

AGENDA

ASSEMBLY COMMITTEE ON HOUSING

ASSEMBLYMEMBER DAVID CHIU, CHAIR

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

ASSEMBLYMEMBER CECILIA AGUIAR-CURRY, CHAIR

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 STATE ADMINISTRATION

ASSEMBLYMEMBER JIM COOPER, CHAIR

TUESDAY, FEBRUARY 26, 2019

1:00 P.M. - STATE CAPITOL, ROOM 447

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ITEMS TO BE HEARD

2240 HOUSING AND COMMUNITY DEVELOPMENT

0515 BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY

ISSUE 1: GOVERNOR'S SHORT-TERM PLANNING AND PRODUCTION GRANTS

The Governor's January budget includes one-time grants of \$750 million General Fund to incentivize local governments to jump-start housing production.

BACKGROUND

The \$750 million is proposed to be allocated in two parts:

1. **\$250 Million for Technical Assistance Grants.** The Department of Housing and Community Development (HCD) will establish short-term housing production goals across all income levels, which will then be allocated to local jurisdictions. Examples of ways to use the funding may include, but are not limited to, rezoning for greater density, completing environmental clearance, permitting units, and revamping local processes to speed up production.
2. **\$500 Million in Grants When Milestones Are Achieved.** The state will review these efforts and certify that certain milestones have been reached. As jurisdictions reach these milestones, the remaining \$500 million will be available for cities and counties for general purposes.

LAO COMMENTS

The Governor's plan to establish state-defined housing goals and have local governments carry out planning to meet these goals is not a new strategy. The State has carried out such a strategy for years via the housing element and RHNA processes with only limited success. The Governor's plan hopes to encourage locals to participate by offering one-time financial rewards. Prior state attempts to offer such rewards provide little assurance that doing so will significantly increase communities' willingness to plan for and approve housing. All in all, it is unclear how the Governor's plan differs significantly from past strategies that generally have fallen short of their goals.

We recommend the Legislature reject the Governor's proposal for short-term housing production goals and \$500 million in incentive funds for cities and counties. Instead of focusing on the short term, the State may be better off focusing on opportunities to further improve long-term planning and considering other policy changes aimed at boosting home building over the long term. California's current housing situation is the culmination of decades of decisions to under-prioritize home building. It will similarly take many years or decades to truly address. Should the Legislature reject the Governor's plan to establish short-term housing goals, there would be no need to provide \$250 million to cities and counties for them to plan to meet these short-term goals. That being said, if the Legislature pursues changes to the State's long-term planning policies, it could consider providing this funding to cities and counties to help implement those changes.

What Is the Best Timeline for Awarding New Affordable Housing Funding? Even if the Legislature ultimately approves the Governor's proposals, the Legislature should consider the best timeline for awarding the new housing funding. On the one hand, releasing the funding right away is consistent with the immediacy of the housing affordability problem and helps bring relief to Californians more quickly. On the other hand, the State has approved significant funding for affordable housing in recent years, most notably the \$3 billion included in the Veteran and Affordable Housing Bond Act of 2018. Given the recently authorized funding, there might be some benefit to delaying the award of this funding until economic conditions weaken. Development and land costs likely will be cheaper during a recession, perhaps making it so that more affordable housing units could be built later than if the resources were used immediately. At the same time, other funding sources for development could be exhausted, so if this funding were available it could help serve as a backstop for affordable housing. This is akin to the Safety Net Reserve, which sets aside funds for future costs for the California Work Opportunity and Responsibility to Kids and Medi-Cal programs in the event of a recession.

PANELISTS

- Danielle Brandon, Department of Finance
- Brian Uhler, Legislative Analyst's Office

STAFF COMMENTS

The Legislature has previously acted on both increasing funding and approving major policy changes that are consistent with the goals of jump-starting housing production statewide. Many of those policy changes are recent and in the beginning stages of implementation at the local level, as a first step to address the underproduction of housing. The Subcommittee and Committees look forward to engaging on future steps, like these short-term planning and milestone grants, with the Administration.

Absent trailer bill language to review, the Subcommittee may wish to ask for clarification on this proposal:

- 1) How are the grants going to be apportioned to cities and counties - based on population, or size of the housing need, or some other factor(s)?
- 2) What is the projected timeframe for HCD to establish these short-term goals and will that process include feedback from the local agencies?
- 3) How will these increased short-term goals be accounted for in the Regional Housing Needs Assessment (RHNA) process?
- 4) How are the milestones proposed to be certified at the state level?
- 5) What if action is taken at the local level to expedite housing production, building permits are pulled, but the number of units built does not reach the milestone, through no fault of the local agency? Would that local agency still be eligible for a milestone grant?

