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

Bill No:	SCA 1	**Hearing Date:**	6/4/2019
Author:	Allen		
Version:	12/3/2018 Introduced		
Urgency:	No	**Fiscal:**	No
Consultant:	Alison Hughes		

SUBJECT: Public housing projects

DIGEST: This amendment repeals Article 34 of the California Constitution, which requires majority approval by the voters of a city or county for the development, construction, or acquisition of a publicly funded affordable housing project.

ANALYSIS:

1) Existing law, under Article 34 of the California Constitution, requires majority approval by the voters of a city or county for the development, construction, or acquisition of a publicly funded "low-rent housing project."

2) Provides that the term "low-rent housing project," as defined in Section 1 of Article 34 of the California Constitution, does not apply to any development composed of urban or rural dwellings, apartments, or other living accommodations that meets any of the following:

   a) The development is privately owned housing, receiving no property tax exemption, as specified, and not more than 49% of the dwellings, apartments, or other living accommodations of the development may be occupied by persons of low income.
   b) The development is privately owned housing, is not exempt from property taxes by reason of any public ownership, and is not financed with direct long-term financing from a public body.
   c) The development is intended for owner-occupancy rather than for rental-occupancy.
   d) The development consists of newly constructed, privately owned, one-to-four family dwellings not located on adjoining sites.
   e) The development consists of existing dwelling units leased by the state public body from the private owner of these dwelling units.

f) The development consists of the rehabilitation, reconstruction, improvement or addition to, or replacement of, dwelling units of a previously existing low-rent housing project.
g) The development consists of the acquisition, rehabilitation, reconstruction, improvement, or any combination thereof, of a rental housing development which, prior to the date of the transaction to acquire, rehabilitate, reconstruct, improve, or any combination thereof, was subject to a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households and maintains, or enters into, a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households.

This amendment repeals Article 34 of the California Constitution.

COMMENTS

1) *Purpose of the amendment.* According to the author, "California has an estimated twenty-two affordable and available rental homes for every one hundred extremely low-income households. A majority of renters spends more than thirty percent of their income on housing, and nearly one-third spend more than half of their income just for a place to live. Forty percent of Californians also live close to or below the poverty line. Burdened by high housing costs, a financial setback for such families can spell catastrophe. Too many of our neighbors are one missed paycheck away from homelessness. Over the past few years California's voters time and again have made their priorities clear, supporting state and local ballot measures that dedicate hundreds of millions in taxpayer dollars to tackling our housing and homelessness crises. We owe it to these taxpayers to use this money as cost-effectively as possible. Passed by voters in 1950, California's Constitutional Article 34 was a direct response to the Federal Housing Act of 1949, part of President Harry Truman's 'Fair Deal' to help lower-income post-war families move out of the slums and into better living situations. Some Californians, fearful of how this policy might change their neighborhoods, drove the push for a ballot measure requiring local governments seeking to 'develop, construct, or acquire ... low-rent housing' to also obtain approval for the development of the housing by a vote of the electorate. The Golden State has changed considerably since 1950. Our society had very different attitudes about race and ethnicity, class and poverty. There were also far less tools providing residents with an opportunity to alter or block plans for new housing—no Environmental Quality Act, no Brown Act, no Coastal Act, and far fewer lawsuits. Article 34 stands as an additional, anachronistic and expensive Constitutional barrier that subjects local governments to a web of regulations and costly elections that end up driving up

the price of building publicly financed affordable housing. [This amendment] asks voters to eliminate an obstacle, enshrined in our Constitution, which currently undermines the ability of their elected leadership to address California's acute housing and homelessness challenges."

2) *Article 34 history.* Article 34 was added to the California Constitution in 1950 on the heels of the passage of the federal Housing Act of 1949. The Housing Act of 1949 banned explicit racial segregation in public housing, which left cities scrambling to find ways to separate communities of color from white neighborhoods. The real estate industry, unable to stop the passage of the Housing Act of 1949 at the federal level, sought to slow and stop its implementation at the state and local level.

The enactment of Article 34 grew out of a controversy surrounding a low-income housing project in Eureka, California. The local Housing Authority had applied for federal funding to cover the costs of planning and surveys for a low-income public housing development. After the application for funding was submitted, the City Clerk received a signed petition from more than 15% of the city electorate, requesting any city council approval of the loan application be submitted to the voters for approval. A lawsuit made its way to the California Supreme Court, holding that the power of referendum applies only to legislative acts, not acts that are executive or administrative. Since the acts were administrative and not legislative, the people could not use a referendum to change the city government's decisions, and the court had no jurisdiction.

Given that the citizens of Eureka could not make decisions around low-income housing developments in their community, they joined forces with the California Real Estate Association to enact Article 34 on the November 1950 ballot. According to the argument supporting the initiative, a vote in favor of adding Article 34 to the California Constitution was a vote for the right to say yes or no when a community was considering a low-income housing project. The need for community control was necessary because of tax waivers, and other forms of community assistance that a public housing project required.

Campaign materials and internal documents produced by the California Real Estate Association, the organization behind the ballot measure enacting Article 34 indicate that the constitutional change was more than just giving a voters a say in the approval of housing projects. According to the *Los Angeles Times,* an internal newsletter from the California Real Estate Association legislative committee Chairman stated:

"If you value your property, if you hold liberty dear, if you believe in the dignity of the individual, if you love this land of the free and the home of the brave, if you desire to stop the enemy of socialism that is gnawing at the vitals of America from within, the ballot box is your weapon, the one and only means by which our great Republic will be preserved and improved."

3) *Practical impacts on housing development.* Article 34 requires that voter approval be obtained before any "state public body" develops, constructs or acquires a "low rent housing project." Cities, counties, housing authorities and agencies are all "state public bodies" for purposes of Article 34. As a result, if any of those entities participates in development of a "low rent housing project" and that participation rises to the level of development, construction, or acquisition of the project by the agency, approval by the local electorate is required for the project.

   Local agencies usually seek general authority from the electorate to develop low income housing prior to the identification of a specific project. For example, a typical Article 34 election might authorize construction of 500 low income units anywhere in the city or county, its housing authority, or other state public bodies. Not all low- and moderate-income housing is a "low rent housing project." To clarify the requirements of Article 34, the Legislature clarified in statute that specific projects would not require voter approval, such as projects with less than 49% of the units are occupied by low-income families, and privately owned housing that does not receive public financing, owner-occupied developments.

   Jurisdictions that do not comply with Article 34 requirements are not eligible for state funds.

