SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2021 - 2022 Regular

Bill No:	AB 2186	**Hearing Date:**	6/13/2022
Author:	Grayson		
Version:	5/2/2022		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Mehgie Tabar		

SUBJECT: Housing Cost Reduction Incentive Program

DIGEST: This bill establishes, upon appropriation by the Legislature, the Housing Cost Reduction Incentive Program to reimburse cities and counties for development impact fees that are reduced or deferred for affordable housing developments.

ANALYSIS:

Existing law:

1) Establishes housing programs administered by the Department of Housing and Community Development (HCD) to address such topics as the construction, preservation, and rehabilitation of affordable housing, homelessness, homeownership, infrastructure, and planning.

2) Establishes the Mitigation Fee Act, which requires a local agency to do all of the following when establishing, increasing, or imposing a fee on a development project:

   a) Identify the purpose of the fee;
   b) Identify the use to which the fee is to be put;
   c) Determine the nexus between the fee's use and the type of development project on which the fee is imposed; and
   d) Determine the nexus between the need for a public facility and the type of development project on which the fee is imposed.

This bill:

1) Establishes the Housing Cost Reduction Incentive Program at HCD.

2) Provides that, upon appropriation by the Legislature, HCD must implement this program by providing grants to cities and counties that reduce or defer fees for qualified housing developments.

COMMENTS:

1) *Author's statement.* According to the Author, "California has a massive and growing housing production and affordability gap. According to the Roadmap Home 2030, California needs to build 1.2 million new affordable homes, 120,000 per year, to meet the needs of low-income families over the next ten years. Yet California has never produced more than 20,000 new affordable rental homes in any year. An important factor inhibiting the production of affordable housing is the high cost of impact fees that local governments charge new developments to defray the cost of infrastructure.

   AB 2186 encourages cities and counties to reduce or defer impact fees for qualified housing developments by creating the Housing Cost Reduction Incentive Program. This Program will reimburse jurisdictions for 50% of the value of fee reductions granted, or the interest accrued on a fee deferral. This will help lower the cost of building new affordable housing and increase affordable housing production to meet the needs of Californian communities."

2) *Housing crisis*. California's housing crisis is a half century in the making. Decades of underproduction underscored by exclusionary policies have left housing supply far behind need and costs soaring. California currently has 13 of the 14 least affordable metropolitan areas for homeownership in the nation; it also has the second highest rate of renter households paying more than 30% of their income for housing at 52%. According to the 2022 Statewide Housing Plan, published by HCD, California must plan for more than 2.5 million homes over the next eight-year cycle, and no less than one million of those homes must meet the needs of lower-income households. This represents more than double the housing planned for in the last eight-year cycle. The lack of housing supply is the primary factor underlying California's housing crisis.

   During the 1990's, California averaged only 110,000 new housing units per year. During the early 2000's, production increased significantly, reaching a peak of 212,000 units in 2004 before plummeting to historic lows during the recession. Unfortunately, the downward trend continues; the fact is that California has under-produced housing every single year since 1989.

   As a result, millions of Californians, who are disproportionately lower income and people of color, must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation—one in three households in the state doesn't earn enough money to meet their basic needs.

3) *Public Infrastructure and Development Impact Fees.* Public infrastructure is necessary to provide services and important amenities to local communities. Such infrastructure includes roads, schools, parks, transit, libraries, and utilities such as power and water. Over the past several decades, local governments have become increasingly responsible for funding the provision of such infrastructure, as federal funding has waned (although the passage of the federal Infrastructure Investment and Jobs Act may signal a reversal of that trend).

   While local governments must provide infrastructure, their ability to fund infrastructure and otherwise provide municipal services has been hampered by a series of statewide propositions:

   a) Proposition 13 (1978) capped property tax rates at one percent of assessed value (which only changes upon new construction or when ownership changes) and required two-thirds voter approval for special taxes. The result was that local governments no longer had the ability to raise revenue through increases in property taxes, requiring the use of general taxes to avoid the higher voter threshold for special taxes.
   b) Proposition 62 (1986) required majority voter approval of general taxes. As such, local agencies imposed assessments that were more closely tied to the benefit that an individual property owner receives.
   c) Proposition 218 (1996) required voter approval of parcel taxes, assessments, and property-related fees.

