SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 15	**Hearing Date:**	4/22/2019
Author:	Portantino		
Version:	4/8/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Property tax revenue allocations: Local-State Sustainable Investment Program

DIGEST: This bill creates the Local-State Sustainable Investment Program (Program), which allows local agencies to build affordable housing, housing-related infrastructure, and public safety facilities.

ANALYSIS:

Existing law:

1) Authorizes local governments to create Enhanced Infrastructure Financing Districts (EIFDs) to finance specified infrastructure projects and facilities.

2) Authorizes a local government to create Community Revitalization and Investment Authorities (CRIA) to use tax increment revenue to improve infrastructure, assist businesses, and support affordable housing in disadvantaged communities.

3) Authorizes a local government to establish an Affordable Housing Authority to fund affordable housing.

4) Establishes the Neighborhood Infill and Transit Improvements Act, or NIFTI, in EIFD law and allows the infrastructure financing plan to contain a provision for the addition of any increase of the total receipts of local sales and use taxes (SUTs) and attribute those taxes to the NIFTI.

This bill:

1) Establishes an application process for the Program, eligible uses for the funds made available by the bill, and a process for distributing funds.

2) Allows a city or county, or a joint powers authority (JPA) that comprise the city and county to submit a request to the Department of Finance (DOF) to receive a portion of the county's Education Revenue Augmentation Fund (ERAF) for specified projects. Once DOF receives the application, it can approve, deny, or modify an application.

3) Authorizes the following eligible uses of funds:

   a) To increase the availability of affordable housing, meaning the predevelopment, development, acquisition, rehabilitation and preservation of units affordable to households making 120% of area median income.
   b) To increase the availability of high-quality jobs though the rehabilitation, construction, and maintenance of housing infrastructure.
   c) To promote strong neighborhoods by supporting local community planning and engagement efforts to revitalize and restore neighborhoods, including by repairing parks, and aging infrastructure.
   d) To build public safety facilities, which do not include correctional facilities.

4) Requires at least 20% of funds go to counties with under 200,000 residents.

5) Allows DOF to approve $200 million in projects in the first year, increasing in $200 million increments each year until reaching $1 billion after five years. When DOF approves a project, it shall direct the county auditor to reduce the amount of property tax revenue the applicant would otherwise have contributed to the county's ERAF.

6) Specifies that these reductions can only come from ERAF amounts that were going to be used for K-12 schools, which ensures that the General Fund backfills the lower property tax revenue to schools. Projects approved in a plan must not request funding for more than 10 years.

COMMENTS

1) *Purpose of the bill.* According to the author, "Redevelopment's dissolution deprived many local agencies of the primary tool they used to eliminate physical and economic blight, finance new construction, improve public infrastructure, rehabilitate existing buildings, and increase the supply of affordable housing. California has consistently failed in meeting the state's housing needs, especially in dealing with low-income affordable housing. California is in the midst of a serious housing crisis. California is home to many of the most expensive rental-housing markets in the country which has had a disproportionate impact on the middle class and the working poor. A

major factor in this crisis is the state's housing shortage. From 1954-1989, California constructed an average of more than 200,000 new homes annually. Since then, however, construction has dropped significantly. HCD estimates that approximately 1.8 million new housing units—180,000 new homes per year—are needed to meet the state's projected population and housing growth by 2025. Due in part to this housing shortage, California has one of the highest supplemental poverty measures in the nation. Data from the U.S. Census Bureau shows approximately 19% of Californians, roughly 7.5 million people, live in poverty, placing California in the top three highest supplemental poverty rates in the nation along with Florida and Louisiana. Despite a strong economy, The California Budget and Policy Center has reported that median household rents in California have risen 13.2% from 2006 to 2016, while median annual earnings for full-time workers grew by only 4.1% during that period. California must strive to increase the supply of affordable housing or we will continue to struggle to bring millions out of poverty."

2) *Loss of Redevelopment Funds.* Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of redevelopment agencies (RDAs) to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment). Prior to Proposition 13 of 1978, very few RDAs existed; however after its passage, RDAs became a source of funding for a variety of local infrastructure activities. Eventually, RDAs were required to set-aside 20% of funding generated in a project area to increase the supply of low and moderate-income housing in the project areas. At the time RDAs were dissolved, the Controller estimated that statewide, RDAs were obligated to spend $1 billion on affordable housing.

   Since the dissolution of RDAs in 2012, legislators have enacted several measures creating new tax increment financing tools to pay for local economic development. In 2014, the Legislature authorized the creation of EIFDs (SB 628, Beall), followed by CRIAs in 2015 (AB 2, Alejo). Similar to EIFDs, CRIAs use tax increment financing to fund infrastructure projects, with two big differences: CRIAs may only be formed in economically depressed areas, but don't require voter approval. Two years ago, the Legislature authorized the formation of Affordable Housing Authorities (AHAs), which may use tax increment financing exclusively for rehabilitating and constructing affordable housing and do not require voter approval to issue bonds (AB 1598, Mullin). Last year, SB 961 (Allen) removed the vote requirement for a subset of EIFDs to issue bonds and required these EIFDs to instead solicit public input. While these entities share fundamental similarities with RDAs in terms of using

various forms of tax increment financing, they differ in one important aspect: not having access to the school's share of property tax revenue.

3) *ERAF Background.* Each year, the state estimates how much each K-12 school and community college district will receive in local property tax revenue (and student fee revenue in the case of community colleges); the annual budget act appropriates state General Fund monies to "make up the difference" and fund the district's revenue limit or apportionment at the intended level. Frequently, however, the actual property tax revenues allocated to school districts may be less than anticipated. The state's education finance system addresses these shortfalls differently for different types of educational entities. For K-12 districts, all funding shortfalls are backfilled automatically with additional state aid. In contrast, explicit state action is required to backfill community college funding shortfalls.

   In 1992-93 and 1993-94, in response to serious budgetary shortfalls, the state permanently redirected almost one-fifth of total statewide property tax revenue from cities, counties, and special districts to K-12 and community college districts. Under the changes in property tax allocation laws, the redirected property tax revenue is deposited into a countywide fund for schools, ERAF. The property tax revenue from ERAF is distributed to non-basic aid schools and community colleges, reducing the state's funding obligations for K-14 education. In 2017-18, cities, counties, and special districts deposited around $9.6 billion into county ERAFs. Funds deposited into county ERAFs are distributed back to back to schools and local agencies, as specified.

4) *Money for locals to build housing.* California is in the midst of a serious housing crisis, largely due to a shortage of housing stock, primarily for lower-income households. This bill creates an ongoing revenue source for locals to create affordable housing, housing-related infrastructure, and public safety facilities by indirectly requiring the General Fund to backfill any reductions to the ERAF. It also states that the backfills shall ensure that schools receive the same level of revenue as they would have in absence of the bill.

5) *Missing pieces.* While this bill creates a framework for providing funding to locals, it is missing mechanics to make it operate and guardrails to ensure the funds are used. For example, this bill does not specify the information local agencies need to include when DOF considers their application, nor does it provide much guidance as to how projects are evaluated or whether certain priorities, such as the number of affordable housing units proposed for construction, will make some projects more competitive than others. Additionally, some RDAs were criticized for using the funds for unauthorized

purposes, and this bill does not provide a method for reporting to the state or protections as to the use of funds. The Committee may wish to consider whether this bill provides enough detail regarding how this program would work.

6) *Sharing the burden.* The Legislature has enacted numerous measures to facilitate affordable housing production and address the housing shortage. The housing package of 2017 made an effort to promote higher density housing, streamline housing approval processes, and increase zoning for housing while providing more state enforcement power. This package included SB 2 (Atkins), which required recorders to collect a $75 fee on every real estate instrument, paper, or notice. Once collected, these fees will fund various housing programs. The package also included SB 3 (Beall), which placed a $3 billion bond before voters on the November 2018 ballot, which voters approved, to fund affordable housing programs. Additionally, in 2018, the voters approved Proposition 2, which provides $2 billion for housing construction for chronically homeless persons experiencing a mental illness.

   In 2016 and 2018, several jurisdictions across the state took action and adopted local measures to fund affordable housing construction, either through general obligation bonds or the creation of a permanent funding stream. On the other hand, some jurisdictions have taken actions to stymie housing development either through local initiative processes or through actions by the local city council. Given the severity of the crisis, identifying funding solutions must be a shared responsibility and locals have control over how quickly they approve housing and can take steps to reduce housing costs. Further, with finite resources available, the state should not reward jurisdictions that have otherwise sought to stymie housing production. ***The author will accept amendments that require the following: a) in order to receive funding, non-rural jurisdictions provide a match, including financial, in kind land dedication, and public-private funds; b) the Program will prioritize projects in jurisdictions that have enacted local measures to reduce development costs, including but not limited to accelerating housing approvals, the average permitting time is less than a year, reduced fees for ADUs, and dense zoning near transit; c) jurisdictions that have passed measures that cap population or place limits on growth, enacted housing moratoria, required housing-related zoning decisions be approved by the electorate, engaged in downzoning, failed to comply with housing element law, or violated state housing programs may only use the funds from the Program for housing and infrastructure that supports housing; and d) jurisdictions that have violated the Housing Accountability Act or Density Bonus Law in the last five years, or since 2018, whichever is more recent, will be ineligible for funding.***

7) *Opposition.* The California Teachers Association opposes this bill because it shifts property tax revenues away from ERAF used to support K-14 schools, and allocates them instead for other purposes, including the increase of affordable housing. The CTA does not believe that the methods created under this bill would create affordable housing in a way that would protect California's schools from unintentional harm.

8) *Incoming!* This bill was heard in the Governance and Finance Committee on April 10th, 2019. Due to time constraints, committee amendments agreed to in that committee will be taken in this committee. The amendments agreed to require at least 50% of funds be spent on affordable housing.

9) *Double-referral.* This bill passed out of the Governance and Finance Committee on April 10th, 2019 with a 6-0 vote.

RELATED LEGISLATION:

SB 5 (Beall, 2019) — creates the Affordable Housing and Community Development Investment Program, which funds affordable housing and housing-related infrastructure. *This bill is pending in the Senate Appropriations Committee.*

SB 532 (Portantino, 2019) — allows successor agencies to use a portion of bond proceeds for affordable housing, as specified. *This bill will be heard today in this committee.*

AB 1568 (Bloom, Chapter 562, Statutes of 2017) — allowed an EIFD to allocate sales taxes for affordable housing on infill sites.

AB 2 (Alejo, Chapter 319, Statutes of 2015) — authorized local governments to create Community Revitalization and Investment Authorities (CRIA) to use tax increment revenue to improve the infrastructure, assist businesses, and support affordable housing in disadvantaged communities. It required that at least 25% of all tax increment revenues that are allocated to the CRIA from any participating entity must be deposited into a separate Low- and Moderate-Income Housing Fund and used by the CRIA for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost.

SB 628 (Beall, Chapter 785, Statutes of 2014) — allowed local agencies to create enhanced infrastructure financing districts (EIFDs) to finance specified infrastructure projects and facilities.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

None received.

OPPOSITION:

California Teachers Association

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 142	**Hearing Date:**	4/22/2019
Author:	Wiener		
Version:	4/11/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Lizeth Perez		

SUBJECT: Employees: lactation accommodation

DIGEST: This bill, among other things, requires the California Building Standards Commission (CBSC) to adopt, approve, codify and publish mandatory building standards for the installation of lactation space for employees.

ANALYSIS:

Existing law:

1) Establishes the California Building Standards Commission (CBSC) within the Department of General Services, and requires any building standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC prior to codification into the California Building Standards Code.

2) Requires the CSBC to adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings, including buildings constructed by the Trustees of the California State University and, to the extent permitted by law, to buildings designed and constructed by the Regents of the University of California.

3) Requires the State Fire Marshal to develop building standards to implement the state's fire and life safety policy, and transfers any responsibilities of the State Fire Marshal to adopt building standards through a formal rulemaking process to the CBSC.

4) Requires the Department of Housing and Community Development (HCD) to propose the adoption, amendment, or repeal of building standards to the CBSC and to adopt, amend, and repeal other rules and regulations to protect the health, safety, and welfare of occupants and to the public.

5) Classifies buildings and structures, or a portion thereof, based on their use and occupancy, into the following groups, among others: Assembly Group A, Business Group B, Education Group E, Factory Group F, Institutional Group I, Mercantile Group M, Residential Group R (Group R-1 includes Motels and Hotels).

6) Requires an employer to make reasonable efforts to provide an employee with use of a room or other location, other than a bathroom, for the purpose of expressing breast milk in private.

This bill:

1) Requires the CBSC, to adopt, approve, codify, and publish building standards for the installation of lactation space for employees in the next triennial edition of the California Building Standards Code adopted after January 1, 2019.

2) Requires lactation space in buildings classified as Groups A, B, E, F, I, M, or R-1 when there is a tenant improvement project to the building that meets all of the following:

   a) The tenant improvement project is for the interior of the building.
   b) The gross square footage of the interior space of the building designated for employee-only use is at least 15,000 square feet.
   c) The estimated cost of the project is over $1 million.

3) Requires a building to contain the following number of lactation spaces based on the employee occupancy load of the building:

   a) 50-150 employees – 1 space
   b) 151-300 employees – 2 spaces
   c) 301-500 employees – 3 spaces
   d) 501-1,000 employees – 4 spaces
   e) 1,001-2,000 employees – 8 spaces
   f) 2,001-4,000 employees – 11 spaces
   g) For each additional 900 employees in excess of 4,000 – 1 space
   h) Any adequate lactation space present prior to the tenant improvement project may be counted towards the required number of lactation spaces.

4) Requires the lactation space to be at least 50 square feet in dimension, contain at least one electrical outlet, an outlet for a refrigerator, a door that locks from the inside, be no more than 500 feet from the farthest employee workspace or

within two adjacent floors, and have access to a sink with hot and cold running water, unless the plans do not include plumbing,

5) Requires the lactation room to meet all applicable local, state and federal accessibility requirements.

6) Requires an employer to provide accommodations for lactation, as specified.

7) Amends existing law relating to the rights of employees wishing to express milk in the workplace and the consequences to employers who violate these rights.

8) Requires employers to develop and implement a policy regarding lactation accommodation, and to include this policy in an employee handbook or set of policies that the employer makes available to employees when they are hired, and when an employee inquires or requests parental leave.

9) Requires an employer who cannot provide break time or a lactation accommodation for an employee wishing to express milk, to provide a written response to the employee.

10) Requires an employer to maintain a record of requests for three years form the date of request, and to allow the Labor Commissioner and employees access to these records.

11) Requires the Division of labor Standards Enforcement to create a model lactation accommodation request form that shall be available for download by employees and employers from its website.

12) Gives the Division of Labor Standards Enforcement the option of establishing a model lactation accommodation policy and lactation accommodation best practices that provide guidance to employers, and a list of optional but recommended amenities.

COMMENTS

1) *Purpose of the bill.* According to the author, "SB 142 requires businesses to provide lactation facilities for their workers, requires that lactation facilities be built in new construction, and ensures employees receive information about their rights to a safe and comfortable lactation space at work. The bill also requires the state to come up with model policies that businesses can implement to meet the requirements of SB 142. If we're serious about gender equity in the workplace — as we should be — we need to make it much easier for women to

return to work after having a child. When mothers are able to return to work and receive reasonable accommodations — such as lactation facilities — they advance and keep pace with their male counterparts. By contrast, when mothers are effectively discouraged from working, they fall behind, and gender inequity is the result. Family-friendly workplaces increase gender equity, improve families' health, and are good for business. Inadequate lactation accommodations often lead parents, especially low-income parents, to make the difficult decision to leave their jobs or to pay for expensive formula. Providing a safe and comfortable place for parents to lactate will keep infants and women healthier, and keep more mothers in the workforce."