4) *Prior attempts at repeal.* In 1971, *James v. Valtierra* tested the constitutionality of Article 34. After low-income housing proposals were defeated by referenda in San Jose and San Mateo County, a group of black and Mexican-American persons who were eligible for low-income housing in these communities filed suit alleging Article 34 violated the federal Constitution's Supremacy Clause, Privileges and Immunities Clause, and Equal Protection Clause. The US Supreme Court found that Article 34 did not rest on "distinctions based on race" because a referendum was required on any low-income project when the project was within the guidelines set forth in the article, not just projects which were to be occupied by racial minorities. The appellees also argued that Article 34 denied equal protection to low-income households because they were singled out for a mandatory referendum. The Court disagreed with this argument as well by pointing out that a referendum is a democratic decision-making

procedure and that California has a long history of using the referendum process to influence or make public policy.

In 1974, Assemblymember Willie Brown authored a bill in the legislature which placed the repeal of Article 34 on the ballot as Proposition 15. That measure was defeated. In 1977, Assemblymember Brown authored a modification of Article 34, which placed Proposition 4 on the 1980 ballot. Again this was defeated. The most recent attempt at repeal took place in 1993 as Proposition 168, this time with the support of the California Association of Realtors, which failed passage on a 60% vote.

Presently, no other state constitution requires voter approval for public housing.

5) *2020 Ballot.* If this bill passes the Legislature, it would require approval by the voters on the November 2020 ballot.

6) *Double referral.* This bill is also referred to the Elections and Constitutional Amendments Committee.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 29, 2019.)

SUPPORT:

California Association Of Realtors (Co-Sponsor)
California Coalition For Rural Housing (Co-Sponsor)
California YIMBY (Co-Sponsor)
Los Angeles; City Of (Co-Sponsor)
Southern California Association Of Nonprofit Housing (Co-Sponsor)
Aids Healthcare Foundation
Berkeley; City Of
California Partnership
East Bay For Everyone
Eden Housing
League Of Women Voters Of California
San Francisco Housing Action Coalition
Silicon Valley At Home
West Hollywood; City Of

OPPOSITION:

None received.

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

Bill No:	AB 143	**Hearing Date:**	6/4/2019
Author:	Quirk-Silva		
Version:	5/22/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Lizeth Perez		

SUBJECT: Shelter crisis: homeless shelters: Counties of Alameda and Orange: City of San Jose

DIGEST: This bill authorizes Alameda County, any city within Alameda County, Orange County, any city within Orange County, and the City of San Jose, to include homeless shelters as emergency housing upon declaration of a shelter crisis, until January 1, 2023.

ANALYSIS:

Existing law:

1) Authorizes a governing body to declare a shelter crisis. "Declaration of a shelter crisis" is defined as the duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety.

2) Authorizes emergency housing to include homeless shelters upon the declaration of a shelter crisis by the cities of Berkeley, Emeryville, Los Angeles, Oakland, San Diego, Santa Clara County, and the City and County of San Francisco, until January 1, 2021.

3) Authorizes cities and counties in (2) to suspend housing, health, habitability, planning and zoning, or safety standards and procedures during the shelter crisis and allows them to adopt, by ordinance reviewed by the Department of Housing and Community Development, local standards and procedures for the design, site development, and operation of homeless shelters and structures if it is determined that strict compliance with state and local standards and laws would prevent or delay the mitigation of the effects of the shelter crisis.

4) Authorizes cities and counties in (2) to suspend landlord tenant laws from landlord tenant laws for homeless shelters provided that the city or county

adopts health and safety standards for shelters and those standards are complied with.

5) Requires the cities and counties in (4) to develop a plan to address the shelter crisis by July 1, 2019 and to provide an annual report on the state of homelessness in the city or county beginning January 1, 2019 to the appropriate legislative committees.

This bill:

1) Expands the Shelter Crisis Act to include Alameda County, any city within Alameda County, Orange County, any city within Orange County, and the City of San Jose.

2) Requires these cities and counties to develop a plan to address the shelter crisis, and make the plan publicly available, by July 1, 2020.

3) Requires these cities and counties to provide on the state of homelessness and housing, as specified, to the appropriate committees of the Legislature on or before January 1 of the year following the declaration of a shelter crisis.

4) Extends the Shelter Crisis Act sunset date from January 1, 2021 to January 1, 2023.

COMMENTS

1) *Purpose of the bill.* The author states that, "According to the United States Department of Housing and Urban Development's 2018 Annual Homeless Assessment Report, California has the highest rates of homelessness in the nation. In fact, on a single night in January 2018, there were 24 percent, or 129,972 Californians, experiencing homelessness throughout our state. To resolve the homeless issue, we need an array of innovative strategies – both short and long term solutions. AB 143 would create flexibility to expedite the creation of shelters and permanent supportive housing that is desperately needed."

2) *Shelter Crisis Act.* The existing Shelter Crisis Act permits a local jurisdiction to declare a shelter crisis with limited liability to provide emergency housing. It also permits the jurisdiction to allow homeless persons to occupy designated public facilities for the duration of the crisis. Further, the Shelter Crisis Act suspends local housing, health, and safety standards for public facilities to the extent full compliance would hamper mitigation of the effects of the shelter crisis.

Emergency housing is typically provided as shelter beds allowing for an overnight stay in places such as gyms.

3) *City of San Jose Bridge Housing Communities Pilot.* AB 2176 (Campos, Chapter 691, Statutes of 2016) authorized the City of San Jose to operate an emergency bridge housing community for homeless persons during a declared shelter crisis. That bill authorized San Jose to enact, through a local ordinance, building, housing, health, habitability, and safety standards for the development of emergency bridge housing communities to address the short-term housing needs of the homeless community while new permanent supportive housing is being financed and constructed. The San Jose Bridge Housing Communities Projects require that each person housed in an emergency bridge housing community be placed in an affordable housing unit identified in the city's housing plan on or before the end of the pilot in 2022. That bill also required that the emergency bridge housing communities meet basic building code standards. San Jose's pilot provides basic needs for its residents, including onsite access to a bathroom and kitchen. The goal of this bill was to allow for temporary structures to be constructed to immediately house people living on the streets, with a plan to ultimately place the homeless in permanent housing.

4) *Expanding the Shelter Crisis Act.* This bill would add any city within Alameda County, Orange County, any city within Orange County, and the City of San Jose to the Shelter Crisis Act. A US District Judge in Orange County ordered cities in that county to develop enough beds for 60% of the area's unsheltered homeless population in response to a lawsuit brought forth over people experiencing homelessness who are living in encampments along the Santa Ana River trail. In addition, five Orange County cities were sued earlier this year for failing to provide shelters for the homeless. Orange County is also working on construction of permanent housing; AB 448 (Daly, 2018) established the Orange County Housing Trust, with the aim of providing housing for homeless people as well as families of low, very low, and extremely low income.

