
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2021 - 2022 Regular

Bill No: AB 2053
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Consultant: Grinnell

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Tax Levy: No
Fiscal: Yes

THE SOCIAL HOUSING ACT

Enacts the Social Housing Act, which creates the California Housing Authority for the purpose of developing social housing for all California residents, under the direction of the California Housing Authority Board.

Background

California’s housing challenges. California faces a severe housing shortage. In its most recent statewide housing assessment, HCD estimated that California needs to build an additional 100,000 units per year above recent averages of 80,000 units per year to meet the projected need for housing in the state. Prior to the onset of COVID-19, California was building approximately 100,000 to 115,000 units a year in recent years, but many analysts expect homebuilding activity to drop.

Social Housing. The Assembly Select Committee on Social Housing held an informational hearing on October 20, 2021, where Rob Weiner from the California Coalition for Rural Housing shared the Organization for Economic Cooperation and Development (OECD) definition of social housing as: “the stock of residential rental accommodations provided at sub-market prices and allocated according to specific rules rather than according to market mechanisms.” According to the Senate Housing Committee, another variation of social housing involves making accommodations available to all individuals regardless of their household income. In particular, Vienna, Austria is often held up as an example of a large city with widespread mixed-income social housing and an estimated 40% of the city’s housing stock is social housing. In the Viennese model, higher income households pay market rate rents which then subsidize the below market rents for lower-income households, referred to as “cross-subsidization.”

Planning and zoning. The Planning and Zoning Law requires every county and city to adopt a general plan that sets out planned uses for all of the area covered by the plan. A general plan must include specified mandatory “elements,” including a housing element that establishes the locations and densities of housing, among other requirements. Cities’ and counties’ major land use decisions—including most zoning ordinances and other aspects of development permitting—must be consistent with their general plans.

State law also imposes numerous requirements on the housing element of a general plan. A local government’s housing element must allow for enough housing to be produced to meet the jurisdiction’s regional housing need allocation (RHNA) for several income bands: very low, low, moderate, and above moderate households. The Department of Housing and Community

Development (HCD) reviews and certifies housing elements as compliant with state law, and also reviews their zoning ordinances for consistency with the approved housing element.

While the RHNA process requires local governments to plan to address housing need in their jurisdiction, it does not mean housing will actually get built. California, along with the rest of the country, generally relies on the private sector to develop its affordable housing stock. A number of factors affect housing development and, government subsidies are generally needed for housing projects with affordable units for low-income and very low-income households to be economically viable.

General obligation bonds. When public agencies issue bonds, they essentially borrow money from investors, who provide cash in exchange for the agencies' commitment to repay the principal amount of the bond plus interest in the future. Bonds are usually either revenue bonds, which repay investors out of revenue generated from the project the agency buys with bond proceeds or from a specific dedicated revenue source, or general obligation (GO) bonds, which the public agency pays out of general revenues and are guaranteed by its full faith and credit.

Section One of Article XVI of the California Constitution and the state's General Obligation Bond Law guide the issuance of the state's GO debt. The Constitution allows the Legislature to place general obligation bonds on the ballot for specific purposes with a two-thirds vote of the Assembly and Senate. Voters also can place bonds on the ballot by initiative, as they have for parks, water projects, high-speed rail, and stem cell research, among others. Either way, general obligation bonds must be ratified by majority vote of the state's electorate. Unlike local general obligation bonds, approval by the state's electorate does not automatically trigger an increased tax to repay the bond. The Constitution commits the state to repay investors from general revenues above all other claims, except payments to public education.

The Author wants to create a new state agency to construct and manage social housing.

Proposed Law

Assembly Bill 2053 enacts the Social Housing Act, which creates the California Housing Authority as an independent entity in state government for the purpose of developing social housing for all California residents, under the direction of the California Housing Authority Board.

