor of City of Fresno
Jewish Family Service of San Diego
Julian A. Gold, M.D. Mayor, City of Beverly Hills
Kings Tulare Homeless Alliance
Koreatown Youth and Community Center INC.
League of California Cities
Livable California
Los Angeles Business Council
Matt Mahan, Mayor City of San José
Mayor Farrah N. Khan, City of Irvine
Mayor of City & County of San Francisco London Breed
Mayor of Half Moon Bay Deborah Penrose
McAlister Institute for Treatment & Education INC.
Menlo Park Mayor Jen Wolosin
NextGen California
Office of Lieutenant Governor Eleni Kounalakis
Pallet Shelter
Parkview Legacy
Poverello House
Sacramento Regional Builders Exchange
Salt and Light Works
San Diego Housing Commission

San Francisco Chamber of Commerce
San Gabriel Valley Economic Partnership
San Jose Chamber of Commerce
San Leandro; City of
Silicon Valley Leadership Group
South Asian Network
Southern California Rental Housing Association
Steinberg Institute
Supervisor James Gore, County of Sonoma District 4
Sutter Health
The Salvation Army, a California Corporation
The Umbrella Effect: Project Becky
United States Veterans Initiative - Inglewood
Valley Industry and Commerce Association (VICA)
Wellhead Electric Company
WISEPlace

Opposition

Cal Voices
DBSA California
Disability Rights California
Howard Jarvis Taxpayers Association (HJTA)

Oppose Unless Amended

City of Mission Viejo
City of Newport Beach

Other (Includes Letters of Concern and Support in Concept)

ACLU California Action
California Association of Social Rehabilitation Agencies
California State Association of Counties (CSAC)
City of Livermore
Rural County Representatives of California (RCRC)
Urban Counties of California (UCC)

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085