Staff Recommendation: Hold Open.

ISSUE 2: GOVERNOR'S LONG-TERM STATEWIDE HOUSING PRODUCTION STRATEGY

The Governor's budget does not include funding or an implementation timeline for the Long-Term Statewide Housing Production Strategy.

BACKGROUND

The Administration proposes to revamp the current RHNA process, and to move HCD from an advisory role into overseeing and enforcing regional housing goals and production. The Governor's budget states that jurisdictions will be strongly encouraged to contribute to their fair share of the state's housing supply by linking housing production to certain transportation funds and other applicable sources, if any.

The Administration will convene discussions with stakeholders, including local governments, to assess the most equitable path forward in linking transportation funding and other potential local government economic development tools to make progress toward required production goals.

LAO COMMENTS

While the Governor's proposal to boost home building goals in the short term may be questionable, his plan to revamp state policies on long-term planning is worthwhile. While the Legislature has taken important steps in this area in recent years, opportunities remain for further improvement. In this section, we offer some ideas for improvements in long-term planning.

PANELISTS

- Danielle Brandon, Department of Finance
- Brian Uhler, Legislative Analyst's Office

STAFF COMMENTS

AB 1771 (Bloom), Chapter 989, Statutes of 2018, and SB 828 (Wiener), Chapter 974, Statutes of 2018, made important changes to the RHNA objectives, methodology, and distribution process, as part of a larger conversation in the Legislature on how to revamp the RHNA process.

Absent trailer bill language on this proposal, the Subcommittee may wish to ask the following questions:

- 1) When will stakeholder discussions on the Long-Term Statewide Housing Production Strategy begin, and what is the expected timeline for stakeholder discussion to implementation?
- 2) What role will COGs play in the RHNA process?
- 3) What will happen to the changes made by AB 1771 and SB 828 to RHNA methodology?
- 4) What transportation funds are targeted to be linked to housing production, and under what circumstances? What other sources of funding is the Administration looking at for linking in this manner?
- 5) How will this proposal result in more housing investment over the long term compared to the old Redevelopment model?

Staff Recommendation: Hold Open.

ISSUE 3: RESPONDING TO HOMELESSNESS

The Governor's budget includes \$500 million General Fund one-time for jurisdictions that site and build emergency shelters, navigation centers, or supportive housing.

The Governor's proposal creates two subcategories of funding:

Regional Planning - \$300 million

Jurisdictions that establish joint regional plans to address homelessness would be eligible for funding. The Business, Consumer Services, and Housing Agency (BCSH) would distribute the funds through federally designated areas (\$200 million) and the eleven most populous cities in the state (\$100 million). The proposal requires the plans to include regional coordination between counties and cities and report all funds currently used to provide housing and services to the homeless population in the region (including but not limited to Mental Health Services Act funds and dedicated city and county funds.) The funds may be used to expand or develop shelters and navigations centers.

Meeting Milestones - \$ 200 million

Jurisdictions that show progress toward developing housing and shelters, including permitting new supportive housing units or constructing emergency shelters and navigation centers, will be eligible to receive additional funds for general purposes.

BACKGROUND

In 2018, on a single night in January, 129,972 people experienced homelessness in California. California has twenty-four percent of the people in the nation experiencing homelessness. Nearly half of all unsheltered people in the country were in California.

In response to homelessness, the Legislature has invested in supportive housing, rapid rehousing, emergency shelters, and funding the operation of shelters. Specifically, the Legislature has taken the following actions:

- Created the No Place Like Home program to provide \$2 billion in bonding authority from Mental Health Services Act revenues to fund the creation of supportive housing developments for people experiencing homelessness or at-risk of homelessness.

