

- 2) States that the purpose of the authority is to raise, administer, and allocate funding and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production.
- 3) Requires the executive board and the authority board to form an advisory committee of nine members with knowledge and experience in the areas of affordable housing finance and development, tenant protection, and housing preservation. The advisory board shall provide consultation and make recommendations to the executive board and the authority board.
- 4) Requires the board to set meetings as necessary. Requires the authority to be subject to the Brown Act, the California Public Records Act, and the Political Reform Act of 1974. Additionally, BAHFA shall engage in public participation processes, as specified.
- 5) Authorizes the board to make and enforce rules and regulations necessary for governing the authority, the preservation of order, and the transaction of business.

BAHFA Powers

- 6) Authorizes the authority to do the following:
 - a) Subject to the approval of the executive board, place a measure on the ballot to raise revenue and allocate funds throughout the San Francisco Bay Area.
 - b) Apply for and receive grants or loans from public and private entities.
 - c) Solicit and accept gifts, fees, loans, and other allocations from public and private entities.
 - d) Deposit or invest moneys of the authority in banks or financial institutions including money that was not required for the immediate necessities of the authority.
 - e) Sue and be sued; engage counsel and other professional services; and enter into and perform necessary contracts.
 - f) Hire staff and utilize staff employed by MTC.
 - g) Allocate and deploy capital and generated fees or income in the form of grants, loans, equity, interest rate subsidies, and other financing tools to the cities, counties and other public agencies within the San Francisco Bay Area, and private affordable housing developers to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs.

- h) Establish and modify the terms of potential capital investments deployed by the authority.
 - i) Collect data on housing production and monitor progress on meeting regional and state housing goals.
 - j) Provide support and technical assistance to local governments related to affordable housing production and preservation, and tenant protection.
 - k) Provide public information regarding the authority's housing programs and policies.
 - l) Incur and issue bonds and other indebtedness.
 - m) Purchase, lease, sell, rent, transfer, assign, and otherwise acquire or dispose of property, including real property.
 - n) Any other express or implied powers necessary to carry out the intent and purposes of this title.
- 7) Provides that, subject to approval by the executive board, if the authority proposes a measure that will generate revenues and that requires voter approval, the board of supervisors of the county or counties in which the authority has determined to place the measure on the ballot shall call a special election on the measure.
- 8) Requires each county included in the ballot measure to include, among other things, a summary of an expenditure plan provided by the authority for inclusion in the ballot pamphlet, as specified.
- 9) Provides that if 2/3 of all voters voting on a question at the special election vote affirmatively, the measure shall take effect in the counties in which the measure appeared on the ballot.
- 10) Prohibits the executive board and the authority from regulating or enforcing local land use decisions and acquiring property by eminent domain.
- 11) Requires the authority to provide for regular audits of the authority's accounts and records and maintain accounting records, as specified.

BAHFA Financing Activities

- 12) Authorizes the authority, subject to prior approval by the executive board, to raise and allocate new revenue through the following:
- a) Special taxes, subject to voter approval, including a parcel tax, gross receipts business license taxes (gross receipts tax), and a special business tax (head tax).

b) Commercial linkage fees.

13) Any funding mechanism or combination of funding mechanisms that requires voter approval may be placed on the ballot in all or a subset of the nine counties in the San Francisco Bay Area, but in no case shall it be placed on the ballot in fewer than four counties.

14) States the Legislature's intent for the funds to distribute the responsibility for addressing the affordable housing needs of the region across commercial developers, business above a certain size, taxpayers, and property owners within the region.

Expenditures

15) Requires revenue to be used for the construction of new affordable housing, affordable housing preservation, tenant protection programs, planning and technical assistance related to affordable housing, and infrastructure to support housing, and those purposes detailed in (17-20) below.

16) Requires the allocation of regional housing revenues to be first approved by the executive board and subsequently by the authority. The funds shall be distributed in the form of a grant, loan, or other financing tool in a manner that achieves minimum shares over five-year periods after the revenue is approved by voters, as follows:

- a) A minimum of 2/3 for production and preservation of affordable housing, as follows:
 - i. A minimum of 52% for the production of rental housing that is deed restricted to be affordable to lower income households for at least 55 years.
 - ii. A minimum of 15% for preservation of housing that is deed restricted to be affordable to low- or moderate-income households for 55 years. Funding shall be subject to both of the following conditions:
 - (A) Existing residents of buildings acquired for the purpose of affordable housing preservation shall not be displaced.
 - (B) Buildings required for the purpose of affordable housing shall achieve 100% occupancy by low- or moderate-income households over time throughout unit turnover.
 - iii. Provides that funding shall be subject to the following in the event that demolition or rehabilitation of housing units is required:
 - (A) If the housing units are occupied at the date of acquisition, the housing development shall provide at least the same number of