   Of Alameda County's homeless population, 69% is unsheltered and the amount of available affordable housing has not kept up with demand.

   The City of San Jose contains over half the homeless population in Santa Clara County. San Jose already has a plan to address its shelter crisis, bridge housing communities, which are addressed in separate legislation (AB 1745, Kalra) but is also seeking to be included in this bill in order to address its homeless crisis in multiple ways.

5) *Shelter Crisis Act vs. the San Jose pilot.* The San Jose pilot and the Shelter Crisis Act differ in several ways. The Shelter Crisis Act allows for the creation of emergency homeless shelters at a faster rate by bypassing housing, health and safety standards, thus providing a temporary solution to their homelessness crisis. The San Jose pilot holds shelters to a higher standard by not allowing a waiver of all health and safety requirements. The Shelter Crisis Act ultimately creates permanent structures for housing that are not subject to the same health and safety requirements as other permanent structures, yet will remain beyond the 10-year sunset. The Shelter Crisis Act does not require any connection, or even a plan to connect the homeless to permanent housing. On the other hand, the San Jose Bridge Housing Communities pilot the structures themselves are likely to only exist while permanent housing is being built. Both processes, however, require HCD to review draft ordinance passed by the specified localities to ensure they address minimum health and safety standards, and to provide findings to the appropriate legislative policy committees.

   While shelters certainly play a role in providing temporary assistance to the homeless, they are not a long-term solution. The long-term solution should be permanent housing. There are examples of shelters throughout the state doing a poor job at connecting homeless people to permanent housing, for example, a winter shelter that recently closed in Sacramento reported transferring only 21% of shelter guests to permanent housing. In contrast, each bridge housing community in San Jose will contain 40 cabins which are projected to serve 320 homeless individuals, with 240 of these individuals expected to exit to permanent housing over the next 2.5 years, a 75% projected transfer rate.

6) *Putting it all together.* The cities and counties that are authorized under the Shelter Crisis Act comprise more than 40% of the state's homeless population (see below), based on the 2017 Homeless Point in Time Count.

City/County	Homeless Population	Unsheltered Homeless Population	% of California Homeless Population
California	134,278	91,642	100%
Cities			
Los Angeles	33,138	24,186	25%
Oakland	2,761	1,902	2%
San Francisco	7,499	3,840	6%
San Diego	5,619	3,231	4%
Berkeley	972	664	1%

Emeryville	29	29	<1%
San Jose	4,350	3,219	3%
Counties (including cites within)			
Alameda	5,629	3,863	4%
Orange	4,792	2,584	4%
Santa Clara	7,394	5,448	6%
Santa Clara (unincorporated)	302	189	<1%
San Francisco	7,499	3,840	6%

Adding the cities and counties included in this bill (listed in bold on the table) would increase this number to 50%. *Moving forward, the author may wish to consider expanding this bill to the entire state to preclude the need for legislation each time a city or county wants to enjoy the same flexibility afforded in the Shelter Crisis Act.* **The author will accept amendments requiring newly added cities and counties to include a plan to transition residents from homeless shelters to permanent housing to help diminish the need for permanent homeless shelters in the long run.**

7) *Double referral.* This bill is also referred to the Senate Environmental Quality Committee.

RELATED LEGISLATION:

AB 1745 (Kalra, 2019) — extends the sunset date for the San Jose Bridge Housing Communities Project from January 1, 2022 to January 1, 2025. *This bill is also being heard by this committee today.*

AB 932 (Ting, Chapter 786, Statutes of 2017) — authorized emergency housing, upon declaration of a shelter crisis by the City of Berkeley, Emeryville, Los Angeles, Oakland, or San Diego, the County of Santa Clara, or the City and County of San Francisco, to include homeless shelters until January 1, 2021.

AB 2176 (Campos, Chapter 691, Statutes of 2016) — authorized the City of San Jose to operate an emergency bridge housing community for homeless persons during a declared shelter crisis.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 29th.)

SUPPORT:

Apartment Association Of Orange County
California Travel Association
Eric Garcetti, Mayor of Los Angeles
La Palma; City Of
Orange; County Of
San Jose; City Of
Santa Clara Valley Water District
Santa Clara; County of
Silicon Valley at Home

OPPOSITION:

Huntington Beach; City of

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

Bill No:	AB 587	**Hearing Date:**	6/4/2019
Author:	Friedman		
Version:	4/22/2019		
Urgency:	No	**Fiscal:**	No
Consultant:	Erin Riches		

SUBJECT: Accessory dwelling units: sale or separate conveyance

DIGEST: This bill allows for an accessory dwelling unit (ADU) to be sold or conveyed separately from the primary residence to a qualified buyer under specified circumstances.

ANALYSIS:

Existing law:

1) Provides that if a locality adopts an ADU ordinance in areas zoned for single-family or multifamily, it must do all of the following:

   a) Designate areas where ADUs may be permitted.
   b) Impose certain standards on ADUs such as parking and size requirements.
   c) Prohibit an ADU from exceeding the allowable density for the lot.
   d) Require ADUs to comply with certain requirements such as setbacks.

2) Requires ministerial approval of an ADU permit within 120 days.

3) Allows a locality to establish minimum and maximum unit sizes for both attached and detached ADUs.

4) Restricts the parking standards a locality may impose on an ADU.

5) Allows a local agency to require that an applicant be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

6) Provides that an ADU shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

7) Requires a local agency to submit a copy of its ADU ordinance to HCD within 60 days of adopting it and authorizes HCD to review and comment on the ordinance.

8) Provides that an ADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

This bill:

1) Allows for an ADU to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

   a) The property was built or developed by a qualified nonprofit corporation.
   b) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the buyer and the nonprofit corporation, as specified.
   c) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

      i. The agreement allocates to each buyer an undivided, unequal interest in the property based on the size of the dwelling each buyer occupies.
      ii. A repurchase option that requires the buyer to the nonprofit corporation the right of first refusal if the buyer decides to sell or convey the property.
      iii. A requirement that the buyer occupy the property as their principal residence.
      iv. Affordability restrictions on the sale and conveyance of the property that ensure it will be preserved for low-income housing and will be sold or resold to a qualified buyer.

   d) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county where the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed.

2) Defines "qualified buyer" as persons and families of low- or moderate-income.

3) Defines "qualified nonprofit corporation" as a nonprofit corporation that has received a welfare exemption for properties intended to be sold to low-income families who participate in a special no-interest loan program.