The measure defines "social housing: as:

- Housing units owned by the California Housing Authority, a public entity, a local housing authority, or a mission-driven not-for-profit private entity.
- Where the social housing development contains housing units that accommodate a mix of household income ranges, including extremely low income, very low income, low income, moderate income, and above moderate income.
- Units that are owned and managed by a mission-driven not-for-profit private entity must be permanently restricted by deed to be affordable.
- Residents of housing units are afforded, at a minimum, all protections granted to tenants with tenancies in private property, including protection against termination without just cause or for any discriminatory, retaliatory, or other arbitrary reason, and are afforded due process prior to being subject to eviction procedures, among others.

- The units are protected for the duration of their useful life from being sold or transferred to a private for-profit entity or a public-private partnership.
- Where residents of the housing units have the right to participate directly and meaningfully in decision making affecting the operation and management of their housing units.

California Housing Authority. AB 2053 creates the California Housing Authority with the core mission to produce and acquire social housing developments to eliminate the gap between housing production and RHNA targets, and to preserve affordable housing. The bill charges Authority to implement and operate the social housing program, and grants it all necessary powers to do so, including contracting with property managers to manage its properties so long as they meet standards on responsiveness to resident needs prescribed by the authority, and rules regarding resident rights and protections, or be subject to termination of employment.

The bill requires the Authority to prepare, publish, adopt, and submit to the Governor and the Legislature an annual business plan, as well as a draft business plan at least 60 days prior to the publication of the plan for public review and comment, which must also be submitted to the Governor and the Legislature. The measure requires the business plan to include:

- A description of the type of projects the Authority is producing or acquiring and the proposed timeline, estimated costs, and funding sources.
- A projection of the expected residents, income levels, and other demographic data.
- An estimate and description of the anticipated funds the Authority intends to leverage to fund the construction and operation activities, and the Authority's level of confidence for obtaining each type of funding.
- Any written agreements with public or private entities, such as technical assistance agreements.

The bill also directs the Authority to submit to the Legislature an analysis on the effect of its developments on gentrification in or before December 31 of each year. The analysis must be subject to public comment and considered by the board for future decision-making. The Authority must also provide an annual update to the Legislature on or before December 31 of each year its progress, which must include relevant resident statistics once social housing developments owned by the Authority are occupied.

California Housing Authority Board. AB 2053 forms the California Housing Authority Board, comprised of:

- Four Governor appointees, including experts in housing development and finance, housing construction, property maintenance, as well as an appointee without specific qualifications.
- An appointee of the Speaker of the Assembly.
- An appointee of the Senate Committee on Rules.
- Three representatives of the residents. Before the Authority owns housing, these representatives are appointed by the Speaker of the Assembly, the Senate Committee on Rules, and the Governor, after each consults with advocates for tenants' rights in the course of making their respective selections. After the Authority owns housing, the

representatives are elected by vote of all social housing residents who reside in units owned by the Authority.

All appointees serve at the pleasure of their appointing authority. The Board is subject to the Bagley-Keene Open Public Meetings Act.

AB 2053 establishes the Board's duties to:

- Establish a strategy to achieve the core goal of elimination of the gap between housing production and acquisition and regional housing needs assessment targets;
- Set objectives and performance targets designed to achieve its strategies;
- Monitor and assess the degree of the authority's success in achieving its objectives and performance targets;
- Exercise exclusive hiring and firing power over an executive officer;
- Establish and monitor performance measures for the executive officer and an associated succession plan.
- Approve the annual budget prepared by the executive officer.
- Foster a culture and set of values consistent with the short-term, medium-term, and long-term goals of the authority.
- Integrate risk management into the authority's strategic planning process.
- Notify the Governor and the Legislature of unanticipated and sizable risks facing CHA in meeting its objectives.
- Adopt and amend regulations, which must include election procedures for resident board positions.
- Following an initial trial period, create and make public an annual business plan.
- Hold biannual meetings with resident governance councils.