- units of equivalent number of bedrooms to be made available at affordable rent or affordable to lower-income households.
 - (B) If existing residents must be relocated due to demolition or rehabilitation needs, the developer must provide relocation benefits to the occupants of those housing rental units.
 - (C) If existing residents must be relocated due to demolition or rehabilitation needs, the developer shall provide a right of first refusal for a comparable unit available in the new or rehabilitated housing development that is affordable to the household at an affordable rent or an affordable housing cost.
- b) A minimum of 5% for tenant protection programs for low- and moderate-income households. Funds may only be spent on the following:
- i. Pre-eviction and eviction legal services, counselling, advice and consultation, training, renter education, and representation, and services to improve habitability that protect against displacement of tenants.
 - ii. Providing emergency rental assistance for lower income households, as specified.
 - iii. Providing relocation assistance for lower income households beyond what is legally required of landlords according to local or state law.
 - iv. Collection and tracking of information related to displacement and displacement risks, rents, and evictions in the region.
- c) A minimum of 10% for a grant program for local governments that qualify based on criteria funding guidelines established by the executive board and the authority in consultation with the advisory committee. Eligible expenditures must support housing and related uses, and include, but not be limited to, grants for the following:
- i. Technical assistance, preparation and adoption of planning documents, and process improvements to accelerate and support housing production, preservation, and tenant protections.
 - ii. Infrastructure needs associated with increased housing production, including but not limited to, transportation, schools, and parks.
 - iii. One-time uses that address homelessness, including, but not limited to, homeless shelters.
 - iv. Programs to enable low- or moderate-income households to become or remain homeowners.
 - v. Tenant protection programs.
- 17) Requires the authority to distribute the revenue derived from a commercial linkage fee to each city or county in a manner that is consistent with a regional nexus study adopted by the executive board and the authority. These revenues shall be used exclusively for the production of housing units necessitated by a

commercial development project on which the fee was imposed and as determined by the executive board and the authority board.

18) Requires the authority to distribute parcel and gross receipt taxes as follows:

- a) At least 80% of the revenue shall be allocated to the county of origin for expenditure in that county, consistent with the expenditure plan in (21-23) below.
- b) Up to 20% shall be collected by the authority for expenditures consistent with the purposes set for in (16) above and eligible to be used in any county in which the measure is in effect.

19) Requires the authority to distribute funds received through the head tax as follows:

- a) At least 50% of the revenue shall be allocated to the county of origin for expenditure in the county, consistent with the expenditure plan in (21-23) below.
- b) Up to 50% shall be collected by the authority for expenditures consistent with the purposes set for in (16) above and eligible to be used in any county in which the measure is in effect.

20) Requires the executive board and the authority to, in consultation with the advisory committee, adopt a regional expenditure plan for the uses of housing revenue by July 1 of each year. The expenditure plan shall set forth: (a) the share of revenue and estimated funding amount to be spent in each of the categories established in (17) above, (b) indicate the household income levels to be served within each category of expenditures, and (c) estimate the number of affordable housing units to be built or preserved and the number of tenants to be protected.

21) Requires, to the extent feasible, the expenditure plan to include a description of projects to be funded, location, amount of funding, and anticipated outcomes. Beginning in year two, the authority shall include a report in the regional expenditure plan that provides the allocations and expenditures of projects and projects funded.

22) Requires the regional housing plan to contain specified information for any specific project that has received an allocation of regional housing revenue during the prior year, including whether the project proponent has requested or been eligible to receive a building permit and whether the project proponent has obtained approval or certification that the development is habitable.

- 23) Requires each county to adopt an expenditure plan applicable to county housing revenue that specifies the proposed allocation of funds and demonstrates how the funds will meet the minimum allocations in (20) above, as specified.
- 24) Requires the executive board and the authority to monitor expenditures in coordination with the local jurisdictions.
- 25) Requires the authority to submit an annual report to the Legislature on allocations and expenditures under its control, as specified.

COMMENTS

- 1) *Purpose of the bill.* According to the author, “the Bay Area is facing the most significant housing crisis in the region’s history, as countless residents are facing insurmountable housing costs, spend hours driving every day, are one paycheck away from an eviction, or experience homelessness. Housing is a regional issue that requires policy and funding coordination across jurisdictions. This bill would create a vital, new option to address the lack of affordable housing in the San Francisco Bay Area. Specifically, the bill would provide the ABAG and MTC – acting as the BAHFA – with new tools to raise billions of dollars to fund the production, preservation, and protection of affordable housing. It would enable the region to support local jurisdictions by providing additional funding to address infrastructure and other needs associated with new residents. This bill was generated in partnership with the Bay Area’s local elected leaders and other regional leaders so that, collectively, we can ensure that the entire Bay Area is on track to provide affordable housing efficiently and effectively to all residents.”
- 2) *Existing Bay Area regional governance.* Federal law 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. State law requires each of California’s 18 MPOs and 26 regional transportation planning agencies (RTPAs) to prepare a 20-year regional transportation plan. State law requires each MPO to prepare a sustainable communities strategy as part of its regional transportation plan. MTC is the Bay Area’s RTPA and MPO. COGs are formed (voluntarily) under the state’s joint powers authority’s statute. COGs are required to allocate regional housing need allocation (RHNA) shares within their jurisdictions. ABAG is the Bay Area’s COG. In 2017, MTC and