COMMENTS

1) *Purpose of the bill.* The author states that California's housing production is not keeping pace with demand. Due to the limited availability of land, particularly in coastal communities, land costs have reached an all-time high. As a result, Habitat for Humanity Monterey Bay/Santa Cruz has been working in partnership with the City of Santa Cruz to not only provide one Habitat home for a low-income family in need, but two: a primary residence and an ADU on the same parcel of land. These are built with a tenant in common restriction that, like the deed restrictions, remain in place even when the ADU is sold. This allows the land to remain affordable in perpetuity and offers additional homes to eligible families. ADUs are built with cost-effective one- or two-story wood frame construction, which is significantly less costly than homes in new multifamily infill buildings. This bill will encourage the development of affordable ADUs and improve access to jobs, education, and services for many Californians.

2) *Background.* ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to, or detached from, the primary residence. The American Planning Association notes that "ADUs create a wider range of housing options within the community, enable seniors to stay near family as they age, and facilitate better use of the existing housing fabric in established neighborhoods." Existing law allows localities to enact their own ordinances, within specified parameters, but those parameters prohibit the sale or conveyance of an ADU separate from the primary residence. This bill creates a narrow exemption to the prohibition by allowing for sales of primary residences and ADUs to low-income families that enter joint tenancy agreements with nonprofit corporations, provided they commit to maintaining affordability.

3) *Tenancy in common.* There are several forms of property ownership in California, including joint tenancy and tenancy in common. Joint tenants have the right to possess the entire property as well as the right to survivorship, meaning that if one tenant dies, the joint tenant's interest automatically passes to the surviving joint tenant(s). Tenancy in common, however, does not provide any survivorship rights among the co-owners. When one tenant in common dies, their interest in the property does not automatically pass to the surviving tenants in common. Each tenant in common has the right to possess the entire property. To avoid legal issues, most tenants in common use a written agreement to specify their rights and responsibilities before buying the

property. Advocates indicate that tenancy in common is a more affordable method of property ownership.

4) *Welfare exemption.* Certain properties that are used exclusively for charitable, hospital, religious, or scientific purposes are eligible for a property tax exemption, commonly known as the welfare exemption. In general, the welfare exemption is available for properties that are formed, operated, and used exclusively for qualifying purposes by a nonprofit organization. The state Board of Equalization determines whether the organization qualifies for the exemption, while the county assessor determines the eligibility of the property. Nonprofit corporations, or an eligible limited liability company functioning as the general managing partner of a limited partnership that owns and operates low-income rental housing, must additionally file a supplemental certificate for each low-income property for which an exemption is claimed. This filing includes a copy of the deed restriction verifying that the property receives either government financing or federal tax credits and restricts the property use to low-income housing.

5) *Double referral.* This bill has also been referred to the Governance and Finance Committee.

RELATED LEGISLATION:

AB 68 (Ting, 2019) — makes a number of changes to ADU law. *This bill is currently in the Senate Housing Committee.*

AB 69 (Ting, 2019) — revises ADU law in relation to HCD determination of compliance of local ADU ordinances and requires HCD to propose building standards for ADUs and small homes. *This bill is currently in the Senate Housing Committee.*

AB 881 (Bloom, 2019) — makes several changes to ADU law. *This bill is currently in the Senate Housing Committee.*

SB 831 (Wieckowski, 2018) — would have made a number of changes to ADU law. *This bill died in the Assembly Local Government Committee.*

AB 2890 (Ting, 2018) — would have made a number of changes to ADU law. *This bill died on the suspense file of the Senate Appropriations Committee.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 29, 2019)

SUPPORT:

Habitat For Humanity California (Sponsor)
California YIMBY
Habitat For Humanity Monterey Bay
Santa Cruz; City Of

OPPOSITION:

None received.

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

Bill No:	AB 670	**Hearing Date:**	6/4/2019
Author:	Friedman		
Version:	5/24/2019		
Urgency:	No	**Fiscal:**	No
Consultant:	Erin Riches		

SUBJECT: Common interest developments: accessory dwelling units

DIGEST: This bill prohibits common interest developments (CIDs) from banning construction of an accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU) but allows homeowner associations (HOAs) to impose reasonable restrictions on construction of ADUs or JADUs, as specified.

ANALYSIS:

Existing law relating to CIDs:

1) Establishes, within the Davis-Stirling Common Interest Development Act, rules and regulations governing the operation of a CID and the respective rights and duties of an HOA and its members. Requires the governing documents of a CID, and any amendments to the governing documents, to be adopted through HOA elections in accordance with specified procedures.

2) Deems void and unenforceable any covenant, condition, or restriction (CC&R) contained in any deed, contract, security instrument, or other instrument affecting the transfer of, or any interest in, real property, and any provision of the CID governing documents, that effectively prohibits or restricts the installation of a solar energy system.

3) Notwithstanding (2), allows a CID to impose reasonable restrictions on solar energy systems that do not significantly increase the cost of the system or significantly decrease the efficiency of the system or allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

4) Deems void and unenforceable any CC&R that effectively prohibits or restricts the installation or use of a video or television antenna, including a satellite dish, or that effectively prohibits or restricts the attachment of that antenna to a structure within that development where the antenna is not visible from any

street or common area, except as otherwise prohibited or restricted by law, if the video or television antenna has a diameter or diagonal measurement of 36 inches or less.

5) Deems void and unenforceable any governing documents or landscaping guidelines or policies that prohibit the installation of low-water using plants, artificial turf, and other synthetic surface that resembles grass.

6) Deems void and unenforceable any CC&R or provision of a governing document that either effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station within an owner's unit or in a designated parking space, including, but not limited to, a deeded parking space, a parking space in an owner's exclusive use common area, or a parking space that is specifically designated for use by a particular owner.

Existing law relating to ADUs and JADUs:

7) Provides that if a locality adopts an ADU ordinance in areas zoned for single-family or multifamily, it must designate areas where ADUs may be permitted; impose certain standards on ADUs such as parking (within certain parameters) and size requirements; prohibit an ADU from exceeding the allowable density for the lot; and require ADUs to comply with certain requirements such as setbacks.

8) Requires a locality to ministerially approve an ADU permit within 120 days.

9) Allows a locality to:
   a) Establish minimum and maximum unit sizes for ADUs.
   b) Require that an applicant to construct an ADU be an owner-occupant.
   c) Require that the ADU be used for rentals of terms longer than 30 days.

10) Provides that an ADU shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

11) Permits local agencies to adopt a JADU ordinance for areas zoned for single-family. The JADU must be no more than 500 square feet in size and contained entirely within an existing single-family structure.