The measure sets as the Authority's executive director's powers and duties:

- Manage the day-to-day operations of the authority in accordance with the strategy, delegations, business plans, and policies of the board and the bill.
- Employ and manage staff, including establishing, promoting, and maintaining a positive organizational culture that effectively aligns with the values and employment principles of the authority.
- Transform the strategic plans of the board into action.
- Ensure the effectiveness of the authority's operational systems, including financial management, human resource management, information systems management, risk management, communications, marketing, fund raising, asset management, and reporting.
- Ensure the board is kept informed of changes to gubernatorial directives, relevant legislation and changes in law, and other critical information relating to the board's functions and powers.
- Ensure compliance with applicable law and governmental policies.
- Maintain effective communication and cooperation with external stakeholders in collaboration with the chair of the board.
- Provide advice and information to the board on any material issues concerning strategy, finance, reporting obligations, or other important matters that arise.
- Prepare the annual business plan, including organizational performance targets, for board approval.

- Interact with and, where appropriate, report to the Governor and the Legislature.
- Additional responsibilities as determined by the board.

Resident Governance Councils. AB 2053 requires each multifamily social housing development owned by the Authority to form a governance council, capped at no more than 10 percent of the overall population of the multifamily development. The bill sets as the powers and responsibilities for each governance council:

- Host regular meetings to gather feedback and perspective of residents.
- Provide the resident perspective to property management.
- Represent the interests of the development in biannual meetings with the board.
- Determine how to spend the development's allotted annual budget for common room amenities and social events.
- Participate in the approval of renovation projects.
- Other responsibilities as determined by the board.

Social Housing Program. AB 2053 states that the Authority seeks to achieve revenue neutrality over the long term, and specifically to recuperate the cost of development and operations over the life of its properties through the mechanism of rent cross-subsidization. The Authority must develop regional target percentages for extremely low income, very low income, and low-income housing that seek to maximize low-income housing within the constraints of long-term revenue neutrality and maintaining sufficient operational, maintenance, and capital reserves. The bill requires the methodology for low-income housing maximization in each development region to be explained at a board meeting and subject to public comment.

The bill directs the Authority to prioritize development of property with the following characteristics:

- Vacant parcels.
- Underutilized parcels or redevelopment of underutilized parcels without affordability covenants or rent-controlled units.
- Surplus public properties.
- Parcels near transit.

If the development of a property requires the rehabilitation or demolition of covenanted affordable units, the bill requires the new development to include a greater number of affordable units by income group than the previous property. If the development of a property requires the removal of residents from the property, the authority must cover the temporary relocation costs of these residents, as defined.

The Authority must make an annual determination of the required amount of social housing units by determining the gap between the previous year's RHNA targets for each income range, as determined by HCD, and housing construction data submitted by jurisdictions to HCD, updated annually. The Authority makes the determination annually using each local government's data beginning on January 1, 2027. The Authority then splits the very low income RHNA allocation into extremely low income and very low income allocations based on the latest available census or official survey data for the relevant jurisdiction.

The bill then authorizes the Authority to construct at least the required number of units to meet the gap between the previous year's very low income, low-income, moderate-income, and above moderate-income housing unit construction. The Authority may conduct ground-up construction and rehabilitation of existing structures.

The bill allows the Authority to use two different leasing models, the rental model and the ownership model, as specified, and sets policies for housing developments as well as eligibility and residence requirements for potential tenants. The Authority must use a lottery to select residents to be offered social housing, structured by income categories, with separate selection results for each category. However, any residents who were displaced due to the construction of the Authority's social housing are offered social housing without needing to enter the lottery.

AB 2053 allows the Authority to construct housing subject to specified bid procedures and labor standards. The Authority can dedicate building space to commercial use and lease the space to qualifying small businesses and nonprofit corporations, pursuant to requirements it establishes. The bill directs the state to gift public lands to the Authority for social housing development purposes when appropriate; however, in the absence of suitable state-owned parcels, the can purchase municipal, county, other local jurisdiction, and private lands, according to the following priorities:

- Parcels with affordability covenants or rent control units in danger of losing affordability status, in order to preserve affordable housing stock.
- Parcels at risk of becoming unaffordable or at the end of their affordability covenants.
- Underutilized parcels or redevelopment of underutilized parcels with affordability covenants or rent-controlled units.
- Surplus public properties.
- Parcels near transit.