2) *Breastfeeding in the workplace.* According to the Centers for Disease Control and Prevention (CDC), among infants born in 2015, four out of five (83%) mothers started to breastfeed. At six months, the number of mothers breastfeeding dropped to over half (57%) and only about a third (34%) were still breastfeeding at 12 months. This data shows that mothers were initially interested in breastfeeding, but may have lacked the support from healthcare providers, family members or employers to continue the practice. Women with children are the fastest growing segment of the workforce, with 60% of new mothers in the United States returning to work; one third of these mothers return to work within three months of giving birth, while two thirds return after six months. Federal and state laws require employers to make reasonable efforts to accommodate nursing mothers by providing lactation breaks and a private area that is not a bathroom to express breastmilk. This bill would additionally require building standards to create a number of permanent, dedicated lactation spaces in certain types of buildings based on the number of employees occupying a building.

3) *San Francisco's Lactation in the Workplace Ordinance.* In 2017, San Francisco passed the Lactation in the Workplace Ordinance requiring all employers in the city, except government entities, to provide a dedicated lactation space, other than a bathroom in the workplace. The required lactation space is required to be in close proximity to an employee's work area with access to a refrigerator and a sink. The number of lactation spaces required is dependent on the employee occupancy load, or the number of employees in the building; these figures were calculated using census data from the U.S., the Bay Area and San Francisco. Employers who show that compliance with this ordinance would cause undue hardship can be exempted from providing a permanent lactation space. The San Francisco ordinance affects a variety of buildings including churches, restaurants, schools, banks, daycare facilities, factories, hospitals, prisons, grocery stores and hotels among others. This bill attempts to apply the San Francisco Lactation in the Workplace Ordinance, statewide.

4) *CBSC Background.* The California Building Standards Law established the CBSC and the process for adopting state building codes. Under this process, relevant state agencies propose amendments to model building codes, which the CBSC must then adopt, modify, or reject. For example, the Division of the State Architect is responsible for public schools, community colleges, and accessibility in public accommodations and public housing. The Office of the State Fire Marshal is responsible for life and life safety for hotels, apartments, dwellings, and assembly and high-rise buildings. HCD is the relevant state agency for residential building codes, and the Office of Statewide Health Planning and Development is the relevant state agency for hospitals and clinics. Not all buildings fall under the jurisdiction of a relevant state agency. Most commercial, industrial, and manufacturing structures are considered "local buildings," over which local governments may determine applicable building standards. The CBSC is responsible for developing building standards for state-owned buildings, including university and state college buildings, and for developing green building standards for most buildings except for housing, public schools, and hospitals.

   Every three years, the CBSC adopts a new version of the CBC, known as the triennial update. The building codes apply to all building occupancies and related features and equipment throughout the state. The CBSC also sets requirements for structural, mechanical, electrical, and plumbing systems, and requires measures for energy conservation, green design, construction and maintenance, fire and life safety, and accessibility.

   While the CBSC is responsible for developing standards for state buildings and local jurisdictions are responsible for developing standards for commercial structures, commercial builders often look to the CBC for further guidance, particularly when a jurisdiction is silent on an issue.

5) *The legislature's role in proposing building standards.* Legislation can be passed to change or propose building standards, but this process is usually done through state agencies. Instead of proposing specific standards, the legislature typically offers guidelines, or asks agencies to consider specific standards in developing and proposing standards in order to provide flexibility. After the proposal of building standards by state agencies, the standards undergo a vetting process. A code advisory committee (CAC), composed of experts in a particular scope of code, reviews the proposed standards followed by public review. The feedback received is considered by the proposing state agency and the standards can be amended; the building standards can then be resubmitted for CBSC to consider for adoption and approval. Placing building standards in statute does

not allow for expert and public feedback to be taken into consideration, and forces any future changes to be made through legislation rather than through the regulatory process.

6) *Committee concerns*. This bill attempts to apply the San Francisco Lactation in the Workplace Ordinance statewide, which may not be feasible. For example, no single state agency has jurisdiction over all of the buildings that this bill seeks to affect, and there is overlapping jurisdiction for some. This bill directs CBSC to adopt, approve, codify and publish the building standards set forth in this bill, but CBSC would only be able to do so for buildings under their jurisdiction, which are state buildings and buildings not regulated by other state agencies. Directing all state agencies to propose these standards would make this bill very complex.

   This bill also attempts to place building standards into statute, which, as noted above, would make it difficult to revise these standards in the future. For example, the employee occupancy load numbers in this bill may work for San Francisco, but may need to be revised for the state in order to consider the state's population. The employee occupancy load number also assumes that half of the employees will be female, which may not be the case; allowing CBSC to develop and propose standards using the San Francisco Ordinance as a starting point would allow experts to consider these standards, but amend as necessary in the best interest of the state. **The author will accept amendments to remove specific building standards spelled out in this bill in order to prevent placing building codes in statute. The author will also accept amendments to specify that the San Francisco Lactation in the Workplace Ordinance shall be used as a starting point for developing building standards for lactation space in the workplace.**

7) *Try again.* The provisions in this bill are similar to SB 937 (Wiener) of 2018, which was vetoed. The building standards provisions in that bill were amended out in the Assembly.

8) *Triple referral.* This bill passed the Labor, Public Employment & Retirement Committee on March 27th on a 4-1 vote. It was heard in the Judiciary Committee on April 9th and failed to pass with a 3-0 vote because the rest of the members were not able to cast their vote. The bill was granted reconsideration and passed with a 6-1 vote on April 11th.

RELATED LEGISLATION:

SB 937 (Wiener, 2018) — would have required employers to develop and implement a policy on lactation in the workplace and maintaining a record of lactation accommodation requests for three years while imposing consequences to employees who violate an employee's rights to express milk in the workplace. *This bill was vetoed by the Governor.*

AB 1976 (Limon, Chapter 940, Statutes of 2018) — provided that the room or other location that employers must make available for lactation purposes cannot be a bathroom.

AB 1127 (Calderon, Chapter 755, Statutes of 2017) — required state and local agencies and specified public facilities, including theaters, restaurants and sports arenas, to install and maintain at least one baby diaper changing station if the building or facility is open to the public.

AB 1787 (Lowenthal, Chapter 634, Statutes of 2014) — required airports with more than 1 million enplanements annually to provide a private room in each terminal, behind the airport security screening area and separate from a public restroom, where women can express breast milk.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

California Breastfeeding Coalition (Co-Sponsor)
Legal Aid At Work (Co-Sponsor)
San Francisco; City and County Of (Co-Sponsor)
American Civil Liberties Union Of California
American Congress Of Obstetricians & Gynecologists - District IX
California Employment Lawyers Association
Consumer Attorneys Of California
Equal Rights Advocates
Parent Voices California

OPPOSITION:

Building Owners And Managers Association
California Ambulance Association
California Association Of Licensed Security Agencies, Guards & Associates
California Attractions And Parks Association
California Business Properties Association
California Chamber Of Commerce
California Hospital Association
California Hotel & Lodging Association
California Manufacturers & Technology Association
California Restaurant Association
California Retailers Association
California Special Districts Association
California State Association Of Counties
California Travel Association
Civil Justice Association Of California
Commercial Real Estate Development Association, NAIOP Of California
CSAC Excess Insurance Authority
Greater Coachella Valley Chamber Of Commerce
Greater Conejo Valley Chamber Of Commerce
International Council Of Shopping Centers
Nichols, Melburg & Rossetto Architects & Engineers
Sacramento Regional Builders Exchange

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 182	**Hearing Date:**	4/22/2019
Author:	Jackson		
Version:	3/28/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Local government: planning and zoning: wildfires

DIGEST: This bill, among other things, imposes certain fire hazard planning responsibilities on local governments and requires cities and counties to make specified findings prior to permitting development in very high fire hazard severity zones and areas designated as wildland-urban interface.

ANALYSIS:

Existing law:

1) Requires every city and county to prepare and adopt a general plan, including at minimum a land use element, circulation element, housing element, conservation element, open space element, noise element, and safety element, to guide the future growth of a community.

2) Requires the housing element to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community.

3) Provides that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (a) the Department of Finance and Department of Housing and Community Development (HCD) develop regional housing needs estimates; (b) councils of government (COGs) allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and (c) cities and counties incorporate their allocations into their housing elements.

4) Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. Requires a locality's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning

period and that are sufficient to provide for the locality's share of the regional housing need for all income levels.

5) Requires, where the inventory of sites does not identify adequate sites to accommodate the need for groups of all household income levels, rezoning of those sites to be completed in a specified time period, as specified.

6) Prohibits a local jurisdiction from reducing or permitting the reduction of the residential density, or from allowing development at a lower residential density for any parcel, unless the jurisdiction makes specified written findings.

7) Requires each jurisdiction to submit an annual progress report to HCD regarding its progress in meeting its RHNA allocation and authorizes HCD to notify the Attorney General if it at any time finds a jurisdiction out of compliance with its housing element.

This bill:

Planning requirements

1) Defines "wildland-urban interface" and "wildland-urban interface area" (both hereafter referred to as WUIs) as lands located in very high fire hazard severity zones in both the State Responsibility Area and the Local Responsibility Area, as well as other lands determined by the city or county to be located within an area where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

2) Requires a city or county, upon the next revision of its housing element or local hazard mitigation plan, on or after January 1, 2020, whichever occurs first, to review and update the safety element of its general plan to include a comprehensive retrofit strategy, as specified.

3) Requires each city or county that has a WUI within its jurisdiction to, upon the next revision of its housing element on or after January 1, 2021, amend the land use element of its general plan with respect to lands located in a WUI, as specified.

4) Requires each jurisdiction, after the initial amendment of its land use element pursuant to this bill and upon each revision of its housing element, to make specified findings, supported by substantial evidence, regarding the designation of WUIs and implementation of wildfire risk reduction standards (see #8 below), as specified.

5) Requires each city or county with a WUI to adopt a WUI overlay zone or otherwise amend its ordinance to be consistent with the general plan, within 12 months of adopting a land use element.

Requirements for regional housing needs allocation (RHNA)

6) Directs the COG (or the state Department of Housing and Community Development in areas without a COG) to consider the amount of land in WUIs when developing its methodology for allocating RHNA shares, and to allocate lower RHNA shares to jurisdictions with greater amounts of WUIs.

Requirements for approving construction

7) Prohibits a city or county with a WUI, after amendments to the land use element and related zoning ordinances have taken effect, from entering into a development agreement for property located within a WUI unless the city or county finds, based on substantial evidence, one or more of the following:
   a) The property on which the project is located is protected from wildfire risk pursuant to the wildfire risk reduction standards (see #8 below), or wildfire protection standards adopted by the city or county that meet or exceed the wildfire risk reduction standards.
   b) The city or county has imposed conditions on the development agreement requiring the project to meet the applicable wildfire risk reduction standard.
   c) The city or county finds, based on substantial evidence, that the responsible state and local agencies have made adequate progress toward meeting the applicable wildfire risk reduction standards.

Wildfire risk reduction standards

8) Defines three tiers of "wildlife risk reduction standards," as follows:

   a) For a development of up to 11 structures:
      i. Existing regulations governing defensible space, vegetation management, fuel modification, and materials and construction methods promulgated by the State Fire Marshal, Building Standards Commission, and State Board of Forestry;
      ii. Preparation of a wildland fire hazard assessment and mitigation plan, as specified;
      iii. An enforcement program to verify ongoing compliance within the jurisdiction concerning defensible space, vegetation management, and local fire plan/wildfire hazard mitigation plans.
   b) For a development of 11 or more residential units:

i. All the standards applicable to smaller developments.
ii. Specified standards for fire suppression, response times and levels, water flows for firefighting, road design for equipment ingress/egress, and for identifying ignition hazards;
iii. Site-specific fire protection plans designed to protect against fire encroachment, as specified.
iv. Identification of potential on-site shelter-in-place locations.
v. Mechanisms to maintain common areas/open spaces to control vegetative fuels.
vi. A finding that the development can be reasonably accessed and served in the event of a wildfire.

c) For a development of 100 or more residential units:
i. All the standards applicable to smaller developments.
ii. A finding that the development complies with all applicable aspects of OPR's most recent "Fire Hazard Planning-General Plan Technical Advice Series" unless the locality makes a finding that a particular recommendation is infeasible for the development.

Funding and other changes

9) Provides an unspecified set-aside amount within the annual CalFIRE appropriation for grants to cities and counties that include designated WUIs to fund projects to control the spread of wildfire and improve life safety, including but not limited to improved access roads, water supply facilities, remote infrared cameras for wildfire detection, and siren warning systems for wildfires.

10) Requires a common interest development located in a very high fire severity zones to allow the installation or repair of roofs with materials that meet or exceed Class B standards as defined in the International Building Code.

11) Requires the Office of Planning and Research to develop and post on its website a clearinghouse of local ordinances, policies, and best practices relating to land use planning in WUI, wildfire risk reduction, and wildfire preparedness, as specified.

12) Makes clarifying changes to state laws governing conservation easements of forest lands, and makes other technical and conforming changes.

COMMENTS

1) *Purpose of the bill.* The author states that the 2018 wildfire season eclipsed 2017 as the most destructive and deadliest year for wildfires in California. The

Mendocino Complex Fire alone burned 459,123 acres to become the largest fire in California history, and even more devastating, the Camp Fire in November 2018 became California's most destructive and deadliest wildfire, causing the deaths of 86 people and destroying nearly 19,000 structures. Even as climate change worsens the hazard fires pose to California communities, new development is increasing in fire-prone areas. This bill presents a comprehensive approach to ensuring intelligent, fire-safe development. It requires local governments to do extensive planning to identify fire risks to their communities, consistent with best practices identified by the state. More importantly, it prohibits local agencies from approving developments that aren't adequately protected from the fire hazard, while requiring local agencies to do their part by enforcing defensible space requirements. This bill does not say that locals cannot develop, but it does tell them that they have to do it right. Finally, this bill provides local governments with some regulatory relief and funding to support the new duties that they need to perform under the bill. This is a balanced bill that will ensure that future development in California is fire-safe.

2) *Living with wildfires and other hazards.* More than three million Californians (about 7%) currently live in high-risk wildfire areas, and a 2018 study estimates a 77% increase in mean area burned by the end of the century, compared to 1961-1990. Thus, even if the state immediately stops building homes in existing wildfire areas, millions of Californians will remain at risk in existing and expanding wildfire areas. Furthermore, as *California's Fourth Climate Change Assessment: Statewide Summary Report* (OPR, Energy Commission, Natural Resources Agency, August 2018) points out, the state also faces risk from additional events such as sea-level rise. According to the report, "California must continue to evaluate climate impacts as well as to plan for adaptation and resilience."

3) *Where can we build?* California is currently experiencing a serious housing crisis and it is essential to expedite construction of critically needed housing units. In order to make this happen, it is important for every jurisdiction to strive to meet its full RHNA obligation and help provide housing to Californians of all income levels. Toward this end, the 2017 housing package, as well as additional bills last year, provided both increased funding and measures to help increase compliance with housing element law. One of these measures, AB 1397 (Low, Chapter 375, Statutes of 2017) significantly strengthened the definition of what a local government may designate as an "adequate site" for housing, to address concerns about designation of sites that were not realistic or available for residential development. By the same token, however, AB 1397 made it more difficult for localities to identify adequate

sites. While well intentioned, this bill, by additionally requiring local governments to make findings of adequate wildfire prevention and protection measures before approving construction in a WUI, potentially adds to the difficulty of identifying adequate sites for housing. The state faces a difficult policy question in that it must balance protection of its residents from wildfires, sea level rise, floods, earthquakes, and other risks, against meeting the need for more housing.