This bill:

1) Deems void and unenforceable any covenant, restriction, or condition (CC&R) contained in any deed, contract, security instrument, other instrument affecting the transfer or sale of any interest in a planned CID, and any provision of a CID governing document, that effectively prohibits the construction or use of an ADU or JADU on a lot zoned for single-family residential use that meets the requirements of existing law regarding ADUs and JADUs.

2) Exempts from the above prohibition, provisions that impose reasonable restrictions on ADUs or JADUs. Defines "reasonable restrictions" as restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an ADU or JADU consistent with existing law regarding ADUs and JADUs.

3) States legislative intent to encourage ADUs and JADUs that are owner-occupied and used for long-term rentals.

COMMENTS

1) *Purpose of the bill.* The author states that it is estimated that 40% of Californians reside in HOAs. Many have restrictions on what can or cannot be done with their dwelling units including the ability to have a second unit or ADU. This bill will allow, where appropriate, homeowners to seek the development of a second unit. California is in an extreme housing crisis and we need to explore all options to expand the supply of housing, especially smaller affordable second units.

2) *ADUs and JADUs.* ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to, or detached from, the primary residence. Local ADU ordinances must meet specified parameters outlined in existing state law. Local governments may also adopt ordinances for JADUs, which are no more than 500 square feet and are bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink and stove, but is not required to have a bathroom. The state Department of Housing and Community Development (HCD) notes that "ADUs are an innovative, affordable, effective option for adding much-needed housing in California."

3) *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.

4) *Precedent for restrictions on governing documents.* Although the Legislature generally defers to CID governing documents, there are several cases where the Legislature has stepped in to impose limits. For example, existing law deems void and unenforceable any CID governing document prohibition on:

   a) Installation of a solar energy system by an HOA member.
   b) Installation of low-water using plants, artificial turf, or other synthetic surface that resembles grass.
   c) Installation of an electric vehicle charging station.

   Existing law does, however, allow a CID to impose reasonable restrictions on solar energy systems, EV charging stations, and artificial turf. Similar to this precedent, this bill prohibits an outright ban on ADUs or JADUs but allows an HOA to impose reasonable restrictions on construction of an ADU or JADU.

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

RELATED LEGISLATION:

AB 587 (Friedman, 2019) — allows for an ADU to be sold or conveyed separately from the primary residence to a qualified buyer under specified circumstances. *This bill will also be heard by this committee today.*

AB 68 (Ting, 2019) — makes a number of changes to ADU law. *This bill is currently in the Senate Housing Committee.*

AB 69 (Ting, 2019) — revises ADU law in relation to HCD determination of compliance of local ADU ordinances and requires HCD to propose building

standards for ADUs and small homes. *This bill is currently in the Senate Housing Committee.*

AB 881 (Bloom, 2019) — makes several changes to ADU law. *This bill is currently in the Senate Housing Committee.*

SB 831 (Wieckowski, 2018) — would have made a number of changes to ADU law. *This bill died in the Assembly Local Government Committee.*

AB 2890 (Ting, 2018) — would have made a number of changes to ADU law. *This bill died on the suspense file of the Senate Appropriations Committee.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 29, 2019.)

SUPPORT:

California Apartment Association
California YIMBY
Silicon Valley at Home
SPUR

OPPOSITION:

Mesa Verde Orcutt Homeowners Association

-- END --

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

Bill No:	AB 1084	**Hearing Date:**	6/4/2019
Author:	Mayes		
Version:	2/21/2019 Introduced		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Redevelopment: housing successor: Low and Moderate Income Housing Asset Fund

DIGEST: This bill allows a housing successor that owns and operates a housing asset of a former redevelopment agency (RDA) to retain "excess surplus" over eight years rather than four years.

ANALYSIS:

Existing law:

1) Defines "excess surplus" as an unencumbered amount in the Low and Moderate Income Housing Asset Fund (LMIHAF) that exceeds $1 million or the aggregate amount deposited into the amount during the housing successors preceding four fiscal years, whichever is greater.

2) Defines "housing asset" as:
    a) Any real and personal property acquired for low- and moderate-income housing purposes;
    b) Any funds that are encumbered by an enforceable obligation to build or acquire low- and moderate-income housing, as specified;
    c) Any loan or grant receivable from homebuyers, homeowners, nonprofit or for-profit developers, and other parties that require occupancy by persons of low- or moderate-income;
    d) Any funds derived from rents or operation of properties acquired for low- and moderate-income housing, as specified;
    e) A stream of rents or other payments from housing tenants of low- and moderate-income housing financed with any source of funds that are used to maintain, operate, and enforce the affordability of housing or for enforceable obligations associated with low- and moderate-income housing;
    f) Repayments of loans or deferrals owed to the LMIHAF.

3) Requires that if a housing successor agency has an excess surplus, the housing successor agency shall encumber it for specified purposes or transfer the funds within three fiscal years to a housing successor within the county for transit priority projects, permanent supportive housing, housing for agricultural employees, special needs housing, or a regional homeless shelter.

4) Requires a housing successor agency that fails to encumber funds within three years or transfer it to a housing successor in the county to transfer any excess surplus to the California Department of Housing and Community Development (HCD) within 90 days of the end of the third fiscal year for expenditure by the Multifamily Housing Program (MHP) or the Joe Serna Jr. Farmworker Housing Program.

This bill allows a housing successor agency that owns and operates a housing asset of a former RDA to retain excess surplus accumulated over eight years rather than four.

COMMENTS

1) *Purpose of the bill.* According to the author, "This legislation is needed to allow the Indian Wells Housing Authority to develop a long-term capital reserve to fund capital repairs and replacements. The capital reserve is essential for the long-term fiscal viability of the housing communities. Current Excess/Surplus laws make it difficult for the Authority to establish capital reserves. Under California Health and Safety Code (HSC), the Authority must perform a computation of Excess/Surplus demonstrating cash reserves do not exceed the greater of $1.0 million or the aggregate amount deposited in the Authority for the last four years. This legislation narrowly amends California Health and Safety Code (HSC) Excess/Surplus computation only for Housing Authorities that own and operate their own housing communities."

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 (hereinafter "L&M funds"). At the time RDAs were dissolved, the Controller

estimated that statewide, RDAs were obligated to spend $1 billion on affordable housing.