- Created a Homeless Coordinating and Financing Council to coordinate the State's response to homelessness and required all state agencies or departments that operate programs that provide housing or housing-related services to people experiencing homelessness or at risk of homelessness to adopt guidelines and regulations to include Housing First policies. (Housing First is an approach to homelessness that prioritizes moving people quickly into permanent, affordable housing without precondition and then providing supportive services in order to help people avoid returning to homelessness.)
- Created the California Emergency Solutions Housing Program (CESH) to provide funding to local Continuum of Care (CoCs) to engage homeless individuals and families living on the street, rapidly re-house homeless individuals and families, help operate and provide essential services in emergency shelters for homeless individuals and families, and prevent individuals and families from becoming homeless.
- Created the Housing for a Healthy California to provide grants to developers and/or counties to create supportive housing for chronically homeless Medi-Cal recipients. Grants can be used for long-term rental assistance, capital and operating costs, and/or capitalized operating reserves. The health care costs of individuals receiving housing are tracked to determine the impact of supportive housing on health care costs.
- One-time funding for the Homeless Emergency Aid Program (HEAP) administered by BCSH provides localities with flexible block grant funds to address their immediate homelessness challenges. To qualify to receive funds, a city, county, or joint powers authority must declare a shelter crisis and a local Continuum of Care (CoC) must demonstrate collaboration with the city and county. Funding can be used for emergency housing vouchers, rapid re-housing, construction of emergency shelters, among other uses.

According to the Governor's budget, more is needed to begin to significantly address the State's homelessness problem. The shortage of affordable housing units is one of the major contributing factors to the increasing number of people experiencing homelessness in the state. Cities are responsible for the zoning and siting of housing, and counties are responsible for linking homeless individuals to health and social services. However, as evidenced by the growing number of homeless persons, homelessness is a statewide problem and requires a multi-pronged approach, starting with better planning to provide access to shelter and associated services with the goal of moving individuals into permanent supportive housing.

LAO COMMENTS

Prior Investments in Short-Term Homelessness Assistance Showing Promise, but Need Remains. The 2018-19 budget provided \$500 million one-time General Fund to establish the Homelessness Emergency Aid Program (HEAP). Eligible cities and CoCs can use the funds for a variety of short-term housing solutions for the homeless, such as shelters and rapid rehousing. Cities and CoCs have begun to receive funding available through HEAP and have indicated to the State how they intend to use the funds to provide relief for the homeless in their communities. Approaches include: capital improvements for housing and shelters; direct delivery of services, such as health education; and rental assistance programs. Despite these efforts, significant demand for short-term homelessness assistance remains. In addition to leading the nation with the highest number of homeless individuals, California has the highest proportion (69 percent) of unsheltered homeless individuals of any state in the nation. This indicates a demand for additional short-term assistance. The Governor's proposal helps address this unmet demand, which could cost \$2 billion to \$3 billion annually to fully address.

Reasonable to Invest in Short-Term Assistance. While there is no obviously right answer as to how the Legislature should balance the short- and long-term approaches for addressing homelessness we mentioned above, the approval of NPLH by voters opened up a sizeable amount of funding for construction of permanent supportive housing. In this case, it might make more sense to focus one-time funds on short-term assistance—such as shelters—for which much less funding is available and considerable demand remains. As compared to additional funding for supportive housing—which would take years to result in new housing units—allotting funding for short-term assistance would help move more people out of homelessness in the near term while NPLH is ramping up.

Unclear How Local Governments Will Respond to Flexible Funding Rewarding Shelter Development. The State has tried to encourage communities to build affordable housing by offering financial rewards in the past. While it is difficult to rigorously evaluate these incentive programs given their design, we outline in [The 2019-20 Budget: What Can Be Done to Improve Local Planning For Housing?](#) that they have not resulted in a notable increase in housing construction. It is unclear to us whether local governments would respond any differently to the Governor's proposal for \$200 million General Fund encouraging constructing of shelters. Therefore, this component of the Governor's proposal would be risky and the Legislature could not be sure what effect, if any, the funds would have on the development of shelters in the State. There are alternative uses of these funds that would yield more certain benefits. For example, providing \$200 million to construct shelters would almost certainly yield over 6,000 new beds for the homeless. Given the uncertain benefits of the Governor's proposal, we recommend the Legislature

not appropriate \$200 million for one-time rewards for local governments. However, if the Legislature were to decide to move forward with this proposal, our aforementioned report offers recommendations on how the State could structure the program to allow for a more rigorous evaluation of its outcomes.