However, the Authority must accept a local jurisdiction's preference for a project parcel when

- The parcel allows the authority to meet the jurisdiction's regional housing needs assessments goals,
- The parcel does not exceed the cost of all suitable alternative sites by more than 2 percent, and
- The parcel offers comparable community amenities to all suitable alternatives.

The bill requires the Authority to seek input from the local jurisdiction's city council, board of supervisors, or planning agency, regarding any development's:

- Specific site.
- Number of stories.
- Number of units.
- Development timeline.

Financing. AB 2053 allows the Authority to issue revenue bonds in any principal amount that the agency determines necessary to provide sufficient funds for financing social housing developments, the payment of interest on these bonds, the establishment of reserves to secure the bonds, and costs to issue the bonds. The measure also requires the Authority to provide for

regular audits of its accounts and records, maintain accounting records and report accounting transactions in accordance with generally accepted accounting principles

The measure defines several terms, and makes legislative findings and declarations supporting its purpose, including to provide financing for the activities of the authority through the issuance of general obligations bonds.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. According to the author, “Housing is too expensive for millions of Californians, where more than two in five households spend over 30% of their income on housing, and more than one in five households spend over 50% of their income on housing. Over 97% of cities and counties haven’t produced enough affordable housing, and existing strategies to address the lack of affordable housing have not produced nearly enough to meet demand. Affordable housing relies on government subsidies, and there is much more demand for them than supply. Social housing is an important tool to ensure housing is affordable to people of all income levels. Social housing is publicly backed, self-sustaining housing that accommodates a mix of household income ranges. Housing is protected from being sold to a private for-profit entity for the duration of its life, and residents are granted the same protections as tenants in private property, if not more. Residents can participate in decision making that affects housing management, such as providing the resident perspective to property management or hosting meetings to gather feedback from residents. Many countries throughout the world have successful social housing programs, and in the US, there are social housing developments such as in Montgomery County, Maryland using a similar model. Social Housing is how we provide and realize housing as a human right.”

2. Feasible? State law establishes HCD, the California Housing Finance Agency, as well as the California Tax Credit Allocation Committee in the Office of the State Treasurer, and charges each with specific powers and responsibilities to implement the state’s housing policies and programs. AB 2053 creates a new additional state agency outside the control of the Governor and the Legislature to acquire property, construct housing, and manage multi-unit housing properties in any jurisdiction of the state that falls short of its RHNA goals. During a time when the state is struggling to hire qualified individuals for currently budgeted positions, the bill would create a new authority to perform several complex tasks not currently performed at a similar scale in any state agency. In addition to administrative, legal, accounting, and other standard state agency tasks, the Authority would need to employ professionals with expertise on real estate acquisition, complex construction project management, and housing management and maintenance at state employee salary levels generally below private sector compensation for similar skills. Additionally, the measure contains neither an appropriation nor a revenue source to meet either start-up costs or its ongoing property acquisition and housing construction program. While the measure grants the authority significant powers to acquire property and construct housing to meet the state’s dire affordable housing crisis, the Committee may wish to consider whether the current measure can be feasibly implemented.

3. Governance. The California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict

with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority. However, as a state entity, any project undertaken by AB 2053’s authority would not be subject to local land use restrictions unless the measure explicitly stated otherwise. While the Authority can only build in jurisdictions that fall short of meeting its RHNA goals, and must accept local preferences in some cases, given the scale of the social housing projects contemplated by the bill, the Committee may wish to consider whether local agencies should have approval authority over any design standards, density requirements, height limitations, parking requirements, or other development standard of the bill’s social housing projects.