3) *Use of funds.* The Community Redevelopment Law (CRL) required RDAs to use the L&M funds to increase, improve, and preserve affordable housing. As part of the dissolution process, local jurisdictions were required to establish a housing successor agency to assume the housing functions of the former RDA. The city or county that created the RDA could opt to become the housing successor agency; if they chose not to, the responsibility was transferred to a housing authority in the jurisdiction of the former RDA. Housing authorities serve as housing successor agencies in a handful of jurisdictions in the state. If there was no housing authority in the jurisdiction, the housing functions were transferred to HCD. Housing successor agencies are required to maintain any funds generated from housing assets in the LMIHAF and use them in accordance with the housing-related provisions of the CRL. The LMIHAF includes real property and other physical assets, funds encumbered for enforceable obligations, any loan or grant receivable, any funds revised from rents or operation of properties, rents or other payments from housing tenants or operators, and repayment of loans or deferrals owed to the LMIHAF. Funding available to a housing successor agencies in the post-redevelopment world is limited to program dollars repaid from loans or investments made by the former RDA. This is a much smaller amount than was generated by a RDA, which produced more than $1 billion in tax increment for housing activities statewide each year.

   In 2014, SB 341 (DeSaulnier, Chapter 796) revised the rules governing the activities and expenditures of housing successor agencies to streamline administrative requirements while ensuring accountability, provide additional flexibility, and target scarce available resources to the greatest needs. That bill targeted the limited financial resources of housing successor agencies toward core functions. RDAs were required to expend funds to improve, increase, or preserve housing affordable to low- and moderate-income families. Housing successor agencies have far less money than RDAs; for that reason, the law requires them to prioritize the limited funding toward monitoring and maintaining the housing assets that were created or financed by the former RDA. SB 341 allowed housing successor agencies to use funds in the LMIHAF toward services to prevent homelessness and rapidly re-housing people. If a housing successor agency allows an excess surplus of funds to accumulate, any amounts over $1 million or the aggregate of four years of deposits, without spending it on developing housing or transferring it to another housing successor then it must transfer those funds to HCD. HCD is required to expend

those funds through MHP or the Joe Serna Jr. Farmworker Housing Grant Program.

This bill would allow a housing successor agency to retain excess surplus that is the greater than $1 million or the aggregate amount deposited into the account over eight years, rather than four years, if the housing successor agency owns and operates affordable housing that was transferred to the housing successor. Given that existing law ensures unencumbered funds over $1 million revert to state housing programs for expenditure on affordable housing, **the author has agreed to limit the application of the bill to the City of Indian Wells, La Quinta, and Yolo County, who have requested this change.**

RELATED LEGISLATION:

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 currently in the Senate Housing Committee.*

SB 532 (Portantino, 2019) — allows the City of Glendale to use a portion of bond proceeds for affordable housing, as specified. *This bill is pending committee assignment in the Assembly.*

SB 341 (DeSaulnier, Chapter 796, Statutes of 2014) — revises rules governing the activities and expenditures of housing successors.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 29, 2019.)

SUPPORT:

California Apartment Association
Indian Wells; City Of

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 1730	**Hearing Date:**	6/4/2019
Author:	Gonzalez		
Version:	4/25/2019		
Urgency:	No	**Fiscal:**	No
Consultant:	Erin Riches		

SUBJECT: Regional transportation plans: San Diego Association of Governments: housing

DIGEST: This bill amends the timing and process for the San Diego Association of Governments' (SANDAG) next regional transportation plan (RTP) and sustainable communities strategy (SCS).

ANALYSIS:

Existing 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. Further 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.

2) 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 the region's vision and goals and how to implement them and supports the state's goals for transportation, environmental quality, economic growth, and social equity.

3) Requires the state Air Resources Board (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.

4) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. Requires local governments located within the territory of an MPO to revise their housing elements every eight years, following the adoption of every other RTP. Local governments in rural non-MPO regions must revise their housing elements every five years. Provides that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process.

This bill:

1) Provides that the environmental impact report (EIR) adopted by SANDAG on October 9, 2015 shall remain in effect until SANDAG adopts its next update to its RTP.

2) Requires SANDAG to adopt and submit its update to the 2015 RTP on or before December 13, 2021, and every four years thereafter.

3) Prohibits ARB from adopting regional GHG emission reduction targets for SANDAG before SANDAG adopts its update to the 2015 RTP.

4) Provides that the RTP adopted by SANDAG that is due to federal agencies in October 2019 shall not be considered an RTP for state purposes and shall not constitute a project under the California Environmental Quality Act (CEQA).

5) Provides that the resolution approving the final RHNA allocation for SANDAG's sixth housing element cycle shall use the SCS in the 2015 RTP to demonstrate the required consistency determinations.

6) Authorizes SANDAG to conduct its RHNA allocation process for the sixth housing element cycle prior to adopting an updated RTP and SCS.

7) Authorizes a local government within SANDAG's jurisdiction to adopt its housing element for the sixth cycle on or before April 30, 2021, using the final RHNA allocation adopted by SANDAG on or before November 1, 2019.

8) Requires all local governments within SANDAG's jurisdiction to adopt the housing element for the seventh cycle no later than 18 months after SANDAG adopts its first RTP update in 2029.

COMMENTS

1) *Purpose of the bill.* The author states that historically, SANDAG has been criticized locally, and even sued, for not prioritizing and investing in enough public transit, bike, and pedestrian infrastructure to meet ARB's target. More recently, SANDAG was rocked by financial scandals when it was discovered that due to rising costs of projects and inaccurate revenue projections from the TransNet sales tax, the agency faced a $17.3 billion funding shortfall. SANDAG experienced significant changes after the enactment of AB 805 (Gonzalez, 2017), which modified the governing structure to better represent the communities served by SANDAG, increased oversight of the agency via an audit committee and independent performance auditor, and allowed transit operators to pursue their own tax increases for public transit purposes. Although meaningful change has occurred, lasting changes to develop the right transportation system in the San Diego region will not happen overnight. Local governmental entities, environmental advocates, and community groups agree that San Diego cannot do its part to combat climate change without drastic change, which requires proper planning. Under current deadlines, the region will not be able to accomplish this, and will be unable to make real progress. This bill would allow SANDAG additional time to plan and to be ambitious in reducing GHG emissions, in order to ensure the region is going the most it can in the best way possible.

2) *Alphabet soup.* Metropolitan Planning Organizations (MPOs) are regional agencies established by federal law. MPOs are typically organized into governance structures called councils of government (COGs) and are directed by boards comprised of representatives from local governments and transportation agencies. California has 18 MPOs, four of which are multi-county MPOs that coordinate planning in three or more counties. MPOs represent 84% of the state's population. Regional transportation agencies (RTPAs), which are designated in statute, are county or multi-county entities charged by state law with meeting certain transportation planning requirements. Of California's RTPAs, 21 represent rural areas and five are located within MPOs.