PANELISTS

- Danielle Brandon, Department of Finance
- Lourdes Morales, Legislative Analyst's Office
- Ginny Puddefoot, Homeless Coordinating and Financing Council

STAFF COMMENTS

Absent trailer bill language to review, the Subcommittee may wish to ask for clarification on this proposal:

- 1) Is the Governor proposing to use existing programs to allocate the \$300 million and if so which ones?
- 2) Why does this proposal create a new program rather than making changes to the existing HEAP program and using it for this purpose?
- 3) Is the Governor's proposal limited to funding shelters and navigation centers?
- 4) Has the Governor considered providing flexibility at the local level by allowing funding to be used for flexible housing subsidy pools, rental assistance, capital operating reserves, capital-operating costs, to support outcomes that move people into permanent housing solutions?
- 5) Has the Governor considered expansion of local coordinated entry systems as a means of improving the local response to homelessness and greater regional collaboration as an allowable use of these funds?
- 6) What milestones or metrics is the Governor proposing to use to determine if jurisdictions are making progress toward permitting new supportive housing units or constructing emergency shelters and navigation centers?

Staff Recommendation: Hold Open.

ISSUE 4: EXPANDED STATE TAX CREDIT PROGRAM

The Governor's budget proposes to expand the State low income housing tax credit (LIHTC) program in 2019-20 up to \$500 million, and up to \$500 million annually thereafter upon an appropriation. The additional authority includes \$300 million for the existing LIHTC program, targeted at new construction projects that pair with the underutilized 4 percent federal tax credit program. The remaining \$200 million would be allocated through a new program that targets housing development for households with incomes between 60 to 80 percent of area median income (AMI). According to the Governor, the investment will serve as a down payment toward producing more mixed-income housing, in combination with CalHFA's Mixed-Income Loan Program.

BACKGROUND

Tax credits garner private investment in affordable housing by offering a dollar-for-dollar credit against an investor's state or federal taxes. The State allocates two federal credits a 9 percent and 4 percent credit, which a taxpayer can claim annually over 10 years. The 9 percent program is competitive and provides approximately 70 percent of the project's total costs. The program is historically oversubscribed with twice as many applicants as awards. Historically undersubscribed, the 4 percent program is non-competitive and provides approximately 30 percent of a project's total cost.

The state credit program supplements these two federal credits and a taxpayer can claim the credit over four years. The state credits pair with federal credits to reduce a given housing development's remaining funding gap. From 2011-18, the state program allocated \$819 million to support approximately 18,000 affordable units for an average of \$45,500 per unit.

LAO COMMENTS

How the State will administer the newly proposed state housing tax credit program aimed at increasing access to affordable housing for middle-income households is unclear. We suggest the Legislature engage the administration in a discussion of the (1) allocation process, (2) eligible activities and program guidelines, and (3) expected housing production achievements.

PANELISTS

- Danielle Brandon, Department of Finance
- Lourdes Morales, Legislative Analyst's Office

STAFF COMMENTS

The low-income housing tax credit program is one of the most successful programs the State has to offer to fund affordable housing construction. The Legislature attempted to expand the State LIHTC through AB 35 (Chiu) (2015); however, Governor Brown vetoed the bill. That proposal and subsequent bills proposed to expand the program by \$300 million, modify the state credit percentages augmenting the federal 4% credit, and create a larger credit for older affordable housing projects with limited equity to allow for the preservation of those units. The intent was to encourage greater utilization of the 4% credit, which historically have been undersubscribed and free up the 9 percent credits. As noted above, the 9 percent federal credits are oversubscribed; in the last round of 9 percent, funding 37 projects were funded out of 79 that applied. These 42 projects are ready to build and just need the additional credits.

Income averaging: Historically, the LIHTC has been limited to households at or below 60 percent of AMI. In 2018, the 4% and 9% federal tax credit programs were changed to allow for “income averaging.” Income averaging allows LIHTC-qualified units to serve households earning as much as 80 percent of the area median income (AMI) as long as the average income limit at the property is no more than 60 percent of the AMI. A project using the income averaging option must make at least 40 percent of its units affordable to eligible households.

Absent trailer bill language to review, the Subcommittee may wish to ask for clarification on this proposal:

- 1) In light of the availability of income averaging, does the Administration think it is necessary to create a separate program to program targeted at 60 to 80 percent of AMI?
- 2) Has the Administration considered an approach similar to AB 35 (Chiu) (2015)/AB 10 (Chiu) (2019) that would augment the value of the state credit and encourage utilization of the 4% federal credit?
- 3) As the Administration considered prioritizing developments that are shovel-ready, applied for the 9% federal credits, but did not receive an award because the program is oversubscribed?

Staff Recommendation: Hold Open.

ISSUE 5: MODERATE INCOME HOUSING PRODUCTION

The Governor's budget proposes to invest \$500 million General Fund one-time in the development of housing for moderate-income households.