4) *Allocation of RHNA shares.* Existing law requires each city and county in the state to meet its fair share of the total housing need in its region. This bill requires a COG to consider the amount of land within a WUI when calculating a locality's RHNA share. Further, it requires a COG to allocate a lower proportion of housing to localities within its jurisdiction that contain a significant amount of land in WUIs, in order to "reduce development pressure" in WUIs. This raises a concern that localities with WUIs will be granted permission to escape RHNA obligations entirely, while other localities will have to shoulder the entire burden for the region. **The committee may wish to consider amending this bill to prohibit a COG from using a WUI as a reason to lower the RHNA allocation and allow the COG to work with the locality to determine how best to accommodate its RHNA goals outside of WUIs, including increased zoned density in non-WUI areas of the locality.**

5) *Fulfilling RHNA obligations.* Existing law (SB 166, Skinner, Chapter 367, Statutes of 2017) modified the No Net Loss Zoning Law to require local governments to maintain adequate housing sites at all times throughout the planning period for all levels of income. This is intended to help ensure that a locality continues to maintain a supply of available land to accommodate the remaining unmet housing need throughout the eight-year life of the housing element, rather than only identifying adequate sites at the beginning of the cycle. Under this bill, a local government may not approve a development of 11 units or more than is located in a WUI unless it makes a finding that the development can be reasonably accessed and served in the event of a wildfire. This raises a concern that a city or county may use a WUI as an excuse to avoid approving housing permits. To clarify that failure to approve a permit in a WUI does not reduce a locality's RHNA obligation, **the committee may wish to consider adding a provision to this bill to specify that it does not waive or reduce a jurisdiction's obligation to ensure that its housing element inventory accommodates, at all times throughout the housing planning period, its remaining share of its regional housing need.**

6) *Governance and Finance Committee amendments.* Due to timing issues, this committee will adopt amendments approved by the Governance and Finance Committee on April 10th. These amendments:

a) Decrease the number of units per development in the middle tier wildfire risk reduction standard from 11 units or more, to 9 units or more.
b) Require all developments in WUI areas to meet fire response, water infrastructure, and ignition reduction standards that in the current bill only apply to developments of 11 or more structures.
c) Require local governments to meet the wildfire risk reduction standards, but allow adequate progress on establishing a defensible space enforcement program, response standards, and water infrastructure until December 31, 2025.
d) Require developments to be subject to an ongoing fee, tax, assessment, or other permanent fund source in order to fund defensible space maintenance and inspections.
e) Require the State Fire Marshal, by January 1, 2023, to:

    i. Develop new wildfire risk reduction standards that account for differences in the size of proposed developments; meet or exceed the standards established in this bill; establish community-scale risk reduction measures, including but not limited to community design and layout, separation from wildfire sources, and location and construction of infrastructure to reduce ignition potential and ensure availability of water and power supplies during a wildfire; impose conditions on development that reduce the risk of catastrophic loss due to wildfire of any residential structures within a development to an estimated 1 in 100 chance in any given year; are directly applicable to, and account for, California's climate, weather, topography, and development patterns.
    ii. Update maps of very high fire hazard severity zones and identify areas within these zones where new residential development poses an exceptional risk to future residents and to fire and other public safety personnel that must access the development during wildfire.
    iii. Adopt standards for third-party inspection and certification.

f) Allow the State Fire Marshal to develop higher standards for structures that cannot reasonably be accessed in case of a wildfire.

7) *Opposition concerns*. The California Building Industry Association (CBIA) states that "While the intention of SB 182 is noble…the real issue in local fire safety is how to address threats to our existing built environment." CBIA cites a number of concerns, including the overly broad definition of WUIs, which could potentially lead to "any place where a structure intermingles with vegetation…[becoming] a tool of housing opponents to stop an approval." CBIA also notes that the new wildfire fire hazard assessments required by this bill could introduce added uncertainty to the permitting process, which could further delay construction. In addition, CBIA states that lack of clarity in the

standards established by this bill, such as "unreasonable risk of wildfire," could increase the litigation risk against new housing production.

8) *Double referral.* This bill was passed by the Governance and Finance Committee on a 6-1 vote on April 10th.

RELATED LEGISLATION:

SB 190 (Dodd, 2019) — requires the State Fire Marshal to develop a model defensible space ordinance and a training manual on WUI standards for building officials, builders, and fire service personnel. *This bill is pending in the Senate Appropriations Committee.*

AB 38 (Wood, 2019) — establishes a $1 billion fire-hardened homes revolving fund, establishes regional wildfire prevention districts, and requires sellers of buildings in very high fire hazard zones to certify that certain low-cost retrofits have been applied to the structure. *This bill will be heard in the Assembly Natural Resources Committee on April 22nd.*

AB 1516 (Friedman, 2019) — enhances the state's defensible space requirements and imposes a $500 penalty for failure to maintain defensible space. *This bill is pending in the Assembly Utilities and Energy Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

Sierra Club

OPPOSITION:

California Building Industry Association

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 280	**Hearing Date:**	4/22/2019
Author:	Jackson		
Version:	4/10/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Lizeth Perez		

SUBJECT: Older adults and persons with disabilities: fall prevention

DIGEST: This bill requires the Department of Housing and Community Development (HCD) to investigate possible changes to building standards that promote aging in place and establishes the Dignity at Home and Fall Prevention Act under the Department of Aging (CDA) to facilitate "aging in place".

ANALYSIS:

Existing law:

1) Establishes the California Building Standards Commission (CBSC) within the Department of General Services, and requires any building standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC prior to codification into the California Building Standards Code.

2) Requires the Department of Housing and Community Development (HCD) to propose the adoption, amendment, or repeal of building standards to the CBSC and to adopt, amend, and repeal other rules and regulations to protect the health, safety, and welfare of occupants and to the public.

3) Establishes the Senior Housing Information and Support Center within CDA, which provides and distributes information for seniors and their families with respect to available innovative resources and senior services.

4) Supports the concept of "aging in place" by providing funding for education and home improvements while making recommendations for changes in home modification policies and providing information on the benefits on home modification for this concept.

5) Establishes the Program for Injury Prevention in the Home Environment under CDA, which provides grants to local entities for injury prevention information

and education programs and services to increase the awareness and prevention of injuries.

This bill:

1) Requires HCD to investigate possible changes to building standards that promote aging in place, including:

    a) The location of doorbells, light switches and heating, ventilation and air-conditioning (HVAC) controls.
    b) The installation of support backing for the later installation of grab bars in one or more bathrooms.
    c) A 32-inch clearance for one bathroom door and one bedroom door on the ground floor.

2) States that HCD may propose the above building standards for consideration by CBSC if the changes will not significantly increase the cost of construction.

3) Replaces the Senior Housing Information and Support Center, the Home Modifications for Seniors and the Program for Injury Prevention in the Home Environment with a new Dignity at Home and Fall Prevention Act, which will provide grants to "area agencies on aging" to provide services, information, and education on injury prevention.

4) Requires CDA to develop and compile training materials and program standards for the Dignity at Home and Fall Prevention Act, as specified.

5) Requires grant applicants to submit a plan that details how the area agency on aging will provide the injury prevention education, assessment services, equipment, and activities in an effective and cost-appropriate manner as specified.

6) Requires CDA to identify specific performance measures for grant recipients, as specified.

7) Requires an area agency on aging that receives a grant to submit a report to CDA and the Legislature that includes the specific performance measures identified by CDA as well as administrative costs and any barriers to service that the agency encountered.

8) Provides that funding for this program shall be subject to legislative or budget appropriation and caps individual grants at $150,000.

COMMENTS

1) *Purpose of the bill.* The author states that "for elder and disabled Californians, the risk of fall at home is very real and can have long-lasting repercussions. For too many, the difference between aging in place and institutionalization may be simple home modifications to prevent falls and ease access. SB 280 creates the Dignity at Home and Fall Prevention Program, which does two things. First, it would, at the next triennial building standards rulemaking cycle that commences on or after January 1, 2020, require the Department of Housing and Community Development to [investigate possible changes to building standards that promote aging in place]. Second, it tasks the state's Department of Aging with making grants to area Agencies on Aging for injury prevention information, education and services to enable older adults and those with disabilities to live independently in their own homes, with modifications. Studies show that basic home modifications can improve safety and make it easier to maneuver about the home – all while forestalling hospitalizations and nursing home placements."

2) *California's aging population.* According to the Public Policy Institute of California (PPIC), by 2030 there will be over four million people over the age of 65. Between 2012 and 2030, the number of seniors who are divorced or never married will increase by 115% and 210% respectively, and the number without children will increase from 15% to 20%. These projections indicate that older adults will be more likely to live alone, and since adult children often care for their senior parents, an alternative non-family source of care will be more common in the future. According to the Center for Disease Control (CDC), three million older people are treated for injuries related to falls in emergency departments across the country every year. Many elders who fall without being injured become afraid of falling again, this fear causes them to become less active, which leads to them become weaker and therefore increase their chances of falling once again. According to multiple research studies, some major risk factors for falling include lower body weakness, difficulties with walking and balance, medications that affect balance, vision, and hazards such as broken or uneven steps and rugs or clutter that the individual can trip over. Adequate lighting in the home, adding grab bars inside and outside the tub or shower and next to the toilet, as well as having railings on both sides of stairs have been proven to significantly reduce the chances of falling. This bill proposes to investigate possible changes to building standards that will allow elders to remain in their homes and will further California's efforts to promote aging in place.

3) *Building standards background.* The California Building Standards Law established the CBSC and the process for adopting state building codes. Under this process, relevant state agencies propose amendments to model building codes, which the CBSC must then adopt, modify, or reject. For example, HCD is the relevant state agency for residential building codes. Every three years, the CBSC adopts a new version of the California Building Code (CBC), known as the triennial update. The building codes apply to all building occupancies and related features and equipment throughout the state. This bill will require HCD to investigate building standards that facilitate aging in place before proposing these standards for CBSC to consider. By investigating these standards, HCD can more efficiently develop standards that will work for all of California.

4) *Double referral.* This bill was passed by the Human Services Committee, who considered the provisions relating to the Dignity at Home and Fall Prevention Program, on a 5-1 vote on March 27th. This committee will consider the building standards provision of this bill.

RELATED LEGISLATION:

SB 1026 (Jackson, 2018) — would have established the Dignity at Home and Fall Prevention Program, requiring CDA to provide grants to area agencies on aging for injury prevention information, education, and services for the purpose of enabling older adults and persons with disabilities to live independently in the home. *This bill died in the Assembly Appropriations Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

California Senior Legislature (Sponsor)
Arc Of California
California Association For Health Services At Home
Congress Of California Seniors
Contra Costa County
County Welfare Directors Association Of California
National Multiple Sclerosis Society
San Diego; County Of
Santa Clara; County Of

United Cerebral Palsy California Collaboration
Ventura; County Of

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 330	**Hearing Date:**	4/22/2019
Author:	Skinner		
Version:	4/4/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Housing Crisis Act of 2019

DIGEST: This bill establishes the Housing Crisis Act of 2019, which places restrictions on certain types of development standards, amends the Housing Accountability Act (HAA), makes changes to local approval processes and the Permit Streamlining Act, and creates separate building standards for occupied substandard buildings.

ANALYSIS:

Existing law:

1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.

2) Establishes the HAA, which provides that when a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time that the housing development project's application is complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon specified written findings.

3) Establishes the Permit Streamlining Act, which sets forth the rules for reviewing and processing development applications.

4) Establishes the Mitigation Fee Act, which requires any city that establishes, increases, or imposes a fee as a condition of approval of a development project to do all of the following:

   a) Identify the purpose of the fee;
   b) Identify how the fee will be used;
   c) Demonstrate there is a reasonable relationship between the purpose of the fee and the type of development project on which the fee imposed;
   d) Demonstrate that there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

5) Establishes the State Housing Law, which lists various conditions that, if they exist in a building containing dwelling units, that the building be declared substandard.

6) Establishes the California Building Standards Commission (CBSC) within the Department of General Services, and requires any building standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC prior to codification into the California Building Standards Code (CBC). Requires the Department of Housing and Community Development (HCD) to propose the adoption, amendment, or repeal of building standards to the CBSC and to adopt, amend, and repeal other rules and regulations to protect the health, safety, and welfare of occupants and to the public. These regulations become part of the California Building Standards Code.

This bill places restrictions on certain types of development standards, amends the HAA, makes changes to local approval processes and the Permit Streamlining Act, and creates separate building standards for occupied substandard buildings.

Restrictions on Local Government

1) Defines "affected" city or county as one in which that HCD determines that in any calendar year, that the average rent rate exceeds 130% of the national median rent in 2017, as specified, and the vacancy rate for rental units is less than the national rate, as specified. Affected city or county does not include a city with a population of 5,000 or fewer and not located in an urban core, and affected county means at least 50% of the cities are affected cities.

2) Prohibits an affected city or county, with respect to land where housing is an allowable use, from doing the following:

a) Imposing any new, or increasing any existing requirement, parking in a housing development.
b) Charging a fee or any other exaction imposed in connection with the approval of a development in excess of the amounts that would have been applied as of January 1, 2018. "Other exaction" includes, but is not limited to, sewer and water connection charges, community benefit charges, and requirements that the project include public art. An affected city or county may impose an increase in a fee or exaction resulting from an automatic annual adjustment based on an independently published cost index that is referenced in an ordinance or resolution that establishes the fee.
c) Charging any fee in connection with the approval of any unit within a housing development that meets the following criteria:
    i. The unit is affordable to households with an income equal to or less than 80% area median income.
    ii. The unit is subject to a recorded affordability restriction for at least 55 years.
d) Allowing an affected city or county to charge a fee that is in lieu of a housing development's compliance with an inclusionary housing ordinance.
e) Denying or refusing to approve a housing development project on the basis of an applicant's failure or refusal to pay an amount of a fee or exaction that exceeds the amount under (b) or (c) above.

3) Provides that a housing development shall not be inconsistent, not in compliance, or not in conformity with the zoning in effect as of January 1, 2018 and the project shall not require rezoning, if the zoning did not allow the maximum residential use, density, and intensity allowable on the site by the land use or housing element of the general plan as of that date even if downzoning has occurred since then.

4) Requires, if the affected city or county approves an application for a conditional use permit for a proposed housing development project and that project would have been eligible for a higher density under the affected city or county's general plan land use and zoning ordinances as of January 1, 2018, the affected city or county to allow the project at the higher density.

5) Provides that if a housing development project subject to this bill would require the demolition of residential property, an affected city or county may only approve that housing development if all of the following apply:

    a) The proposed housing development project is at least as dense as the existing residential use of the property.

b) The developer agrees to provide: relocation benefits to the occupants of those affordable residential rental units, and a right of first refusal for units available in the new housing development project at rents commensurate with the occupants' previous rent or compensation to previous occupants who will be displaced.
c) "Residential property" means residential units that are assisted by Section 8 vouchers, subject to any form of rent or price control, or affordable persons with a household income equal to or less than 80% of the area median income. "Residential property" also means a residential structure containing residential dwelling units currently occupied by tenants or previously occupied by tenants if those units were withdrawn from rent or lease and offered for sale.

6) Establishes the Housing Crisis Act of 2019, which does the following:

a) Defines "affected" city or county as one in which that HCD determines that in any calendar year, that the average rent rate exceeds 130% of the national median rent in 2017, as specified, and the vacancy rate for rental units is less than the national rate, as specified. Affected city or county does not include a city with a population of 5,000 or fewer and not located in an urban core, and affected county means at least 50% of the cities are affected cities.
b) Affected city or county includes the electorate of an affected city or county exercising its local initiative or referendum power.
c) Defines "development policy, standard, or condition" as a provision of, or amendment to, a general plan, specific plan, zoning ordinance, or a subdivision standard or criterion.
d) Prohibits an affected city or county, with respect to land where housing is an allowable use, from enacting a development policy, standard, or condition that would have any of the following effects:
    i. Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city as in effect January 1, 2018. Less intensive uses means reductions in height, density, floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements or maximum lot coverage limitations for property zoned for residential use.
    ii. Imposing a moratorium or similar restriction or limitation on housing development, including mixed-use development, within all or a

portion of the jurisdiction, other than to specifically protect against an imminent threat to health and safety. An affected city or county cannot enforce a moratorium until HCD approves it.

iii. Imposing or enforcing design review standards established after January 1, 2018, if the standards are not objective.
iv. Limiting the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected city or county.
v. Capping the number of housing units that can be approved or constructed either annually or for some other period of time.
vi. Limiting the population of the affected city or county.

e) Allows an affected city or county to change land use designations or zoning ordinances to allow for less intensive uses if it concurrently changes the density elsewhere to ensure that there is no net loss in residential capacity.
f) Provides that any requirement that local voter approval be obtained to increase the allowable intensity of housing, to establish housing as an allowable use, or to provide services and infrastructure necessary to develop housing, is declared against public policy and void. "Intensity of housing" includes, but is not limited to, height, density, or floor area ratio, or open space or lot size requirements, or setback requirements, minimum frontage requirements, or maximum lot coverage limitations.