   Existing federal and state law requires each MPO and RTPA to adopt a regional transportation plan (RTP). Through the RTP process, the MPO or RTPA develops strategies for operating, managing, maintaining, funding, and financing the region's transportation system in such a way as to advance the region's long-term goals. RTPs are developed pursuant to federal planning regulations and state statute, and must be submitted to and approved by both the Federal Highway Administration (FHWA) and the California Transportation

Commission (CTC). The RTP establishes the basis for programming local, state, and federal funds for transportation projects in the region; the CTC cannot program projects in the State Transportation Improvement Program that are not identified in an RTP. RTPs are updated every four years (every five years for air quality attainment regions, which are areas that meet federal air quality standards). Failure of an MPO to adhere to the state and federally required update period could make them ineligible for certain state and federal funding for transportation projects.

3) *Connecting the dots.* Existing state law (SB 375 of 2008) requires each MPO to include a sustainable communities strategy (SCS) in its RTP. The SCS demonstrates how the region will meet its GHG emission reduction targets, which are set by ARB, through land use, housing, and transportation strategies. These targets also help regions achieve federal Clean Air Act requirements. ARB must review the adopted SCS to confirm that it will meet the regional targets; if not, the MPO must prepare an alternative planning strategy, separate from the RTP.

   Each SCS is informed by the regional housing needs allocation (RHNA) and local housing elements. HCD works with the Department of Finance to develop each region's projected population growth, and based on these projections, allocates a RHNA share to each COG (as noted above, most MPOs are also COGs). The COG in turn develops a methodology for distributing its RHNA share among the jurisdictions in its region. Local governments each prepare a housing element that adequately plans to meet their existing and projected housing needs, including their share of the regional housing need. Existing law requires local governments to revise their housing elements every eight years, following the adoption of every other RTP.

4) *SANDAG.* SANDAG is San Diego's consolidated MPO, COG, and RTPA. SANDAG's next RTP is due in Fall 2019. In its RTP, SANDAG must demonstrate how the region will achieve the ARB target of a 19% reduction in GHG emissions by 2035. This target, established by ARB in February 2018, represents a substantial increase over the previous target of 13%. Failure to meet the 19% target would render SANDAG ineligible for certain state and federal funding.

   Upon receipt of the new target, SANDAG undertook a planning process to develop a multimodal transportation network that would provide key connections to jobs and other destinations, support housing growth and environmental preservation, address safety and congestion relief, and meet climate targets. However, modeling results for the draft network showed that

while these strategies would come close, they would not result in actually meeting the ARB target of a 19% GHG emissions reduction by 2035. Therefore, in February 2019 SANDAG's board voted to seek an extension of its RTP deadline to provide time to undertake further planning and coordination to meet the target without jeopardizing any funding.

This bill moves the state RTP deadline from October 2019 to December 2021, prohibits ARB from adopting new GHG targets for SANDAG until the new RTP is adopted, and aligns SANDAG's RHNA and SCS processes accordingly. Since the state cannot change the federal RTP deadline, this bill deems the current EIR valid until the new RTP is adopted and provides that the RTP that SANDAG will submit to the federal government in October 2019 shall not constitute a project under CEQA.

5) *Double referral.* This bill has also been referred to the Environmental Quality Committee.

RELATED LEGISLATION:

AB 805 (Gonzalez Fletcher, Chapter 658, Statutes of 2017) — changed the governance structure of SANDAG, the Metropolitan Transportation System (MTS), and North County Transit District (NCTD); enacts audit requirements for SANDAG; and allows MTS and NCTD to impose a transactions and use tax of 0.5%.

SB 32 (Pavley, Chapter 249, Statutes of 2016) — set a target of reducing statewide GHG emissions to 80% below 1990 levels by 2050, and an interim statewide GHG emissions target of 40% below 1990 levels by 2030.

SB 575 (Steinberg, Chapter 354, Statutes of 2009) — required the local governments within SANDAG to adopt their fifth cycle housing elements no later than 18 months after adoption of the first RTP adopted after September 30, 2010, and subjects those governments to specified requirements relating to the fifth, sixth, and subsequent housing element revisions. This bill also specified the schedule for all local governments to adopt subsequent revisions of the housing element after the fifth cycle.

SB 375 (Steinberg, Chapter 728, Statutes of 2008) — aimed to coordinate transportation and land use planning to help achieve the state's climate action goals by requiring ARB to set regional targets for GHG emissions reductions from passenger vehicle use.

AB 32 (Nunez and Pavley, Chapter 488, Statutes of 2006) — required ARB to determine the statewide GHG emissions level and approve a statewide GHG emissions limit that is equivalent to that level, to be achieved by 2020, and adopt GHG emissions reduction measures by regulation.

SB 1587 (Lowenthal, Chapter 673, Statutes of 2006) — changed the requirement to update RTPs from three to four years.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 29, 2019.)

SUPPORT:

San Diego Association Of Governments (Co-Sponsor)
San Diego; City Of (Co-Sponsor)
Alliance For Regional Solutions
Bayside Community Center
Carlsbad; City Of
Chula Vista Community Collaborative
Circulate San Diego
City Heights Community Development Corporation
Climate Action Campaign
Del Mar; City Of
El Cajon Collaborative
Encinitas; City Of
Environmental Health Coalition
Escondido; City Of
Georgette Gomez, San Diego City Council President
Imperial Beach; City Of
International Brotherhood Of Electrical Workers Local Union 569
La Mesa; City Of
National City; City Of
Nile Sisters Development Initiative
North County Transit District
Oceanside; City Of
Poway; City Of
San Diego 350
San Diego County Regional Airport Authority
San Diego Regional Chamber Of Commerce

The Urban Collaborative Project
United Association Of Plumbers & Steamfitters Union 230

OPPOSITION:

None received.

-- END --

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

Bill No:	AB 1745	**Hearing Date:**	6/4/2019
Author:	Kalra		
Version:	4/10/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Lizeth Perez		

SUBJECT: Shelter crisis: emergency bridge housing community: City of San Jose

DIGEST: This bill extends the sunset date for the San Jose Bridge Housing community from January 1, 2022 to January 1, 2025.

ANALYSIS:

Existing law:

1) Authorizes a governing body to declare a shelter crisis. "Declaration of a shelter crisis" is defined as the duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety.

2) Defines "emergency bridge housing community" as any new or existing facilities, including but not limited to housing in temporary structures, such as camping cabins or recreational vehicles, that are reserved for homeless persons and families and located on property leased or owned by a political subdivision.

3) Authorizes the City of San Jose, upon declaration of a shelter crisis, to include emergency bridge housing communities as emergency housing and to suspend state and local housing, health, and safety standards and replaced with alternative standards adopted by ordinance, to be reviewed by the Department of Housing and Community Development (HCD).