ABAG consolidated their staff into one integrated team to promote enhanced regional collaboration and cooperation.

- 3) *A regional housing financing entity in the Bay Area.* This bill establishes the BAHFA throughout the San Francisco Bay Area and sets forth the governing structure and powers of the board, allowable financing activities, and allowable uses of the revenues generated. Its purpose is to raise, administer, and allocate funding and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production. This bill establishes MTC as the board of the authority, and ABAG as the executive board, making ABAG the lead agency.
- 4) *Agreement among the Bay Area stakeholders.* Several key provisions were removed in the Senate Governance and Finance Committee to allow interested stakeholders, local leaders, and the author time to negotiate the appropriate financing activities and allowable uses of revenues generated by the authority. Earlier this year, the MTC and ABAG Legislation Committees recommended the formation of an ad hoc committee consisting of local leaders to suggest amendments to AB 1487. In July, ABAG and MTC voted to support the bill if amended with the ad hoc committees' recommended amendments, as well as additional changes. The amendments made in the Senate on 8/28/19 reflect those recommendations, with the additional changes requested by MTC and ABAG.
- 5) *Summary of recent amendments.* Several major amendments were made to the bill since it was seen in the Senate Housing Committee, including changes to the distribution of the funds to various housing purposes. Specifically, production and preservation are combined to represent 2/3 of the expenditures, at least 5% is reserved for tenant protections, and at least 10% for a grant program to locals. Amendments also increased the percentage of funds that return to their home county from 75% to 80%, except that the head tax is split evenly between the county of origin and the authority. Additionally, as noted above, the amendments clarify that ABAG is the lead agency. This bill also makes a number of changes related to the financing mechanisms the authority is authorized to use for housing, and to the governance structure of the authority.
- 6) *Can't they form a JPA on their own?* Local agencies do not need legislative authority to form a JPA unless it requires powers not common to all its members, or when statutory certainty and specificity is preferable to the agreement's details. In this instance, the authority needs specified authority to generate certain revenues. This bill also provides the authority to shift tax

questions to the voters at the regional level, rather than at the individual county level.

- 7) *29.10(b)*. As noted above in Comment (4), several key provisions heard in Senate Housing at the June 18th hearing were removed in the Senate Governance and Finance Committee. Because the bill was rewritten, the Senate Rules Committee referred the amended bill under Senate Rule 29.10(b) for a hearing on the Floor amendments. Under this rule, the Committee can hold the bill, or return it to the Senate Floor.

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

POSITIONS: (Communicated to the committee before noon on Friday, August 30, 2019.)

SUPPORT

Enterprise Community Partners, Inc. (Co-Sponsor)
Non-Profit Housing Association Of Northern California (Co-Sponsor)
Alameda County Transportation Commission
Alliance of Californians for Community Empowerment Action
Bay Area Housing Advocacy Coalition
Burbank Housing Development Corporation
California Community Builders
California YIMBY
Chan Zuckerberg Initiative
Community Housing Development Corporation
Community Legal Services in East Palo Alto
Corporation For Supportive Housing
EAH Housing
East Bay Asian Local Development Corp
East Bay Housing Organizations
Eden Housing
Ensuring Opportunity Campaign To End Poverty In Contra Costa County
Greenbelt Alliance
Habitat For Humanity East Bay/Silicon Valley
Hamilton Families
London Breed, Mayor of San Francisco
Mercy Housing
MidPen Housing
Non-Profit Housing Association Of Northern California
North Bay Leadership Council
Pico California

Related California
Rise Together
Salesforce
San Francisco Foundation
San Francisco Housing Action Coalition
Save the Bay
Silicon Valley at Home
Silicon Valley Community Foundation
SPUR
TechEquity Collaborative
TMG Partners
Transform
Urban Displacement Project, UC-Berkeley
Working Partnerships USA
1 Individual

OPPOSITION

California Taxpayers Association
Clayton; City of
Coalition For San Francisco Neighborhoods
Delta 6 - East County Mayors and Supervisors
Howard Jarvis Taxpayers Association
San Francisco Tenants Union
San Mateo; City Of

-- END --