Housing Accountability Act

7) Prohibits a local agency from applying ordinances, policies, and standards to a development after a completed initial application is submitted. The bill allows local governments to apply new standards after the complete initial application is submitted in the following circumstances:

   a) A development fee or exaction is indexed to inflation in the ordinance.
   b) A local government finds that a new standard is needed to mitigate or avoid a specific, adverse impact to public health or safety based on a preponderance of the evidence in the record, and there is no feasible alternative to mitigate it.
   c) A new policy, standard, or ordinance is needed to mitigate an impact of the project to a less than significant level pursuant to the California Environmental Quality Act (CEQA).
   d) The housing development project has not commenced construction within three years following the date that the project received final approval, as defined.
   e) The housing development project is revised following submittal of a complete initial application such that the number of residential units or

square footage of construction changes by 20% or more, excluding the application of density bonus.

8) Allows a local agency to subject new square footage or units to the ordinances, policies, and standards in effect when the complete initial application is submitted.

9) Allows a development applicant, a person who would be eligible to apply for residency in a proposed development, or a housing organization, to file a lawsuit if a local agency requires a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a complete initial application was submitted.

Development Application Processes and Timelines

10) Provides that if a housing development project complies with the applicable objective general plan and zoning standards in effect at the time a complete initial application is submitted, a city or county shall not conduct more than three hearings, consistent with the timelines under the Permit Streamlining Act. In addition, the city or county must either approve or disapprove the permit within 12 months from the date on which the application is deemed complete. The clock will stop running while the applicant is revising their application materials.

11) Requires a city or county to make a determination as to whether a site of a proposed housing development is a historic site at the time the application for the housing development is deemed complete under the Permit Streamlining Act.

12) Provides that a housing development project shall not be found to be inconsistent, not in compliance, or not in conformity with the zoning, and the project shall not require rezoning, if the zoning does not allow the maximum residential use, density, and intensity allowable on the site by the land use or housing element of the general plan.

13) Provides that a housing development project shall be deemed to have a complete initial application upon providing the following:

   a) The specific location.
   b) The major physical alterations to the property on which the project is to be located.
   c) A "site place" showing the location on the property, as well as the massing, height, and approximate square footage of each building that is to be occupied.

d) The proposed land uses by number of units or square feet using the categories in the applicable zoning ordinance.
e) The proposed number of parking spaces.
f) Any proposed point sources of air or water pollutants.
g) Any species of special concern known to occur on the property.
h) Any historic or cultural resources known to occur on the property.
i) The number of below market rate units and their affordability levels.

14) Requires HCD to adopt a standardized form that applicants for housing development projects may use for the purpose of satisfying the requirements for submittal of a complete initial application.

15) Provides that a housing development project shall not be deemed as having submitted a completed initial application if, following the initial application being deemed complete, the development proponent revises the project such that the number of residential units for square footage of construction changes by 20% or more, exclusive of any increase resulting from the receipt of a density bonus.

16) Requires, if an application is determined to be incomplete, the lead agency shall provide the development project applicant with an exhaustive list of items that were not complete. The list shall be limited to those items required on the lead agency's submittal requirement checklist. In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. When determining if the application is complete, the local agency must limit its review to determining whether the application includes the missing information.

17) Requires a city or county to make copies of any list of required information from a housing development applicant both in writing to those persons to whom the agency is required to make that information available, and publicly available on their web site.

18) Requires, not later than 30 days after a public agency receives an application for a development project, the public agency to determine in writing whether the application is complete and immediately transit the determination to the applicant for the development project. If the written determination is not made in 30 days, the application shall be deemed complete.

19) Requires, upon receipt of any resubmittal of the application, a new 30-day period to begin, during which the public agency shall determine the

completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The public agency has 30 days to determine in writing if the submitted materials are complete and shall immediately transit that determination to the applicant. If the determination has not been made within 30 days, the application with the submitted materials shall be deemed complete.

20) Requires that, if the submitted materials are determined not to be complete, the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or to the director of the agency. A final written determination on the appeal shall be made within 60 calendar days after receipt of the applicant's written appeal. If a decision is not made within 60 days, the application with the submitted materials shall be deemed complete.

Substandard Buildings

21) Requires HCD to propose the adoption, amendment, or repeal of building standards to the CBSC, and adopt, amend, or repeal other rules and regulations for the protection of the public health, safety, and general welfare of the occupant and the public, applicable to occupied substandard buildings in lieu of existing standards. Defines "occupied substandard building" as a building in which one or more people reside that an enforcement agency finds is in violation of the CBC other than those adopted in this bill.

22) Requires the proposed building standards, and the rules adopted to establish minimum health and safety standards for occupied substandard buildings, as follows:

    a) The building standards, rules, and regulations shall require that an occupied substandard building include adequate sanitation and exit facilities and comply with seismic safety standards.
    b) The building standards, rules, and regulations shall permit those conditions that do not endanger the live, limb, health, property, safety, or welfare of the public or occupant.
    c) The building standards need not be the same as those contained in the most recent editions of the international or uniform industry codes.
    d) The building standards shall apply state fire codes as proposed by the State Fire Marshall.

23) Provides that occupied substandard buildings that comply with the building standards created under this bill shall be deemed to be in compliance with state building codes for seven years following the date that the enforcement agency finds that the occupied building was otherwise in violation. After seven years, the current building standards apply.

24) Provides that this bill does not apply to very high fire hazard severity zones and that it does not affect the California Coastal Act of 1976 or prevent the operation of CEQA.

25) Provides that all provisions in this bill sunset on January 1, 2030.

COMMENTS

1) *Purpose of the bill.* According to the author, "California is in a housing crisis. Housing has become enormously expensive for many middle- and low-income residents. Of the 50 U.S. cities with the highest rent prices, 33 are in California, and median home prices have risen to $600,000. In San Francisco, median home prices are well over $1 million. The state needs an estimated 180,000 additional units of housing each year – just to keep up with current population growth. California is falling far short of this production target. In order to facilitate the building of new housing in the areas where the housing crisis is the worst, it is crucial that the state temporarily lift restrictions and impediments to housing construction. [This bill] will clear the way for housing that is consistent with city general plans to be built more quickly over the next 10 years, while also ensuring adequate protections against demolitions of rent controlled, Section 8, and low income housing units."

2) *Restrictive land use controls.* Planning and approving new housing is mainly a local responsibility. The California Constitution allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority. Local governments use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific considerations.

Zoning ordinances also add additional constraints that can reduce density: setbacks, floor-area ratios, lot coverage ratios, design requirements, dedications of land for parks or other public purposes, and other regulations can reduce the space on a lot that a building can occupy in ways that lower the number of units it is feasible to construct on a lot. Local governments also sometimes establish stringent zoning restrictions specifically to maintain discretion over development. This practice allows them to bargain with developers for contributions to services to overcome the fiscal effects of residential development or to simply provide more opportunities to deny projects.

Stricter land use controls are also associated with greater displacement and segregation along both income and racial lines. Past practices such as redlining, which led to the racial and economic segregation of communities in the 1930s, have shown the negative effects that these practices can have on communities. The federal National Housing Act of 1934 was enacted to make housing and mortgages more affordable and to stop bank foreclosures during the Great Depression. These loans were distributed in a manner to purposefully exclude "high risk" neighborhoods composed of minority groups. This practice led to underdevelopment and lack of progress in these segregated communities while neighborhoods surrounding them flourished due to increased development and investment. People living in these redlined communities had unequal access to quality, crucial resources such as health and schools. These redlined communities experience higher minority and poverty rates today and are experiencing gentrification and displacement at a higher rate than other neighborhoods. Today, exclusionary zoning can lead to "unintended" segregation of low-income and minority groups, which creates unequal opportunities for Californians of color. Both the Legislative Analyst's Office and an analysis by the Institute of Governmental Studies at the University of California, Berkeley indicate that building new housing would reduce the likelihood that residents would be displaced in future decades.

3) *Housing Crisis Act of 2019.* This bill places restrictions on several types of development standards in an affected city or county for 10 years. Specifically, this bill would nullify the following: any existing or new parking requirements, any increases in development fees set on or after January 1, 2018 or any development fees on units affordable to lower-income households; any reductions in the density of a parcel unless it increases density elsewhere in the jurisdiction so that there is no net loss in residential capacity; any moratoria on housing developments other than to protect against health and safety or unless the local jurisdiction receives approval from HCD; any design standards that

are not objective; any limits on land use approvals or permits necessary for housing; and any cap on the number of housing units; or any population caps.

4) *More accountability.* The purpose of the HAA, also known as the "Anti-NIMBY" law, is to limit the ability of local agencies to reject or make infeasible housing developments without a thorough analysis of the economic, social, and environmental effects of the action. A person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization, as defined, may bring an action to enforce the HAA. Specifically, when a proposed development complies with objective general plan and zoning standards, including design review standards, a local agency that intends to disapprove the project, or approve it on the condition that it be developed at a lower density, must make written findings based on a preponderance of the evidence that the project would have a specific, adverse impact on the public health or safety and that there are no feasible methods to mitigate or avoid those impacts other than disapproval of the project. If a local agency is found by a court to be in violation of the HAA, a court may issue an order or judgement compelling compliance with the HAA within 60 days. The HAA also allows a court, upon a determination that the locality has failed to comply with the order or judgment compelling compliance with the HAA within 60 days, to impose fines on a local agency that has violated the HAA and to deposit any fine into a local housing trust fund or elect to deposit the fine in a state account. The fine shall be a minimum of $10,000 per unit. Additional fines may be imposed if the court finds that the locality acted in bad faith.

   This bill adds to the HAA that a local agency may not apply ordinances, policies, and standards to a development after a completed initial application is submitted, unless specified conditions apply. This bill also provides that a project shall be subject only to those ordinances, policies, and standards in effect when a completed application is submitted. An application is compete if it contains specified information as required under this bill.

5) *Wasting time.* The Permit Streamlining Act requires public agencies to act fairly and promptly on applications for development permits. Public agencies must compile lists of information that applicants must provide and explain the criteria they will use to review permit applications. Public agencies have 30 days to determine whether applications for development projects are complete; failure to act results in an application being "deemed complete." However, local governments may continue to request additional information, potentially extending the time before the clock begins running. Once a complete application for a development has been submitted, the Act requires local

officials to act within a specific time period after completing any environmental review documents required under the CEQA.

This bill amends the existing application process under the Permit Streamlining Act. Specifically, it requires a public agency to provide an applicant with an exhaustive list of items in their application that was not complete. That list must be limited to those items actually required on the agency's checklist pursuant to existing law. In any subsequent review of the application determined to be incomplete, the local agency cannot request the applicant to provide any new information that was not stated in the initial list of items that were not complete. When determining if the application is complete, the public agency must limit its review to only determining whether the application includes the missing information. This bill requires each city and each county to make copies of any list of required application information available both in writing to development applicants and on their website. This bill also requires any determination of whether the site of a proposed housing development is a historic site to be made at the time when the application for the project is deemed complete under the Permit Streamlining Act.

This bill also establishes a process for submitting a complete initial application—separate from and prior to the complete application required for the Permit Streamlining Act clock to begin running—and restricts the changes that local governments may apply to a project after a completed initial application is submitted.

6) *A different (building) standard.* The California Building Standards Law established the CBSC and the process for adopting state building codes, which are minimum standards to ensure health and safety. Under this process, relevant state agencies propose amendments to model building codes, which the CBSC must then adopt, modify, or reject. The HCD is the relevant state agency for residential building codes. Building officials — through provisions in the California Health and Safety Code and the CBC — have broad authority as part of their enforcement authority to render interpretations of the code and to adopt policies and procedures to clarify the application of its provisions. Existing law authorizes a building department of any local government to approve an alternate material, appliance, installation, device, arrangement, method, or work on a case-by-case basis if it finds that the proposed design is satisfactory and the alternative used is the equivalent of that prescribed in the CBC or in the State Housing Law in performance and safety. A building official may render interpretations of the code and to adopt policies and procedures to clarify the application of its provisions, so long as those policies and procedures are in compliance with the intent and purpose of the code and shall not have the effect of waiving requirements in the code. Additionally, where there are practical

difficulties involved in carrying out the provisions of the CBC, a building official may grant modifications for individual cases provided they first find that special individual reasons make the strict letter of the law impractical, the modification is in compliance with the intent of the code, and that the modification does not lessen health, accessibility, life, and fire safety or structural requirements.

This bill directs HCD to propose temporary building standards that can be applied to occupied substandard buildings, as identified by a local building official, in lieu of building standards, rules and regulations that are currently adopted for residential properties. These temporary standards would apply for 7 years, at which time the current building standards would apply. These temporary standards must establish minimum health and safety standards, require adequate sanitation and exit facilities, comply with seismic safety standards, and contain fire standards adopted by the State Fire Marshall.

Since the standards proposed by HCD and adopted by the CBSC are minimum health and safety standards, moving forward, the author may wish to instead consider, upon finding a violation of a building standard in a residential development in a zone where residential is a permitted use, including mixed use, authorizing a delay of compliance with that building standard for a period of time at the discretion of the building official. The delay would apply to changes that, in the judgement of the local building official, and in consultation with fire and code enforcement officials, is not necessary to protect the health and safety of the building residents. The building official would be required to include in the violation notice that an owner has a right to request a delay. After seven years, the owner would be subject to the current building code standards. This alternative approach would grant the building owner a grace period to address any code violations that are not health and safety concerns rather than creating a new set of building codes.

7) *Fees*. As part of the 2017 Housing Package, the Legislature passed AB 879 (Grayson, Chapter 374), which requires HCD to complete a study to evaluate the reasonableness of local feels charged to new developments. The study, which is due to the Legislature by June 30th, 2019, must include findings and recommendations regarding amendments to existing law to substantially reduce fees for residential development. HCD is on track to deliver that report to the Legislature on time.

   This bill precludes an affected city or county from imposing any development fees or exactions higher than what was in place as of January 1, 2018, unless the increase is adjusted for inflation as required by a local ordinance or resolution.

This bill also prohibits an affected city or county from imposing any development fees on units in housing development projects that are affordable to lower-income households, as specified. Moving forward, the author may wish to consider whether it is premature to prohibit certain fees when a study is already underway to provide overall policy recommendations for reducing housing costs.

8) *Opposition.* The League of California Cities is opposed to the following provisions: prohibiting parking; freezing impact fees and eliminating development fees on affordable housing, which pay for public improvements and services; and prohibiting design standards if they are more costly, which effectively prohibits new design standards. The California Apartment Association is concerned about the inability for builders to demolish older housing stock and replace it with much needed additional housing. They would like to ensure that developers can continue to do this so long as they are replacing the housing with the same or additional units and they are compensating existing tenants who may be temporarily relocated, and thereafter giving them the first right to occupy the new units. The American Planning Association – California Chapter states that the indicators for affected cities and counties in the bill may not be indicators of the housing crisis, and is opposed to adding a new layer to the application approval process (the "complete initial application) that does include enough information for the city or county to understand the development's impact or to understand which standards would apply to the project. Freezing requirements at January 1, 2018 could preclude legislation from last year from going into effect and freezing design standards will be confusing and hard to define.