4. Finance. As mentioned above, AB 2053 contains neither an appropriation nor a revenue source to meet its start-up costs or ongoing operations. While the measure allows the Authority to issue revenue bonds at amounts sufficient to pay for its social housing program, it’s unlikely that investors will purchase bonds at reasonable interest rates until the Authority can generate sufficient net revenues to make payments of bond principal and interest. The bill includes intent language regarding issuing general obligation bonds to finance its activities; however, the measure is not a Bond Act under Section One of Article XVI of the California Constitution.

5. Potential property tax revenue loss? Section One of Article XIII of the California Constitution provides that all property is taxable and shall be assessed at the same percentage of fair market value, unless explicitly exempted by the Constitution or federal law. Property owned by a state or local government is generally exempt from taxation. Should AB 2053’s authority acquire property currently on the tax rolls, it will become exempt, which would reduce property tax revenues for local agencies. However, these revenues may be offset to the extent that occupants of Authority-owned property are subject to possessory interest taxes, which apply to a private leasehold or other private possessory interest on publicly-owned property. While the State Board of Equalization has opined that low-income tenants in government-owned housing should not be considered to have a taxable possessory interests, social housing residents of higher incomes will likely be subject to possessory interest taxes.

6. Eminent domain? Opponents of AB 2053 are concerned that the bill’s Authority could use the power of eminent domain to take private property to use for social housing projects. While the measure does not expressly grant this power to the Authority, it does grant it all necessary powers to implement and operate the social housing program.

7. Incoming! The Senate Rules Committee ordered a double-referral of SB 1032. The Committee on Housing approved the bill by a vote of 5 to 1 on June 21st. The Committee on Governance and Finance will consider the bill as the committee of second reference

Assembly Actions

Assembly Housing and Community Development:	6-2
Assembly Appropriations:	12-4
Assembly Floor:	47-20

Support and Opposition (6/27/22)

Support:

East Bay for Everyone (Co-Sponsor)
San Jose State University Human Rights Institute (Co-Sponsor)
Council Member Zach Hilton City of Gilroy
Councilmember Sean Elo-rivera, City of San Diego
Councilmember Terry Taplin, City of Berkeley
Abundant Housing LA
Aids Healthcare Foundation
Alameda County Democratic Party
American Federation of State, County and Municipal Employees (AFSCME), Afl-cio
Autistic People of Color Fund
Berkeley; City of
California Apartment Association
California School Employees Association
California State Council of Laborers
California State Council of Service Employees International Union (seiu California)
California Yimby
Climate Resolve
Common Ground California
Community Build, INC.
Culver City Democratic Club
Culver City for More Homes
Davis College Democrats
Dsa-santa Barbara
East Bay Yimby
First 5 Alameda County
Freemont for Everyone
Green Party of Santa Clara County CA
Greenbelt Alliance
Housing Action Coalition (UNREG)
Housing Is a Human Right
Indivisible CA Statestrong
Indivisible Ca-37
Indivisible Sacramento
Indivisible San Francisco
Indivisible South Bay LA
Indivisible Yolo
Los Angeles County Democratic Party
Mountain View Yimby
Neighborly Santa Cruz
North Westwood Neighborhood Council
Peninsula for Everyone
Progressive Zionists of California
San Francisco Berniecrats
San Francisco Yimby
Santa Cruz Yimby
Sierra Club California
South Bay Yimby

South Pasadena Residents for Responsible Growth
Sunrise Silicon Valley
Sv@home Action Fund
Tenderloin Housing Clinic
Westside Young Democrats
Yimby Action
Yimby Democrats of San Diego County
Yimby Slo

Opposition:

Burton Valley Neighborhoods Group
California Association of Realtors
Catalysts for Local Control
City of Lafayette
City of Pleasanton
Cruz Strategies
Fieldstead and Company, INC.
Hills 2000 -- Friends of The Hills
Kentwood Neighbors
League of California Cities
Save Lafayette
Sherman Oaks Homeowners Association
Southern California Rental Housing Association
Sunnyvale United Neighbors
5 Individuals

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