4) Authorizes San Jose to suspend landlord tenant laws provided that the city, county or city and county adopts health and safety standards for the bridge housing communities and those standards are complied with.

5) Requires San Jose to match each resident of an emergency bridge housing community to an affordable housing unit identified in the city's housing plan that

shall be available to the resident to live in on or before January 1, 2022 and to develop a plan for every emergency bridge housing community to include on-site supportive services by January 1, 2017.

6) Requires the City of San Jose to provide an annual report on the state of homelessness and housing in the city or county beginning on January 1, 2019, to the appropriate legislative committees.

7) Sunsets the bridge housing community pilot on January 1, 2022.

This bill:

1) Extends the date by which the City of San Jose must match each resident of an emergency bridge housing community to an affordable housing unit identified in the city's housing plan from January 1, 2022 to January 1, 2025.

2) Extends the requirement for the City of San Jose to provide an annual report to the legislature, as specified, from January 1, 2022 to January 1, 2025.

3) Extends the sunset date for the bridge housing community pilot from January 1, 2022 to January 1, 2025.

COMMENTS

1) *Purpose of the bill.* According to the author, the City of San Jose, like many other cities throughout the state, is experiencing a homelessness crisis. In 2016, the Governor signed AB 2176 (Campos) amending the Shelter Crisis Act to authorize a five-year pilot allowing San Jose to develop emergency bridge housing communities for the homeless on property leased or owned by the City. Since the enactment of AB 2176, the City has experienced delays in implementation of the Bridge Housing program due to several setbacks, including finding viable sites, extensive community outreach, and CEQA review. Although the City's authority under AB 2176 is set to expire January 2022, extending the timeline now will allow for planning efforts to continue without delay. AB 1745 will allow more time for these bridge housing projects to operate and help San Jose's homeless population transition into permanent supportive housing."

2) *Shelter Crisis Act.* The existing Shelter Crisis Act permits a local jurisdiction to declare a shelter crisis with limited liability to provide emergency housing. It also permits the jurisdiction to allow homeless persons to occupy designated public facilities for the duration of the crisis. Further, the Shelter Crisis Act

suspends local housing, health, and safety standards for public facilities to the extent full compliance would hamper mitigation of the effects of the shelter crisis. Emergency housing is typically provided as shelter beds allowing for an overnight stay in places such as gyms.

3) *City of San Jose Bridge Housing Communities Pilot.* AB 2176 (Campos, Chapter 691, Statutes of 2016) authorized the City of San Jose to operate an emergency bridge housing community for homeless persons during a declared shelter crisis. That bill authorized San Jose to enact, through a local ordinance, building, housing, health, habitability, and safety standards for the development of emergency bridge housing communities to address the short-term housing needs of the homeless community while new permanent supportive housing is being financed and constructed. AB 2176 requires that each person housed in an emergency bridge housing community be placed in an affordable housing unit identified in the city's housing plan on or before the end of the pilot in 2022. That bill also required that the emergency bridge housing communities meet basic building code standards. San Jose's pilot provides basic needs for its residents, including onsite access to a bathroom and kitchen. The goal of AB 2176 was to allow for temporary structures to be constructed to immediately house people living on the streets, with a plan to ultimately place the homeless in permanent housing.

4) *Extending the Sunset.* The San Jose Bridge Housing Communities Project was originally authorized for 5 years, until January 1, 2022. The city had originally planned on placing a bridge housing community in each of the city's 10 districts, but due to community pushback, only two sites have been authorized for construction. These sites are on land owned by the state Department of Transportation and the Santa Clara Valley Transportation Authority. The bridge housing communities are now scheduled to open in the Summer and Fall of this year. Extending the sunset date from January 1, 2022 to January 1, 2025 will give San Jose time to fully implement the pilot and allow more time for the completion of 1,100 affordable units in the pipeline, of which 49 units are reserved for Rapid Rehousing and 532 units are reserved Permanent Supportive Housing.

5) *Why two approaches?* The City of San Jose is also seeking inclusion in the Shelter Crisis Act through AB 143 (Quirk-Silva). According to the city of San Jose, authorization in the Shelter Crisis Act would provide more flexibility on the types of shelter that can be built; it would also allow the city to employ both strategies to address homelessness.

The San Jose Bridge Housing Communities Project and the Shelter Crisis Act differ in several ways. The Shelter Crisis Act allows for the creation of emergency homeless shelters at a faster rate by bypassing housing, health and safety standards, thus providing a temporary solution to their homelessness crisis. The San Jose project holds shelters to a higher standard by not allowing a waiver of all health and safety requirements. The Shelter Crisis Act ultimately creates permanent structures for housing that are not subject to the same health and safety requirements as other permanent structures, yet will remain beyond the 10-year sunset. The Shelter Crisis Act does not require any connection, or even a plan to connect the homeless to permanent housing. On the other hand, the San Jose Bridge Housing Communities pilot the structures themselves are likely to only exist while permanent housing is being built.

Both processes, however, require HCD to review draft ordinance passed by the specified localities to ensure they address minimum health and safety standards, and to provide findings to the appropriate legislative policy committees.

While shelters certainly play a role in providing temporary assistance to the homeless, they are not a long-term solution. The long-term solution should be permanent housing. There are examples of shelters throughout the state doing a poor job at connecting homeless people to permanent housing, for example, a winter shelter that recently closed in Sacramento reported transferring only 21% of shelter guests to permanent housing. In contrast, each bridge housing community in San Jose will contain 40 cabins which are projected to serve 320 homeless individuals, with 240 of these individuals expected to exit to permanent housing over the next 2.5 years, a 75% projected transfer rate.

RELATED LEGISLATION:

AB 143 (Quirk-Silva, 2019) — authorizes the County of Alameda, any city within the County of Alameda, Orange County, any city within the County of Orange and the City of San Jose to include homeless shelters as emergency housing upon declaration of a shelter crisis until January 1, 2023. *This bill will also be heard by this committee today.*

AB 932 (Ting, Chapter 786, Statutes of 2017) – authorized emergency housing, upon declaration of a shelter crisis by the City of Berkeley, Emeryville, Los Angeles, Oakland, or San Diego, the County of Santa Clara, or the City and County of San Francisco, to include homeless shelters until January 1, 2021.

AB 2176 (Campos, Chapter 691, Statutes of 2016) — authorized the City of San Jose to operate an emergency bridge housing community for homeless persons during a declared shelter crisis.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, May 29th.)

SUPPORT:

San Jose; City Of (Sponsor)
Santa Clara Valley Water District

OPPOSITION:

None received.

-- END --