9) *Incoming!* This bill was heard in the Governance and Finance Committee on April 10th, 2019. Due to time constraints, committee amendments agreed to in that committee will be taken in this committee. The amendments agreed to include the following:

   a) Increase the number of hearings on a project to 5;
   b) Change the parking provisions in the bill to specify:
      i. No parking minimum within a quarter mile of rail stops for cities that meet either of the following: (1) cities of any size in counties above 700,000, or (2) cities of 100,000 or greater in other counties.
      ii. 0.5 spaces per unit elsewhere.
   c) Grandfather in caps on the number of developments that meet the following conditions: initially enacted by voters prior to 2005 and is in a "predominantly agricultural county" defined to mean a county that meets

both of the following, as determined by the most recent California Farmland Conversion Report produced by the Department of Conservation:
  i. Has more than 550,000 acres of agricultural land, and
  ii. At least half of the county area is agricultural land.
d) Technical amendments to harmonize HAA provisions with existing law.

10) *Double-referral.* This bill was heard in the Governance and Finance Committee on April 10th and passed with a vote of 6-0.

RELATED LEGISLATION:

SB 4 (McGuire, 2019) — creates a streamlined approval process for eligible projects within ½ mile of fixed rail or ferry terminals in cities of 50,000 residents or more in smaller counties and in all urban areas in counties with over a million residents. It also allows creates a streamlined approval process for duplexes and fourplexes, as specified, in residential areas on vacant, infill parcels. *This bill is pending in the Senate Governance and Finance Committee.*

SB 50 (Wiener, 2019) — requires a local government to grant an equitable communities incentive, which reduces specified local zoning standards in "jobs-rich" and "transit rich areas," as defined, when a development proponent meets specified requirements. *This bill is pending in the Senate Governance and Finance Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

Bay Area Council
Building Industry Association Of The Bay Area
California Building Industry Association
California Community Builders
California YIMBY
EAH Housing
Enterprise Community Partners, Inc.
Facebook, Inc.
Hamilton Families
Oakland Metropolitan Chamber Of Commerce
Related California
Silicon Valley At Home

TMG Partners
Urban Displacement Project, UC Berkeley

OPPOSITION:

American Planning Association, California Chapter
Association of California Water Agencies
League of California Cities
Livable California
Solana Beach; City Of
South Bay Cities Council Of Governments

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 434	**Hearing Date:**	4/22/2019
Author:	Archuleta		
Version:	2/21/2019		
Urgency:	No	**Fiscal:**	No
Consultant:	Erin Riches		

SUBJECT: Common interest developments: managing agent: production of client property and client records upon termination of management agreement

DIGEST: This bill requires a managing agent of a common interest development (CID), whose agreement has been terminated, to produce client property and records no more than 30 days from either the effective date of the termination of the management agreement or the date the agent receives the request, whichever is greater.

ANALYSIS:

Existing law:

1) Requires a person who either provides or contemplates providing the services of a CID manager to a homeowners association (HOA) to disclose specified information to the board of directors (board) of the HOA, including information about potential conflicts of interest relating to referral fees or ownership interests with service providers connected to the HOA.

2) Requires a prospective managing agent of a CID to provide a written statement to the HOA board as soon as practicable, but no more than 90 days before entering into a management agreement, including, among other disclosures, any licenses and professional certifications held by the agent and any businesses in which the agent has an ownership interest or other monetary incentive.

3) Requires a CID manager or management firm to disclose, in writing, any potential conflict of interest, as specified, when presenting a bid for service to an HOA board.

4) Requires a managing agent who accepts or receives funds belonging to the HOA to deposit those funds that are not placed into an escrow account or into an account under the HOA's control, into a trust fund account maintained by the managing agent in a bank, savings association, or credit union in California.

This bill:

1) Requires a managing agent of a CID whose management agreement has been terminated, upon receipt of a written request by the HOA or its legal counsel, to produce client property and client records as soon as reasonably practical, but no more than 30 days from either the effective date of the termination of the management agreement or the date the agent received the request, whichever is greater. Allows a managing agent and an HOA to agree in writing to a longer period of time.

2) Provides that a dispute of the management agreement termination of fees shall not affect the agent's duty to produce client property and client records within the specified time period.

3) Requires a managing agent to produce client records in the form in which they have been kept by the agent or in a form which the agent reasonably believes will be usable by the HOA, and in a manner that is not unduly burdensome to the agent. The agent shall not be required to produce client records in more than one form.

4) Provides that a managing agent shall not be required to produce client records under the following circumstances:

   a) The client records are not reasonably available because of undue burden or expense.
   b) The client records include proprietary or other trade secret information developed by the agent for use in the agent's management business.
   c) The client records have been lost, damaged, altered, or overwritten as the result of routine good faith operation of an electronic information system.

5) Provides that the managing agent's obligation to honor all HOA confidences, and to treat the HOA's business affairs and records as confidential, shall continue after termination of the management agreement. Provides that if information is sought by a third party through legal process, including the subpoena or discovery process, the agent's obligations shall be satisfied if the agent gives notice to an HOA officer no later than 10 days after receipt of the subpoena, discovery request, or other legal process.

6) Defines "client property" as the HOA's physical property, as specified.

7) Defines "client records" as hard files and electronically stored information maintained by the managing agent, as specified, except for items that are

reasonably deemed proprietary by the managing agent. Excludes a managing agent's working papers, internal communications, proprietary documents, or internal notes, as well as records of telephone conversations or emails unless they have previously been included in a board packet or vendor or project file.

COMMENTS

1) *Purpose.* The author states he is proud to carry this bill, which will set into statute clear and concise rules for the transfer of documents between managers or management companies and a community association.

2) *CID background.* A CID is a form of real estate in which each homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common-area property. Condominiums, planned unit developments, stock cooperatives, community apartments, and many resident-owned mobilehome parks all fall under the umbrella of CIDs. There are more than 50,000 CIDs in California comprising over 4.8 million housing units, or approximately one-quarter of the state's housing stock. CIDs are governed by HOAs. The Davis-Stirling Common Interest Development Act provides the legal framework under which CIDs are established and operate. In addition to the requirements of the Act, each CID is governed according to the recorded declarations, bylaws, and operating rules of the association, collectively referred to as the governing documents.

   To pay for common expenses, an HOA charges annual assessments to each of its members. While the board is ultimately responsible for how the HOA's money is safeguarded and spent, in practice property managers often handle much of the day-to-day financial operation of an HOA. Collectively, the estimated 52,000 HOAs in California have roughly $12.4 billion of homeowner assessments on deposit.

3) *Codifying best practices.* When an HOA retains new management and the former manager or management company fails to transfer the necessary documents in a timely fashion, it can create significant operational and financial issues for the HOA. To address this problem, the sponsors of this bill, the Community Associations Institute and the California Association of Community Managers (CACM), state that this bill places industry best practices into statute. This bill aligns closely with "Standard of Practice 3-11: Transfer of Property to Client" in CACM's *Code of Professional Ethics and Standards of Practice,* adopted by the CACM board in June 2017.

4) *Loopholes need to be closed.* The bill includes a number of specific exemptions: records that are not reasonably available because of undue burden or expense; records that include proprietary or other trade secret information; and records that have been lost, damaged, altered, or overwritten as the result of routine good faith operation of an electronic information system. None of these exemptions is defined, leaving open the possibility that a nefarious agent could use any one of these as an excuse to not provide a timely transfer (or any transfer at all) of necessary documents. In addition, this bill includes in its definition of "client records" the clause "except for items that are reasonably deemed proprietary by the managing agent." Again, this exemption potentially provides a large loophole. The author and sponsor have committed to work on language to tighten these loopholes as the bill moves forward.

5) *Opposition concerns.* The Center for California Homeowner Association Law (Center) states that while it fully supports this bill's requirements for prompt transfer of records, it believes the exemptions obstruct the bill's goals. The Center states that "these exemptions comprise a 'blank check' to board directors, property managers, or third parties engaged in fraud and embezzlement and who need to cover their tracks by falsifying records."

6) *Double referral.* This bill has also been referred to the Judiciary Committee.

RELATED LEGISLATION:

AB 2912 (Irwin, Chapter 396, Statutes of 2018) — required the board of directors of a CID to review specified financial documents on a monthly basis and prohibits electronic transfers of funds from HOA accounts without prior board approval.

AB 690 (Quirk-Silva, Chapter 127, Statutes of 2017) — required a CID manager or management company to disclose certain information before entering a management agreement with an HOA and requires the HOA annual budget to contain specified information relating to charges for certain documents provided by the CID manager or management company.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

Community Associations Institute - California Legislative Action Committee (Co-Sponsor)
California Association of Community Managers (Co-Sponsor)

OPPOSITION:

Center for California Homeowner Association Law
1 Individual

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 526	**Hearing Date:**	4/22/2019
Author:	Allen		
Version:	4/11/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Regional transportation plans: greenhouse gas emissions: State Mobility Action Plan for Healthy Communities

DIGEST: This bill, among other things, establishes an interagency working group to develop and implement a state plan to ensure that regional growth and development is designed and implemented in a manner to help achieve the state's environmental, equity, climate, health, and housing goals, as specified.

ANALYSIS:

Existing federal law:

1) Requires any urbanized area with a population greater than 50,000 to establish a metropolitan planning organization (MPO) that, among other things, is responsible to ensure that regional transportation planning is cohesive across local jurisdictions.

Existing state law:

1) Requires the state Air Resources Board (ARB), under the California Global Warming Solutions Act of 2006 (also known as AB 32), to determine the 1990 statewide greenhouse gas (GHG) emissions level and approve a statewide GHG emissions limit that is equivalent to that level, to be achieved by 2020.

2) Requires ARB, under SB 32 (Pavley, 2016), to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by December 31, 2020.

3) Requires each of California's 18 metropolitan planning organizations (MPOs) and 26 regional transportation planning agencies (RTPAs) to prepare a long-range (20-year) plan. The regional transportation plan (RTP) identifies regional

goals and supports the state's goals for transportation, environmental quality, economic growth, and social equity.

4) Requires ARB, pursuant to SB 375 (Steinberg, 2008), to set regional targets for GHG reductions and requires each MPO to prepare a sustainable communities strategy (SCS) as part of its RTP. The SCS demonstrates how the region will meet its GHG targets through land use, housing, and transportation strategies.

5) Requires ARB, pursuant to SB 150 (Allen, 2017), to report to the Legislature by September 1, 2018 and every four years thereafter, on MPOs' progress toward meeting regional GHG emission reduction targets (hereafter referred to as "the SB 150 report").

This bill:

1) Requires each MPO to submit data to ARB describing how transportation funds have been spent in relation to the SCS and whether that spending has led to an increase or decrease in VMT. Requires ARB to adopt a regulation to require an MPO to provide any additional data ARB deems necessary.

2) Requires ARB, in preparing the SB 150 report, to determine whether MPOs are on track to meet their GHG targets.

3) Requires the action element of an SCS to identify short- and long-term steps to implement the SCS and achieve the GHG targets. Requires each MPO to monitor and report to ARB, progress toward implementing these steps.

4) Establishes an interagency working group, to be administered by the Strategic Growth Council (SGC), with the following membership:

    a) The members of the SGC
    b) The Secretary for Environmental Protection
    c) The Secretary for Natural Resources
    d) The Secretary for Housing and Community Development
    e) The Chair of ARB
    f) The Chair of the California Transportation Commission (CTC)
    g) The Director of the Office of Planning and Research
    h) The Director of the state Department of Public Health
    i) The Executive Director of SGC
    j) Four regional and local government representatives chosen by the ARB and CTC chairs

5) Requires the working group to develop and submit a State Mobility Action Plan for Healthy Communities (Plan) to ensure that regional growth and development is designed and implemented in a manner to help achieve the state's environmental, equity, climate, health, and housing goals.

6) Requires the Plan to identify actions needed to achieve the vehicle miles traveled (VMT) reductions necessary to meet specified GHG reduction targets. Requires these actions to include measures to accomplish all of the following:

   a) Overcome obstacles to aligning state transportation funds with climate, health, equity, and conservation goals.
   b) Plan and implement development in specified communities to meet regional GHG emission reduction goals.
   c) Provide increased and equitable travel options to support infill development and offer economic development, access to jobs and other opportunities, and access to affordable housing, as specified.
   d) Promote innovative mobility options that foster greater livability, access to destinations, and compact infill development rather than accelerating sprawl.
   e) Protect disadvantaged communities, renters, low-income people, and other vulnerable populations from displacement.
   f) Identify responsible parties at the state, regional, and local levels to implement VMT and GHG emission reductions.
   g) Identify any obstacles, including but not limited to data gaps, at the regional and local level that inhibit monitoring progress toward compliance with specified GHG emission reduction goals.

7) Requires the working group to establish definitive timelines and an investment strategy to help local and regional governments meet VMT and GHG emission reduction targets.

8) Requires the Plan to be submitted to the Legislature by December 31, 2020 and requires the working group, by September 1, 2024 and every four years thereafter, to update the Plan based on ARB's assessment of regional progress toward specified GHG emission reduction goals.

COMMENTS

1) *Purpose of the bill.* The author states that according to ARB, California will not achieve the necessary GHG emission reductions without significant changes to how communities and transportation systems are planned, funded, and built. In a recent report, *2018 Progress Report: California's Sustainable Communities and Climate Protection Act,* ARB found that emissions from the transportation

sector continue to rise despite increases in fuel efficiency and decreases in the carbon content of fuel. The report made clear that we must do more to reduce VMT and the resulting GHG, traffic, air quality, and equity concerns. Based on the recommendations in the report, this bill establishes the Mobility Action Plan for Healthy Communities, a task force charged with identifying strategies to reduce VMT and GHG. This bill also requires MPOs to include an action plan within their RTP that outlines how they will implement their SCS, as well as creating a process to collect the necessary data to ensure that ARB has adequate information to evaluate regional plans and determine whether transportation investments made within those plans result in increased or decreased VMT.

2) *Background.* AB 32 (Nunez and Pavley, 2006) requires ARB to determine the 1990 statewide GHG emissions level and approve a statewide GHG emissions limit that is equivalent to that level, to be achieved by 2020, and to adopt GHG emission reduction measures by regulation. In 2015, Governor Brown issued an executive order setting a statewide GHG emission reduction target of 80% below 1990 levels by 2050 and an interim target of 40% below 1990 levels by 2030. SB 32 (Pavley, 2016) codified the 2030 target in the executive order.

   To help the state meet its GHG targets, SB 375 (Steinberg, 2008) established the Sustainable Communities and Climate Protection Act of 2008. SB 375 requires ARB to set regional targets for GHG emission reductions from passenger vehicle use. SB 375 also requires each MPO to prepare an SCS as part of its RTP. The SCS includes land use, housing, and transportation strategies that, if implemented, would allow the region to meet its GHG emission reduction targets. Once adopted by the MPO, the RTP/SCS guides the transportation policies and investments for the region. ARB must review the adopted SCS to confirm the MPO's determination that it will indeed meet the targets. If ARB rejects the determination, the MPO must prepare a separate APS.

3) *What does SB 375 require of regions?* As noted above, SB 375 of 2008 requires each MPO to prepare an SCS as part of its RTP, as specified, and submit it to ARB for review. SB 375 specifies that "Review by the state board shall be limited to acceptance or rejection of the metropolitan planning organization's determination that the strategy submitted would, if implemented, achieve the greenhouse gas emission reduction targets established by the state board." SB 375 requires ARB to complete its review within 60 days and, if it disagrees with the MPO's determination, requires the MPO to prepare an alternative planning strategy (APS).

SB 375 states that "Neither a sustainable communities strategy nor an alternative planning strategy regulates the use of land." It also specifies that other than ARB's acceptance or rejection of an SCS's ability to meet the targets, "nor…shall either one be subject to any state approval. Nothing in a sustainable communities strategy shall be interpreted as superseding the exercise of the land use authority of cities and counties within the region." In other words, SB 375 requires MPOs to develop a strategy and requires ARB to accept or reject that strategy. SB 375 does not, however, specifically address how SCSs will be implemented and how to address failure to meet regional GHG targets.