BACKGROUND

The Governor's budget proposes to expand the California Housing Finance Agency (CalHFA) Mixed-Income Housing Loan Program, which provides loans to developers for mixed-income developments that include housing for moderate-income households at a lower subsidy level than traditional state programs. SB 2 (Atkins), Chapter 364, Statutes of 2018, created the Mixed-Income Housing Loan Program and dedicated 15 percent of the revenues generated from SB 2 to the program on an ongoing basis. The program is anticipated to receive approximately \$43 million this year from SB 2. The Governor proposes to pair the proposed tax credit program targeting households with incomes between 60 to 80 percent of AMI.

The Mixed-Income Housing Program requires either 20 percent of the units in a development be restricted to 50 percent of AMI or 40 percent restricted at 60 percent of AMI. Projects that restrict 10% of the units in a development to moderate income, 81 percent to 120% of AMI, receive a priority over other projects.

LAO COMMENTS

Because the need for housing assistance outstrips resources and low-income households have fewer options for accessing affordable housing, we suggest the Legislature prioritize General Fund resources towards programs that assist low-income households. As noted earlier, the Legislature could continue to pursue broader changes that facilitate private housing construction, which would help address affordability challenges for middle-income households.

PANELISTS

- Danielle Brandon, Department of Finance
- Lourdes Morales, Legislative Analyst's Office

STAFF COMMENTS

Absent trailer bill language to review, the Subcommittee may wish to ask for clarification on this proposal:

- 1) How will the tax credit program targeted at 60 to 80 percent of AMI be paired with the Mixed-Income Housing Program?
- 2) What is the anticipated timing for allocating this funding?

Staff Recommendation: Hold Open.

ISSUE 6: REMOVAL OF 55% VOTER APPROVAL THRESHOLD FOR ENHANCED INFRASTRUCTURE FINANCING DISTRICTS (EIFDs) DEBT ISSUANCE AND PAIRING WITH OPPORTUNITY ZONES

The Governor's January budget includes several strategies to make certain economic development tools more attractive.

BACKGROUND

Various economic development tools were introduced following the dissolution of Redevelopment Agencies (RDAs) including EIFDs, which can be created without voter approval by cities or counties to expend tax increment revenues. In order to issue debt, an EIFD must receive 55% voter approval.

Trailer bill language removes the 55% voter threshold and makes conforming changes in EIFD law.

The Governor's January budget also proposes to make EIFDs a more attractive economic tool by pairing them with the federal Opportunity Zones program, and proposes that the State conform to federal law. The Administration notes that this will allow for deferred and reduced taxes on capital gains in Opportunity Zones for investments in green technology or in affordable housing, and for exclusion of gains on such investments in Opportunity Zones held for 10 years or more.

The Administration has not released language for the pairing of EIFDs with Opportunity Zones.

PANELISTS

- Danielle Brandon, Department of Finance
- Lourdes Morales, Legislative Analyst's Office

STAFF COMMENTS

Staff notes that the Assembly Local Government and Housing and Community Development Committees held a joint informational hearing on March 14, 2018, to review the status of current community development tools for local agencies, specifically tax-increment tools like EIFDs, Community Revitalization and Investment Authorities (CRIAs), Affordable Housing Authorities (AHAs), and Neighborhood Infill and Transit Improvement Act (NIFTIs). These are all tools that were created after RDAs were dissolved.

At that hearing, Committee members heard from multiple witnesses and stakeholders that these new tools have not been used yet and that several reasons exist for this, including that many cities no longer have knowledgeable staff on hand to help set up these new tools at the local level. Some cities were just starting to look at these tools and figure out which one would best fit their needs. Several stakeholders raised the issue that the city or county's own tax increment, which is what these tools would capture, is no substitute for the funding that would have been received under the former RDA model, and that instead of using an EIFD as the single source of funding, that it would be necessary to look at multiple funding streams and layers of funding in order to finance a project.

The Subcommittee and Committees may wish to ask, by removing the voter threshold for EIFDs to issue bonds, whether this conforms to provisions of Article XVI, Section 16 of the California Constitution.

The Subcommittee and Committees look forward to engaging with the Administration on the issue of creating more flexibility in these tax-increment tools and making the tools more useful and meaningful for cities and counties. Staff notes that opportunity zone conformity will be part of the larger federal tax conformity discussions that this Subcommittee will hear in March.

Staff Recommendation: Hold Open.