   Left with limited options, local governments have turned to other sources of funds for general operations and provision of infrastructure. These include promoting commercial and hotel uses, which simultaneously provide property taxes, sales taxes, and hotel taxes, while simultaneously demanding relatively few services. Residential developments, by contrast, do not directly generate sales or hotel tax revenue, and the new residents demand a wider variety of more intensive services. As a result, California's local governments have faced a fiscal disincentive to plan for and approve housing. This phenomenon is known as the "fiscalization of land use."

   Local governments recoup the costs of infrastructure through charging development impact fees. Typically, because they cannot impose broad-based taxes without great difficulty, cities and counties set impact fees at a level that covers the full cost of providing new infrastructure to serve the new residents.

4) *Impact Fees and the Cost to Build Affordable Housing.* In the past two decades, the cost of building publicly subsidized affordable housing in California has risen from $265,000 per unit in 2000 to $480,000 per unit in 2019.[1] These cost increases are mostly due to increases in hard construction costs – specifically materials and labor. However, impact fees continue to make up a significant portion of the overall cost of affordable housing. Recent analysis provided by the California Housing Partnership Corporation showed that the median impact fees are approximately $14,500 per unit.[2] An analysis of projects that recently were awarded Low-Income Housing Tax Credits by the Tax Credit Allocation Committee demonstrated a wide range of impact fee burdens, from as low at $2,700 per unit in Los Angeles to a high of $51,000 per unit in Fremont.

   This bill would create a program that would reduce the cost burden of impact fees on affordable housing without requiring local governments to cover all of those costs. It would do so by having the state reimburse local governments for up to half of development impact fees they reduce or all of the interest on impact fees deferred. To be eligible for the funding, local governments would first need to reduce their impact fees on affordable housing, or establish a deferral program that enabled affordable housing projects to wait to pay their fees until shortly after construction is complete. Local governments would receive the fully allowed reimbursements for years in which funding exceeds applications, and a proportional amount of the funding in years when applications exceed funding.

   There is an associated budget request of $25 million that the author is advocating for.

5) *Double-referral.* This bill is double referred to the Senate Governance and Finance Committee.

RELATED LEGISLATION:

AB 602 (Grayson, Chapter 347, Statutes of 2021) — required local agencies conducting impact fee nexus studies to follow specific standards and practices, including: prior to the adoption of an associated development fee, an impact fee nexus study is adopted; that the study identify the existing level of service,

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[1] Based on two works from UC Berkeley Terner Center for Housing Innovation - their March 2020 blogpost "The Cost of Building Housing Series," (https://ternercenter.berkeley.edu/research-and-policy/the-cost-of-building-housing-series/) and their March 2020 research paper "The Costs of Affordable Housing Production: Insights from California's 9% Low-Income Housing Tax Credit Program (https://ternercenter.berkeley.edu/wp-content/uploads/2020/08/LIHTC_Construction_Costs_2020.pdf)

[2] Based on an internal impact fee analysis for the Roadmap Home by CHPC

proposed new level of service, and explanation for a change the in service level for each public facility; and if the study is adopted after July 1, 2022, either calculate a fee levied or imposed on a housing development project proportionately to the square footage of the proposed units, or make specified findings to explain a deviation from this practice.

AB 678 (Grayson, 2021) and AB 3145 (Grayson, 2020) — these bills would have capped the total amount of fees and exactions imposed by a city or county on a housing development. *These bills died in the Assembly Committee on Local Government.*

AB 3144 (Grayson, 2020) — This bill was substantially similar to the bill being discussed in this analysis, in that it would have created a reimbursement program for development impact fees on affordable housing that a city or county waives. *It was held by request of the author and died in the Assembly Committee on Housing and Community Development.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 8, 2022.)

SUPPORT:

California Housing Partnership Corporation (Sponsor)
All Home
California Apartment Association
California Council for Affordable Housing
California Housing Consortium
EAH Housing
East Bay Leadership Council
LeadingAge California
Merritt Community Capital Corporation
Midpen Housing Corporation
Non-profit Housing Association of Northern California (NPH)
Rural Community Assistance Corporation
San Diego Housing Federation
San Joaquin Valley Housing Collaborative
Southern California Association of Non-profit Housing (SCANPH)
SV@home Action Fund
The San Joaquin Valley Housing Collaborative

OPPOSITION:

None received.

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