4) *SB 150 report.* To help strengthen SB 375 implementation, SB 150 (Allen, 2017) requires ARB to evaluate and report to the Legislature on MPOs' progress toward meeting regional GHG emission reduction targets. ARB released the first report required by SB 150 in November 2018. The report, titled *2018 Progress Report: California's Sustainable Communities and Climate Protection Act,* found that the state is not on track to meet its GHG reduction targets and that in fact, VMT is increasing. The report notes that "SB 375 passenger vehicle greenhouse gas emissions reductions cannot be directly measured because greenhouse gas emissions come from many sources" and that ARB "was unable to find a data source that would allow us to accurately report greenhouse gas emissions reductions by region." It also notes that "it is important to acknowledge that other factors determined at a macro-level, such as gas prices and employment, play a significant role in influencing personal travel behavior and affect SB 375 implementation." Moving forward, the author may wish to consider directing the interagency working group established by this bill to consider these issues.

5) *Competing priorities.* Most MPOs are also COGs. In addition to preparing SCSs, COGs are required to allocate regional housing need allocation (RHNA) shares within their jurisdictions. COGs could potentially get caught between two competing priorities: GHG reduction, which may point them toward infill development, versus overall increased housing production, which may lead to development in outer areas as well as infill areas. Moving forward, the author may wish to consider directing the task force to consider the interaction of the state's overarching GHG and housing goals.

6) *Opposition concerns.* The Orange County Transportation Authority states that this bill would significantly change the bottoms-up approach originally envisioned by SB 375, which allowed regional flexibility in meeting GHG emission reduction targets.

7) *Triple referral.* This bill passed out of the Environmental Quality Committee on a 5-2 vote on April 3rd. It also passed out of the Transportation Committee on a 9-3 vote on April 9th.

8) *Amendments.* **The author will accept amendments to:**

   a) **Eliminate redundancies in the membership of the interagency task force and allow each member to designate a representative in their place.**
   b) **Add "housing" to the list of state goals that transportation funds should be aligned with (on the list of VMT reduction measures the MAP is to identify).**
   c) **Add "promote land use planning that facilitates development of higher density, transit-oriented, and infill housing to connect housing, jobs, and transit" to the list of VMT reduction measures the MAP is to identify.**
   d) **Add "and affirmatively further fair housing" to the measure aimed at preventing displacement of vulnerable populations (on the list of VMT reduction measures the MAP is to identify).**

RELATED LEGISLATION:

SB 150 (Allen, Chapter 646, Statutes of 2017) — required ARB to monitor a region's progress in achieving the GHG emissions reduction targets in their SCSs.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

American Lung Association in California (Co-Sponsor)
Natural Resources Defense Council (Co-Sponsor)
TransForm (Co-Sponsor)
American Lung Association In California
350 Bay Area Action
350 Silicon Valley
ActiveSGV
Alliance Of Nurses For Healthy Environments
Asthma Coalition Of Kern County
Asthma Coalition Of Los Angeles County
California Bicycle Coalition
California Interfaith Power & Light

California League Of Conservation Voters
California Thoracic Society
California Walks
Catholic Charities, Diocese Of Stockton
Center For Biological Diversity
Center For Climate Change & Health
Center For Climate Change And Public Health Institute
Central California Asthma Collaborative
Climate Action Campaign
Coalition For Clean Air
Family Allergy Asthma Clinic (Fresno)
Kern County Medical Society
Maternal And Child Health Access
Physicians For Social Responsibility - San Francisco Bay Area Chapter
Planning And Conservation League
Regional Asthma Management And Prevention
Safe Routes To School National Partnership, California
Seamless Bay Area

OPPOSITION:

Orange County Transportation Authority

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 532	**Hearing Date:**	4/22/2019
Author:	Portantino		
Version:	2/21/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Redevelopment: bond proceeds: affordable housing

DIGEST: This bill allows successor agencies to use a portion of bond proceeds for affordable housing, as specified.

ANALYSIS:

Existing law:

1) Requires bond proceeds derived from bonds issued on or before December 31, 2010 by a former redevelopment agency (RDA) in excess of the amounts needed to satisfy approved enforceable obligations to be expended in a manner consistent with the original bond covenants. Any bond funds that cannot be spent consistent with the original bond covenants must be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

2) Allows successor agencies (SA) to RDAs that have received a finding of completion from Department of Finance (DOF) to use some of the bond proceeds from bonds sold after January 1, 2011, as follows:

   a) No more than 5% of the proceeds may be expended unless the successor agency meets the following criteria:
      i) If the SA has an approved Last and Final Recognized Obligation Payment Schedule (ROPS), the agency may expend no more than 20% of the proceeds; and
      ii) Creates a process that the earlier the bonds were issued in 2011, the more the SA is able to expend, ranging from 25% to 45%.
   b) If a SA provides the oversight board and DOF with documentation that proves that the bonds were approved by the former RDA prior to January 31, 2011, but the issuance of the bonds were delayed by the action of a third-party metropolitan regional transportation authority beyond January 31,

2011, the SA may expend the associated bond proceeds for a total of no more than 45%.

c) Any proceeds derived from bonds issued by former RDA after December 31, 2010, that were issued to refund or refinance tax-exempt bonds issued by former RDAs on or before December 31, 2010, and are in excess of the amount needed to refund or refinance may be expended by the SA for a total of no more than 45%. The SA must provide the oversight board and DOF the resolution by the former RDA approved the bonds.

This bill:

1) Allows SAs to use bond proceeds in excess of what is needed to pay off remaining obligations to finance affordable housing, instead of using these proceeds to defease or cancel the bonds, with the approval of the successor agency's oversight board.

2) Defines affordable housing as housing affordable to, and occupied by, moderate, low, very low, and extremely low income, which current law defines as households below 120% of area median income.

3) Requires, if an SA decides to use bond proceeds for affordable housing, that the SA's Last and Final ROPS be adjusted so that the Property Tax Trust Fund pays off the remaining principal and interest on the bonds.

COMMENTS

1) *Purpose of the bill.* According to the author, "Legislative action is needed for repurposing millions of dollars of stranded redevelopment bond funds for development of much needed affordable housing in Glendale. Prior to redevelopment dissolution, Glendale's former Redevelopment Agency floated $50M in bonds for affordable housing and redevelopment purposes. Current law only allows Glendale to use approximately $8.7M affordable housing and approximately $12.3 of non-housing bond proceeds for redevelopment purposes, and current law will force Glendale to defease the remaining approximate $28M that could otherwise be used immediately for affordable housing. Since redevelopment dissolution in 2012, Glendale has lost approximately $72M in low and moderate income housing set aside monies. This bill will help offset this loss and provide immediate access to much needed funding for affordable housing."

2) *Loss of Redevelopment Funds.* Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of

redevelopment agencies (RDAs) to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment). Prior to Proposition 13 of 1978, very few RDAs existed; however, after its passage RDAs became a source of funding for a variety of local infrastructure activities. Eventually, RDAs were required to set-aside 20% of funding generated in a project area to increase the supply of low and moderate-income housing in the project areas. At the time RDAs were dissolved, the Controller estimated that statewide, RDAs were obligated to spend $1 billion on affordable housing.

3) *RDA dissolution.* AB X1 26 (2011) established SAs to manage the process of unwinding former RDAs affairs. With the exception of seven cities, the city or county that created each former RDA now serves as that RDA's successor agency. One of the SAs' primary responsibilities is to make payments for enforceable obligations RDAs entered into, supported by property tax revenues that would have gone to RDAs, but are instead deposited in a Redevelopment Property Tax Trust Fund. Enforceable obligations include bonds, bond-related payments, some loans, payments required by the federal government, obligations to the state or imposed by state law, payments to RDA employees, judgements or settlements, and other legally-binding and enforceable agreements or contracts. Any remaining property tax revenues that exceed these enforceable obligations return to cities, counties, special districts, and school and community college districts to support core services.

   Each SA has an oversight board responsible for supervising and approving its actions. DOF can review and request reconsideration of an oversight board's decision. Once a SA takes over for an RDA, it reviews the RDA's outstanding assets and obligations, and develops a plan to resolve those obligations, also known as a Recognized Obligation Payment Schedule (ROPS). For DOF to agree to a successor agencies plan, the agency submits a series of ROPS. If DOF agrees with the plan, it issues a Finding of Completion. Successor agencies issued a Finding of Completion can submit a Last and Final ROPS, meaning that (1) the remaining debt is limited to administrative costs and payments pursuant to enforceable obligations with defined payment schedules, (2) all remaining obligations have been previously listed on the ROPS and approved by DOF, and (3) the agency is not a party to outstanding or unresolved litigation.

4) *Managing bonds.* Many RDAs issued bonds before the dissolution ended their ability to issue new debt. According to a 2012 Legislative Analyst's Office report, *Unwinding Redevelopment*:

> "In the first six months of 2011, RDAs issued about $1.5 billion in tax allocation bonds, a level of debt issuance greater than during all 12 months of 2010 ($1.3 billion). The increase in bond issuance from 2010 to 2011 was even more notable because it occurred despite RDAs being required to pay higher borrowing costs. Specifically, about two–thirds of the bond issuances in 2011 had interest rates greater than 7 percent—compared with less than one–quarter of bond issuances in 2010. In fact, RDAs issued more tax allocation bonds with interest rates exceeding 8 percent during the first six months of 2011 than they had in the previous ten years."

Once dissolution was finalized, these local agencies had already issued bonds, but they could not necessarily move forward with projects these proceeds were intended for because AB X1 26 (2011) established a process for using these bond proceeds to resolve outstanding obligations. For bonds issued on or before December 31, 2010, SAs first have to spend proceeds in excess of the amounts needed to satisfy enforceable obligations in accordance with the original bond covenants. If there are bond proceeds in excess of this amount, successor agencies have to use these proceeds at the earliest possible date to defease the bond, or purchase outstanding bonds for cancellation. For bonds issued after January 1, 2011, successor agencies have to use bond proceeds in excess of the amounts needed to satisfy enforceable obligations consistent with original bond covenants, but have some leeway in how they use those excess proceeds. If DOF has not issued the successor agency a final ROPS, then the successor agency may expend no more than five percent of bond proceeds. If DOF has issued the successor agency a final ROPS, then the successor agency can spend a greater proportion of bond proceeds depending on the month the RDA issued the bonds. If there are still bond proceeds remaining, SAs are required to use these proceeds at the earliest possible date to defease the bonds or purchase outstanding bonds for cancellation. When bond proceeds are defeased or cancelled, property tax revenue used to pay off bonds returns to the local agencies that generated the property tax revenue, as opposed to the Redevelopment Property Tax Trust Fund.

5) *Delaying dissolution.* AB X1 26 (Blumenfeld, Chapter 5, statutes of 2011-12) created SAs to unwind RDAs obligations so that property tax revenues previously going to RDAs now flow back to the local agencies generating the revenue. The property tax revenue used to issue these bonds came not just from the successor agency, which is the city in many cases, but also the county, special districts, and school and community college districts, which impacts the state by way of the Proposition 98 minimum funding guarantee.

   This bill would allow the SAs to use the property tax revenue these taxing entities initially raised for affordable housing, rather than defeasing or

cancelling the bonds so that property tax revenue currently flowing to the SA can instead go back to all local agencies to support other local services.

6) *Preventing displacement.* While existing redevelopment law and other tools encourage the construction of affordable housing, these tools can sometimes result in the demolition of existing housing units that are affordable to lower-income households in the process. Existing redevelopment law and newer tools have incorporated protections to ensure that these households are protected from displacement. For example, both redevelopment law and density bonus law contains a no net loss provision, which requires the one to one replacement of affordable housing units that are removed during demolition. **The author has agreed to adding a no net loss requirement to ensure that if any affordable units are destroyed as a result of this bill, an equal number of units, with at least an equal number of bedrooms as those removed, shall be replaced and affordable at the same or lower level as the original units.**

7) *Incoming!* This bill was heard in the Governance and Finance Committee on April 10th, 2019. Due to time constraints, committee amendments agreed to in that committee will be taken in this committee. The amendments agreed to include the following:

    a) Limit bill to the City of Glendale.
    b) Clarify that the SA can only use funding for predevelopment, development, acquisition, rehabilitation, and preservation of housing.
    c) Specify that projects have to include 100% affordable units.

8) *Double-referral.* This bill passed out of the Governance and Finance Committee on a vote of 5-2 on April 10th.

RELATED LEGISLATION:

AB 11 (Chiu, 2019) — creates Affordable Housing and Infrastructure Agencies and allow local agencies to freeze property tax revenue in an area and allocate any additional property tax revenue to the agency for various uses and set aside funds for affordable housing. *This bill is pending in the Assembly Local Government Committee.*

AB 411 (Stone, 2019) — allows the City of Santa Cruz to use RDA bond proceeds for the purposes of increasing, improving, and preserving affordable housing and facilities for homeless persons. *This bill is pending in the Assembly Appropriations Committee.*

SB 5 (Beall, 2019) — allows local agencies to reduce contributions of local property tax revenue to schools to build affordable housing and related infrastructure. *This bill is pending in the Senate Appropriations Committee.*

SB 15 (Portantino, 2019) — creates the Local-State Sustainable Investment Program (Program), which allows local agencies to build affordable housing, housing-related infrastructure, and public safety facilities. *This bill will be heard today in this committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

Glendale; City of (sponsor)
California Apartment Association
Long Beach; City of
Southern California Association of Non-Profit Housing

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 611	**Hearing Date:**	4/22/2019
Author:	Caballero		
Version:	3/27/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Lizeth Perez		

SUBJECT: Housing: elderly and individuals with disabilities

DIGEST: This bill requires the Governor to establish the Master Plan for Aging Housing Task Force (Task Force) to assess the housing issues affecting California's aging population.

ANALYSIS:

Existing law:

1) Establishes the responsibility of the Department of Housing and Community Development (HCD) over the development and implementation of housing policy through various programs, including among others, financial and other assistance to local public entities and nonprofit organizations for housing-related services.

2) Establishes the Mello-Granlund Older Californians Act and sets forth the state's commitment to its older population and other populations served by the programs administered by the California Department of Aging (CDA).

3) Establishes the Homeless Coordinating and Financing Council (Council) to oversee implementation of the Housing First regulations and, among other things, identify resources, benefits, and services that can be accessed to prevent and end homelessness in California.

This bill:

1) Requires the Governor to establish the Task Force to identify policy solutions to issues impacting older adults who are homeless, at risk of homelessness or face potential institutionalization and to carry out the following responsibilities:

a) Assess the need for affordable housing and the annual impact on the statewide supply of affordable and accessible housing for older adults.
b) Identify current state housing programs and effective solutions that bring health and social services to older adults living in affordable housing.
c) Identify best practices and regulatory barriers to the development of intergenerational housing that includes co-located services and support for older adults.
d) Make recommendations to the Governor and the Legislature regarding policies that will:

   i. Increase the supply of affordable and intergenerational housing, and reduce barriers to providing health and social services to older adults.
   ii. Enable older adults to access home modification and safety assessment services that enable aging in place.

2) Establishes the membership of the Task Force to include:

   a) The Director of HCD, or their designee, as chair.
   b) A representative from each of the following: the Governor's office, the Senate, and the Assembly.
   c) The directors, or the designees, of the following departments: The Department of Health Care Services (DHCS), the Department of Social Services (DSS), and The Department of Aging (CDA).
   d) The following, to be appointed by the Task Force chairperson:

      i. A representative of a non-profit housing corporation that develops affordable senior properties
      ii. A representative of a for-profit management corporation that manages senior properties
      iii. A representative of a corporation that operates a Programs of All-Inclusive Care for the Elderly (PACE) organization.
      iv. Two representatives from labor organizations representing the long-term care workforce.
      v. A representative of a county organized health system.
      vi. A representative of a local initiative plan.
      vii. A representative of a commercial Medi-Cal managed care plan.
      viii. Two local government representatives.

3) Requires the Task Force to meet at least six times in the year 2020 and to submit a report to the Legislature by April 30, 2021 that shall be incorporated into the Master Plan on Aging.

4) Requires the Task Force report to include findings and policy recommendations as specified.

COMMENTS

1) *Purpose of the bill.* According to the author, "The state's lack of affordable housing and higher costs of living has forced many older adults who live on fixed incomes into poverty and homelessness. As housing costs rise, retirement incomes, such as Social Security and Supplemental Security Income (SSI), have remained stagnant and many low-income older adults find it impossible to pay their rent and related housing costs. It is reported that more than half of the people experiencing homelessness are over age 57. According to a recent study by the University of California, San Francisco, the percentage of homeless adults older than the age of 50 has grown from 11% in 1990 to 50% in 2019. The aging of California's population will only heighten this problem, with the state's over-65 population set to nearly double by 2030. Therefore, while much has been done to address the housing crisis in our state, we must do better to ensure that the housing needs of California's older adults are not forgotten. SB 611 addresses the housing needs of older adults by establishing the HOPE Task Force (or Housing Older Persons Effectively Task Force) as part of the Master Plan for Aging. The HOPE Task Force will convene California's foremost experts on housing issues to bring innovative and effective solutions that will help older adults remain at home and avoid homelessness, while also helping to identify current programs and developing best practices for the future."

2) *The Master Plan for Aging.* During the 2019 State of the State Address, Governor Newsom called for the creation of a Master Plan on Aging to meet the needs of California's increasing aging population. As a response, a number of bills have been introduced in the Legislature this year to meet different aspects of the Master Plan for Aging. This bill seeks to address the housing needs of California's aging population by creating the Task Force.

3) *Homeless Coordinating and Financing Council.* SB 1380 (Mitchell, Chapter 847, Statutes of 2016) established the Homeless Coordinating and Financing Council that coordinates several state agencies and stakeholders to identify resources, benefits, and services that can be accessed to prevent and end homelessness in California. Among other things, the Council is required to create partnerships among state and federal agencies and departments, local government agencies, and nonprofit entities working to end homelessness, homeless services providers, and the private sector, for the purpose of arriving at specific strategies to end homelessness. The agency is also responsible for coordinating existing funding and applications for competitive funding and make policy and procedural

recommendations to legislators and other governmental entities as well as serve as a statewide facilitator, coordinator, and policy development resource on ending homelessness in California.

This bill aims to assess housing and services available to the older population in order to improve these resources for the aging population that is homeless or is at risk of homelessness or institutionalization.

4) *Housing for California's aging population.* The rate of homelessness among the state's elder population has seen a significant increase over the past decade. The state's elder population is expected to grow faster than the rest of the population in the coming years. This increase will occur across all major racial and ethnic groups, and the family structures pertaining to this age group will change considerably. Between 2012 and 2030, the number of seniors who are divorced or never married are projected to increase by 115% and 210% respectively, and the number without children will increase from 15% to 20%. These projections indicate that older adults will be more likely to live alone, and since adult children often care for their senior parents, an alternative non-family source of care will be more common in the future. While seniors are adversely affected by the high cost of housing in California, so are many other populations. Are seniors more deserving of housing than children aging out of the foster care system, homeless LGBTQ individuals, single-mothers with children working multiple jobs, veterans, or domestic violence survivors? Additionally, the state has invested in a state Homeless Coordinating and Financing Council, tasked with identifying policy recommendations to the Legislature for ending and preventing homelessness.

5) *Committee Concerns.* This bill requires the task force to produce a report with all its findings, including policy recommendations for the Legislature. However, this bill requires the Task Force to make specific policy recommendations to the Legislature, before any of the findings are made, or the Task Force is even created. Moving forward, the author may wish to consider removing these specific policy recommendations.

RELATED LEGISLATION:

SB 228 (Jackson, 2019) — establishes the parameters of the master Plan for Aging. *This bill has been referred to the Senate Human Services Committee.*

AB 1136 (Nazarian, 2019) — establishes the California Department of Community Living within the California Health and Human Services Agency to consolidate leadership on issues on programs serving the state's older adults and people with

disabilities. *This bill is pending referral to the Assembly Committee on Human Services.*

AB 1287 (Nazarian, 2019) — requires the California Department of Aging to develop a strategy for the statewide implementation of the No Wrong Door System to assist older adult, people with disabilities and caregivers with accurate information and referrals to community services and support. *This bill is currently in the Assembly Committee on Aging and Long Term Care.*

AB 1382 (Aguiar-Curry, 2019) — focuses on family caregiver support in the master plan for aging. *This bill has been referred to the Assembly Committee on Aging and Long Term Care.*

SB 62 (Jackson, 2018) — would have enacted the Affordable Senior Housing Program within the Governor's Office of Business and Economic Development (GO-Biz). *This bill failed passage in the Assembly Appropriations Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, March 17, 2019.)

SUPPORT:

Alzheimer's Association
California Legislative Women's Caucus
Congress Of California Seniors
LeadingAge California
Santa Clara; County Of
UDW/AFSCME Local 3930

OPPOSITION:

Nonce received.

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 623	**Hearing Date:**	4/22/2019
Author:	Jackson		
Version:	4/10/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Multifamily Housing Program: total assistance calculation

DIGEST: This bill provides that the Department of Housing and Community Development (HCD), in determining the proportion of the funds available for senior citizens in the Multifamily Housing Program (MHP), use the American Community Survey (ACS), instead of the decennial census, from the US Census Bureau (Bureau),

ANALYSIS:

Existing law:

1) Creates the MHP under HCD, which finances the construction, rehabilitation, and preservation of permanent and transitional rental housing for lower-income households.

2) Requires that of the total assistance provided under the MHP, a specified percentage that is proportional to the percentage of lower-income renter households in the state that are lower-income elderly renter households, as reported by the United States Department of Housing and Urban Development (HUD) on the basis of the most recent decennial census conducted by the Bureau, be awarded to units restricted to senior citizens. That calculation, known as the total assistance calculation, excludes assistance for certain projects related to housing for the homeless, homeless youth, and persons with disabilities.

This bill:

1) Requires the total assistance calculation described above use data as reported by HUD on the basis of the most recent ACS or successor survey conducted by the Bureau.

2) Makes changes to correct outdated code references.

COMMENTS

1) *Purpose of the bill.* According to the author, "Over the next two decades, California's senior population is expected to nearly double. This means it will be 87% higher in 2030 than it was in 2012, or an increase of more than four million people. As these seniors will be living longer, the need for housing suitable for the elderly will be even more necessary. [This bill] will help address the housing needs of seniors by codifying the current practice of the Department of Housing and Community Development of using updated census data (the American Community Survey) to determine the amount of assistance the Department provides for the building of housing for senior citizens through its Multifamily Housing Program. Because the senior population is increasing relative to the rest of the population, using updated data will assure that the needs of seniors are more adequately met."

2) *MHP.* MHP, HCD's flagship program, which finances the new construction, rehabilitation, or acquisition and rehabilitation of permanent or transitional rental housing, and the conversion of nonresidential structures to rental housing for lower-income households. Eligible applicants include local public entities, for-profit and nonprofit corporations, Indian reservations and Rancherias. Last year, the voters approved the passage of Proposition 1, which provided $1.5 billion for MHP. HCD released draft guidelines for MHP in January and is on track to release the first notice of funding availability this spring.

3) *ACS Data.* According to the USCB web site, the ACS "collects data on an ongoing basis, January through December, to provide every community with the information they need to make important decisions. We release new data every year, in the form of estimates, in a variety of tables, tools, and analytical reports." The Decennial Census, as the name suggests, is conducted every 10 years, and determines the number of people living in the United States.

   This bill would clarify that, in order to determine the proportion of funds that are available for senior citizens, HCD shall use the most recent ACS or successor survey conducted by the United States Census Bureau, instead of the decennial census. HCD is already using the data from the ACS; this bill would codify practice.

RELATED LEGISLATION:

SB 3 (Beall, Chapter 365, Statutes of 2017) — enacted the Veterans and Affordable Housing Bond Act of 2018 and authorized the issuance of $4 billion in general obligation (GO) bonds for affordable housing programs and a veteran's home ownership program, subject to approval by the voters in the November 6, 2018 election as Proposition 1, including $1.5 billion for MHP. Proposition 1 was approved by the voters on the November 2018 ballot.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

LeadingAge California

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 672	**Hearing Date:**	4/22/2019
Author:	Hill		
Version:	4/3/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Planning and zoning: regional housing need allocation: City of Brisbane

DIGEST: This bill prohibits the Association of Bay Area Governments (ABAG) from allocating to the City of Brisbane a regional housing needs allocation (RHNA) share that exceeds the city's allocation for the prior planning period, if specified conditions are met.

ANALYSIS:

Existing law:

1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.

2) Requires local governments located within the territory of a metropolitan planning organization (MPO) to revise their housing elements every eight years, following the adoption of every other regional transportation plan. Local governments in rural non-MPO regions must revise their housing elements every five years.

3) Provides that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (a) the Department of Finance and HCD develop regional housing needs estimates; (b) COGs allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and (c) cities and counties incorporate their allocations into their housing elements.

4) Requires COGs to provide specified data assumptions to HCD from each COG's projections.

5) Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.

6) Requires a locality's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the locality's share of the regional housing need for all income levels.

7) Requires, where the inventory of sites does not identify adequate sites to accommodate the need for groups of all household income levels, rezoning of those sites to be completed in a specified time period. Requires this rezoning to accommodate 100% of the need for housing for very low- and low-income households for which site capacity has not been identified in the inventory of sites on sites that shall be zoned to permit rental multifamily residential housing by right during the planning period.

8) Prohibits a local jurisdiction from reducing or permitting the reduction of the residential density, or from allowing development at a lower residential density for any parcel, unless the jurisdiction makes specified written findings.

9) Requires each jurisdiction to submit an annual progress report (APR) to HCD regarding its progress in meeting its RHNA allocation.

10) Authorizes HCD to notify the Attorney General if it at any time finds a jurisdiction out of compliance with its housing element.

This bill:

1) Prohibits the Association of Bay Area Governments (ABAG), in the current and next planning period, from allocating to the City of Brisbane a RHNA share that exceeds Brisbane's RHNA allocation for the prior planning period, if all of the following apply:

   a) Brisbane has taken action during the current planning period to zone or rezone sites sufficient to accommodate 350% or more of its RHNA for the current planning period.
   b) Brisbane maintains or rezones sites sufficient to accommodate 350% or more of its RHNA for the next planning period.
   c) Brisbane agrees to provide a copy of its APR to ABAG for each year of the current and next planning period.

2) Requires Brisbane, in the current and next planning period, to include in its APR information regarding demonstrable progress on meeting the 350% RHNA share.

3) Provides that if Brisbane fails to provide information in its APR showing demonstrable progress, as determined by HCD, or fails to comply with the other requirements of this bill, HCD shall immediately determine that Brisbane's housing element is out of compliance and report it to the Attorney General.

4) Provides that this bill does not waive or reduce Brisbane's obligation to ensure that its housing element inventory accommodates, at all times throughout the housing planning period, its remaining unmet share of its regional housing need.

5) Provides that if at any time the site used to comply with this bill is deemed no longer adequate to meet the 350% zoning requirement, the city shall comply with that zoning requirement within 80 days.

6) States legislative intent regarding the unique circumstances relating to the RHNA allocation needs in the county.

COMMENTS

1) *Purpose of the bill.* The author states that in November 2018, the voters in Brisbane made a significant commitment to regional housing when they approved Measure JJ. This measure would permit the development of 1,800-2,200 units of housing on the Baylands, more than doubling the city's housing stock. Passing Measure JJ was a watershed moment for Brisbane and the state. This measure, which reverses early 50 years of votes against development of the Baylands, represents the type of local leadership we need throughout the Bay Area and the state if we are to solve the housing crisis. Given the complexity of the remediation and development process, Brisbane will be working for many years in coordination with the developer, state and regional agencies, and community members to keep the project on track and moving towards the ultimate goal of developing housing that will double the size of the city. This bill creates an environment where Brisbane can focus its efforts on getting this important regional project developed properly. This bill does this by ensuring consistency in Brisbane's RHNA allocations during this planning cycle and the next, in recognition of the significant commitment already made by the city's voters. This bill is not a gift; the benefit to Brisbane under this bill is only available if the city continues to steadily move the Baylands development forward under the oversight of HCD.

2) *Background: the Baylands.* The genesis of this bill is a project called the Brisbane Baylands. This roughly 660-acre tract is located just south of San Francisco (between San Francisco International Airport and downtown San Francisco, near Hunters Point/Candlestick). The site location is highly desirable, as it is located close to rapidly developing southeast San Francisco and at the confluence of multiple modes of transportation. However, decades of industrial uses, including a municipal landfill and a railyard, have made the land toxic and costly to develop.

   In 1989, the Baylands site was purchased by Universal Paragon Corporation (UPC), a real estate design and development firm based in San Francisco. UPC underwent various concept plans for the site before submitting a specific plan in 2006, which was later updated significantly and eventually became the "Developer Sponsored Plan" (DSP). (A specific plan guides zoning rules, subdivisions, public facilities, and future development agreements for a specific geographic area.) In 2009, the city began developing an alternative, the "Community Proposed Plan" (CPP) with input from residents. The key difference between the two plans was that the CPP did not include any housing, while the DSP included 4,434 housing units. The environmental impact report on the DSP was completed in 2015 and the planning commission completed its review the following year, with the proposal going to city council in the fall of 2016.

   By 2017, the growing housing crisis in the Bay Area and beyond led local elected officials, legislators, and housing advocates to pressure Brisbane to build housing on the Baylands site. Legislators considered introducing legislation to fast-track development at the site with limited local discretion. The city objected, asking for more time to develop the CPP. The city ultimately developed Measure JJ as an alternative to the DSP. Measure JJ amends the general plan to rezone the Baylands site to allow for up to 2,200 units of housing, of which at least 15% must be affordable. While the general plan amendment did not require voter approval, the city council opted to place the measure on the November 2018 ballot, where it was approved by a narrow 200-vote margin.

3) *Status of the Baylands project.* Before housing can be built on the Baylands site, a great deal of remediation will be necessary, which will take a number of years. But first, a new specific plan must be developed for the entire site because the old plan was aligned with the DSP. The revised specific plan must address issues such as securing an adequate water supply, protecting key habitat areas, flood protection and sea-level rise, and providing revenue-positive

development for the city. In January 2019, UPC delivered a letter of intent to the Brisbane City Council declaring its intent to revise the specific plan to conform with Measure JJ. The city is also working with Home For All, a local community engagement initiative, to solicit public input. The city council must approve the final specific plan.

4) *No guarantees*. It is important to note that Measure JJ did not grant approval for any actual housing; rather, it approved a general plan amendment to allow for up to 2,200 units of housing. Before that housing can be developed, UPC must revise the specific plan and get it approved by the city council. Measure JJ passed by a very narrow margin, and garnered strong opposition; the opposition ballot argument stated that Brisbane would be "crushed by a behemoth of a development" and that "the people who live and work on the Baylands will suffer greater health risk due to the contaminants in the air, soil, and groundwater." It is possible that these opponents will resurface when it is time for the city council to approve the specific plan, which could potentially delay the project.

5) *Why can't Brisbane meet its RHNA obligation elsewhere?* The city argues that this bill is needed because it will take a number of years to plan, remediate, and develop the Baylands site. The city could meet its RHNA obligation in the meantime by building housing elsewhere within city limits. The city states, however, that it has limited site to accommodate housing, due at least in part to the fact that the city is nestled against the San Bruno Mountains. In addition, the lack of vacant sites, and ownership patterns of small lots under multiple ownership, make it difficult to find areas available for significant amounts of housing.

6) *Status of Brisbane's current RHNA obligation.* The city's total obligation for the fifth housing element cycle (2015-2022) is 293 units, for which 56 permits have been issued. Almost all of these permits are for above moderate income; the city has not issued a single permit for very low or low-income housing. The city's actual obligation for the current cycle is 83 units, but a shortfall of 210 units was carried over from the prior cycle.

	RHNA Obligation	Permits Issued
Very low income	114	0
Low income	67	0
Moderate income	82	8
Above moderate	30	48
Total	**293**	**56**

7) *Committee concerns.* California is currently experiencing a serious housing crisis and it is essential to expedite construction of critically needed housing units. In order to make this happen, it is important for every jurisdiction to strive to meet its full RHNA obligation and help provide housing to Californians of all income levels. The committee recognizes, however, that the City of Brisbane faces a unique situation: although it has identified a site that will provide for a large amount of housing, the site will take a number of years to develop.

   To address the committee's concerns, the author and sponsor worked with the committee to craft language, which is included in the April 3, 2019 version of the bill, to limit its scope as follows:

   a) Include legislative intent and findings to indicate the uniqueness of the Brisbane situation.
   b) Limit the bill to the current and immediately subsequent housing element cycle (*e.g.,* through 2030).
   c) Require Brisbane to maintain or rezone sites sufficient to accommodate 350% or more of its RHNA in the subsequent planning period as well as the current planning period (*e.g.,* rather than just freezing it at the current year).
   d) Require Brisbane to report annually on the status of the Baylands project to both ABAG and HCD.
   e) Require HCD to report Brisbane to the Attorney General's office if Brisbane fails to meet the requirements of this bill or to provide evidence of demonstrable progress on the project.

8) *Committee amendments.* Brisbane's current RHNA allocation is 293 units; Measure JJ amends the general plan to allow for 1,800 to 2,200 units. This bill currently requires Brisbane to zone for 350% of its RHNA allocation, which is the equivalent of a little over 1,000 units. **The author will accept amendments to increase the requirement to 615%, the equivalent of 1,802 units, in line with the minimum 1,800 units authorized for the Baylands project. In order to help ensure the project keeps moving forward on a timely basis, the committee may also wish to consider amending this bill to condition it upon the city council approving the specific plan for the site within 24 months of receiving it from the developer.**

RELATED LEGISLATION:

SB 235 (Dodd, 2019) — allows the City of Napa and the County of Napa to reach an agreement under which the county would be allowed to count certain housing units built within the city toward the county's (RHNA) requirement. *This bill will be heard in the Senate Appropriations Committee on April 22nd.*

SB 695 (Portantino, 2019) — allows jurisdictions to count foster youth placements toward their RHNA requirements and allows jurisdictions to deem certain senior or disabled households towards their very low income RHNA requirement. *This bill will be heard in the Human Services Committee on April 22nd.*

AB 738 (Mullin, 2019) — allows San Mateo County or a city within its jurisdiction to count housing units it has funded in another city within San Mateo County, toward its own RHNA requirement. *This bill is pending hearing in the Assembly Housing Committee.*

AB 1239 (Cunningham, 2019) — reduces a jurisdiction's RHNA obligation by 25% if it has enacted an ADU ordinance. *This bill is pending hearing in the Assembly Housing Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

Brisbane; City of (Sponsor)

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 687	**Hearing Date:**	4/22/2019
Author:	Rubio		
Version:	4/10/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Homeless Coordinating and Financing Council

DIGEST: This bill increases the number of Homeless Coordinating and Financing Council (the Council) members appointed by the Governor from 17 to 20, requiring the Governor to additionally appoint a formerly homeless college student, a formerly homeless veteran, and a formerly homeless parent. It also requires the Business, Consumer Services and Housing Agency (BCSH) to provide training to all members of the Council.

ANALYSIS:

Existing law:

1) Establishes the Council to oversee and coordinate the implementation of the Housing First guidelines and regulations in California, and to identify resources and services that can be accessed to prevent and end homelessness in California.

2) Requires the Governor to appoint up to 17 members of the Council, including representatives of multiple state departments, as provided, and a formerly homeless person and formerly homeless youth who both live in California.

3) Requires the Senate Committee on Rules and the Speaker of the Assembly to each appoint one representative to the Council from two different stakeholder organizations.

4) Requires BCSH to provide staff for the Council.

5) Authorizes the Council, at its discretion, to invite stakeholders, individuals who have experienced homelessness, members of philanthropic communities, and experts to participate in meetings or provide information to the Council.

This bill:

1) Requires the Governor to appoint up to 20 members of the Council, as provided, and requires the three additional appointments be as follows:

   a) A formerly homeless college student who lives in California;
   b) A formerly homeless veteran who lives in California; and
   c) A formerly homeless parent who lives in California.

2) Requires BCSH to provide training to all members of the Council. For all members appointed after January 1, 2020 this training shall take place within one year of their appointment. Members of the Council may request additional training or support, relating to their ability to be active, contributing participants of the Council, from BCSH, as necessary.

COMMENTS

1) *Purpose of the Bill.* According to the author, "SB 687 will increase the effectiveness, diversity, and equity of homelessness policies by including people with lived experiences of homelessness in the state's efforts to address California's homelessness crisis. According to the United States Department of Housing and Urban Development, California has more people experiencing homelessness than any other state in the nation. Homelessness affects diverse groups of individuals and every person who experiences homelessness is unique. Planning and implementing successful programs to prevent and end homelessness requires the direct involvement of people who have themselves been homeless. This bill will increase the perspective of those with lived experience on the Homeless Coordinating and Financing Council by requiring the Governor to appoint a formerly homeless college student, a formerly homeless veteran, and a formerly homeless parent to the Council. Each of these appointees will bring a unique perspective to help address California's homelessness crisis."

2) *Homeless Coordinating and Financing Council (Council).* SB 1380 (Mitchell, Chapter 847, Statutes of 2016) created the Council to coordinate the state's response to homelessness in the Department of Housing and Community Development (HCD). The Council was created with the following goals:

   a) Identification of mainstream resources, benefits, and services that can be accessed to prevent and end homelessness in California, as well as other funding opportunities;

b) Creation of partnerships among state agencies and departments, local government agencies, participants in HUD's Continuum of Care (CoC) program, federal agencies, the U.S. Interagency Council on Homelessness, nonprofit agencies working to end homelessness, homeless services providers and the private sector, for the purpose of arriving at specific strategies to end homelessness;
c) Promotion of systems integration to increase efficiency and effectiveness while focusing on designing systems to address the needs of people experiencing homelessness;
d) Coordination of existing funding and applications for competitive funding;
e) Making policy and procedural recommendations to legislators and other governmental entities;
f) Brokering agreements between state agencies and departments and between state agencies and departments and local jurisdictions to align and coordinate resources, reduce administrative burdens of accessing existing resources, and foster common applications for services, operating, and capital funding;
g) Serving as a statewide facilitator, coordinator, and policy development resource on ending homelessness in California;
h) Reporting to the Governor, federal Cabinet members, and the Legislature on homelessness and work to reduce homelessness.

3) *Three more members.* According to the author, 19% of community college students in California faced homelessness in the past year, there are 11,000 homeless veterans in California, and more than 21,000 families are homeless in California, accounting for 16% of the state's total homeless population. This bill will add three more members to the council: a formerly homeless college student, a formerly homeless veteran, and a formerly homeless parent. Under existing law, the Council possesses the authority to invite individuals who have lived experience to meet and provide feedback to the council and the public.

   The federal US Interagency Council on Homelessness has a plan to combat homelessness among the following subpopulations: veterans, the chronically homeless, families with children, and unaccompanied youth. Moving forward the author may wish to consider removing the formerly homeless college student to align with federal policy priorities regarding subpopulations. Furthermore, rather than adding more members to the Council, the committee may wish to consider that existing law already provides the Council with the ability to learn from the perspectives of persons with lived experience.

4) *Double-referral.* This bill passed out of the Human Services Committee on a vote of 6-0 on April 8th.

RELATED LEGISLATION:

SB 850 (Senate Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2018) — provided for over $600 million in funding to various projects aimed at reducing homelessness. As well as moved the Council from HCD to BCSH. SB 850 also authorized the creation of an Executive Director to oversee the Council and provided for the allocation of several staff members.

SB 1380 (Mitchell, Chapter 847, Statues of 2016) — established the Council to oversee implementation of the Housing First regulations and, among other things, identify resources, benefits, and services that can be accessed to prevent and end homelessness in California. It also required state agencies or departments that fund, implement, or administer state housing or housing-related services programs to adopt guidelines and regulations to include Housing First policies.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

American Family Housing
Hope Center for College, Community, and Justice
The People Concern

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	SB 754	**Hearing Date:**	4/22/2019
Author:	Moorlach		
Version:	3/27/2019		
Urgency:	No	**Fiscal:**	No
Consultant:	Erin Riches		

SUBJECT: Common interest developments: board members: election by acclamation

DIGEST: This bill provides that if nominees to a homeowner association (HOA) board in a common interest development (CID) shall be considered elected by acclamation if the number of nominees does not exceed the number of vacancies on the board.

ANALYSIS:

Existing law governing CIDs:

1) Requires the election and removal of directors, amendments to governing documents, or the grant of exclusive use of common areas, to be held by secret ballot.

2) Provides that directors shall not be required to be elected if the governing documents provide that one member from each separate interest (e.g., unit or lot) is a director.

3) Requires the HOA to adopt election rules that do the following:

    a) Ensure that if any candidate or member advocating a point of view is provided access to association media, newsletters, or websites during a campaign, and that equal access shall be provided to all candidates and members, for purposes reasonably related to the election.
    b) Ensure access to common-area meeting space at no cost to all candidates.
    c) Specify the qualifications for candidates for the board and any other elected position, and procedures for the nomination of candidates, consistent with the governing documents. A rule shall not be deemed reasonable if it disallows any member from nominating himself or herself for election to the board.

d) Specifies the qualifications for voting; the voting power of each membership; the authenticity, validity, effect of proxies; and the voting period for elections. This includes the times at which polls will open and close, consistent with the governing documents.
e) Specifies a method for selecting one or three independent third parties as inspector or inspectors of elections. Inspectors may appoint or oversee additional independent third-party persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate.

4) Requires the inspector of elections to be one or three individuals who have the following duties:

   a) Determine the number of memberships entitled to vote and the voting power of each.
   b) Determine the authenticity, validity, and effect of proxies.
   c) Receive votes and ballots and hear and determine all challenges and questions.
   d) Count and tabulate all votes.
   e) Determine when the polls will close.
   f) Determine the results of the election.

5) Permits the nomination of candidates from the floor of membership meetings or nomination by any other manner.

6) Permits a member of an HOA to bring a cause of action in small claims court against the HOA if the HOA restricts access to HOA resources by a candidate or member advocating a point of view; the receipt of the ballot by a member; or the counting, tabulation, or reporting of, or access to, ballots for inspection and review after the tabulation.

7) Requires the HOA board to provide notice of a proposed rule change, as specified, at least 30 days prior to making the rule change.

This bill provides that if, at the close of the nomination period, the inspector or inspectors of elections determines that the number of nominees is not more than the number of vacancies on the board, the nominees shall be considered elected by acclamation if the HOA provided individual notice of both the election and nominating procedure at least 30 days prior to the close of the nomination period.

COMMENTS

1) *Purpose of the bill.* The author states that elections are very expensive for large HOAs. Laguna Woods Village, the sponsor of this bill, serves more than 18,500 members, the vast majority of which are of modest means, living on fixed incomes. When an election is uncontested, it is a terrible and unnecessary drain on people with limited incomes. Laguna Woods Village has spent $60,000 on uncontested elections each year in the last two years alone. Most of Laguna Woods Village elections are uncontested, despite the best efforts of HOA leadership to recruit candidates. Yet the HOA board must hire elections officials, print and mail ballots, and conduct costly elections, shifting precious resources away from other important community needs. This bill seeks to remedy this situation by providing a process through which a board may initiate an election by acclamation when the number of candidates does not exceed the number of available seats on the board. This bill assures transparency, requiring that each individual voter receive notice of a pending election and be given the opportunity to nominate candidates no less than 30 days prior to the close of nominations.

2) *CID background.* A CID is a form of real estate in which each homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common-area property. Condominiums, planned unit developments, stock cooperatives, community apartments, and many resident-owned mobilehome parks all fall under the umbrella of CIDs. There are more than 50,000 CIDs in California comprising over 4.8 million housing units, or approximately one-quarter of the state's housing stock. CIDs are governed by HOAs. The Davis-Stirling Common Interest Development Act provides the legal framework under which CIDs are established and operate. In addition to the requirements of the Act, each CID is governed according to the recorded declarations, bylaws, and operating rules of the HOA, collectively referred to as the governing documents.

3) *Precedent for election by acclamation.* Existing elections law for certain entities indicates precedent for making the election-by-acclamation change to CID law. For school districts, county boards of education, and special districts, if the number of candidates does not exceed the number of vacancies by the end of the nominating period, and no one has filed a petition signed by 10% of the voters of 50 voters (whichever is greater) requesting that an election be held, the nominees must be appointed and seated as if elected. Similarly, for municipal elections, if the number of candidates does not exceed the number of candidates by the end of the nominating period, the city elections official must inform the city's governing body that it may adopt one of the following courses

of action: appoint the nominee, appoint an eligible individual if no one has been nominated, or hold an election.

This bill is narrower than the above examples in that it does not allow for options such as a petition, an appointment of a non-nominee, or an election. A similar bill, AB 1799 (Mayes, 2016) would have required an HOA to provide notice to all its members at least 20 days before declaring an election uncontested; that provision, however, did not satisfy opposition concerns.

4) *Opposition concerns.* Opponents state that allowing election by acclamation would enable an HOA board to ignore or prevent nominations by non-incumbents, then determine that no election is required due to an insufficient number of candidates. The Center for California Homeowner Association Law (Center) cites a number of reports from homeowners describing how they were either discouraged from running for a seat on an HOA board, or were prevented from running for a seat because they did not meet certain qualifications set by the board. SB 323 (Wieckowski), which is sponsored by the Center and will be heard by this committee next week, aims to address such concerns by enacting a series of reforms to CID election laws.

5) *Trying again.* The provisions of this bill were included in similar form in last year's SB 1128 (Roth), which was vetoed. Governor Brown stated that "This bill takes a one-size-fits-all approach, but not all homeowner associations are alike. If changes to an election process are needed, they should be resolved by the members of that specific community."

6) *Double referral.* This bill has also been referred to the Judiciary Committee.

RELATED LEGISLATION:

SB 323 (Wieckowski, 2019) — enacts a series of reforms to the laws governing board of director elections in CIDs to increase the regularity, fairness, formality and transparency of HOA elections. *This bill was approved by the Judiciary Committee on a 7-0 vote on April 2nd and will be heard in this committee on April 30th.*

SB 261 (Monning, Chapter 836, Statutes of 2018) — authorized an HOA in a CID to provide a document by electronic means if the recipient has consented by email and reduces the notice requirement of a proposed rule change by the HOA board from 30 days to 28 days.

SB 1128 (Roth, 2018) — would have authorized an HOA in a CID to provide a document by electronic means if the recipient has consented by email; reduce the notice requirement of a proposed rule change by the HOA board from 30 days to 28 days; and provide that the nominees to a board shall be declared elected by acclamation if the number of nominees does not exceed the number of vacancies on the board, as specified. *This bill was vetoed.*

SB 1265 (Wieckowski, 2018) — would have made several changes to the elections process held in CIDs, as well as making changes in the process for handling disputes between a member and an HOA. *This bill was vetoed.*

AB 1799 (Mayes, 2016) — would have exempted HOAs in CIDs from election procedure requirements in uncontested elections. *This bill passed out of the Senate Transportation and Housing Committee but died in the Senate Judiciary Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, April 17, 2019.)

SUPPORT:

Laguna Woods Village (Sponsor)
California Association of Community Managers
Community Associations Institute - California Legislative Action Committee

OPPOSITION:

California Alliance For Retired Americans
Center For California Homeowner Association Law
1 individual

-- END --