LEGISLATION COMMITTEE

March 13, 2017
10:30 A.M.
651 Pine Street, Room 101, Martinez

Agenda

Supervisor Diane Burgis, Chair
Supervisor Karen Mitchoff, Vice Chair

Agenda Items:	Items may be taken out of order based on the business of the day and preference of the Committee

1. Introductions

2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

3. **APPROVE the Record of Action for the February 13, 2017 meeting with any necessary corrections.**

4. **CONSIDER finding that a position of "Oppose" on the American Health Care Act, the proposed replacement to the Affordable Care Act, is consistent with the Board of Supervisors' adopted 2017 Federal Platform and DIRECT staff to prepare and distribute advocacy letters as needed.**

5. **CONSIDER recommending to the Board of Supervisors a position of "Support" on AB 71: Taxes: Credits: Low-Income Housing, a bill that would eliminate the mortgage interest deduction on second homes, increase the state Low-Income Housing Tax Credit (LIHTC) Program by $300 million, and make changes to the LIHTC, as recommended by Kara Douglas, Department of Conservation and Development.**

6. **CONSIDER recommending to the Board of Supervisors a position of "Support" on AB 210 (Santiago): Homeless Multidisciplinary Personnel Team, a bill that authorizes counties to establish a homeless adult, child, and family multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services and to allow provider agencies to share confidential information for the purpose of coordinating such services, as recommended by Lavonna Martin, Director of Health, Housing and Homeless Services.**

7. **CONSIDER recommending to the Board of Supervisors a "Support" position on AB 211 (Bigelow): State Responsibility Area Fire Prevention Fees, a bill that would require the State Board of Forestry and Fire Protection to provide an annual report including itemized accounting of all expenditures of the fire prevention fee to the Legislature indefinitely.**

8. **CONSIDER recommending to the Board of Supervisors a position of "Support" on AB 236 (Maienschein): CalWORKs Housing Assistance, a bill that provides that homeless assistance is available to homeless families that would be eligible for aid under the CalWORK's program but for the fact that the only child or children in the family are in out-of-home placement pursuant to an order of the dependency court, if the family is receiving reunification services and the county determines that homeless assistance is necessary for reunification to occur, as recommended by staff of EHSD.**

9. **CONSIDER recommending to the Board of Supervisors a position of "Support" on AB 435 (Thurmond): Child Care Subsidy Plans: County of Contra Costa, a bill that would authorize the County of Contra Costa to develop and submit an individualized county child care subsidy plan, as recommended by Camilla Rand, Director of the Community Services Bureau.**

10. **CONSIDER AB 898 (Frazier): Property Taxation: Revenue Allocation and AB 899 (Frazier): Local Government Finance: Property Tax Revenue, and provide direction to staff as needed.**

11. **CONSIDER recommending to the Board of Supervisors a position of "Support" on SB 222 (Hernandez): Access to Medi-Cal for Former Inmates, a bill that would increase access to critical health care services for Medi-Cal beneficiaries immediately after incarceration.**

12. **DISCUSS the attached letter to the State Superintendent of Public Instruction regarding school siting practices, REVISE as appropriate, and CONSIDER recommending to the Board of Supervisors that staff be AUTHORIZED to send the attached letter on behalf of the County.**

13. **REVIEW the Master List of Bills of Interest to Contra Costa County and provide direction to staff, as needed.**

14. The next meeting is currently scheduled for April 10, 2017 at 10:30 a.m., room 101, 651 Pine Street, Martinez.

15. Adjourn

The Legislation Committee will provide reasonable accommodations for persons with disabilities planning to attend Legislation Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Legislation Committee less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, 10th floor, during normal business hours.

Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.

For Additional Information Contact:

Lara DeLaney, Committee Staff
Phone (925) 335-1097, Fax (925) 646-1353
lara.delaney@cao.cccounty.us

Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE **3.**

Meeting Date:	03/13/2017
Subject:	Record of Action
Submitted For:	LEGISLATION COMMITTEE,
Department:	County Administrator
Referral No.:	2017-13
Referral Name:	Record of Action for Legislation Committee
Presenter:	L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

County Ordinance requires that each County body keep a record of its meetings. The record need not be verbatim; it must accurately reflect the agenda and the decisions made in the meeting. Any handouts or printed copies of material or testimony distributed at the meeting will be attached to the meeting record.

Referral Update:

Attached for the Committee's consideration is the Draft Record of Action for its February 13, 2017 meeting.

Recommendation(s)/Next Step(s):

APPROVE the Record of Action for the February 13, 2017 meeting with any necessary corrections.

Fiscal Impact (if any):

None.

Attachments

Draft Record of Action

D R A F T

LEGISLATION COMMITTEE

February 13, 2017
10:30 A.M.
651 Pine Street, Room 101, Martinez

Agenda

Supervisor Diane Burgis, Chair
Supervisor Karen Mitchoff, Vice Chair

Agenda Items:	Items may be taken out of order based on the business of the day and preference of the Committee

Present: Diane Burgis, Chair
Karen Mitchoff, Vice Chair

Staff Present: Lara DeLaney, Senior Deputy County Administrator
Ellen McDonnell, Reentry Coordinator & Deputy Public Defender
Devorah Levine, Assistant Director Policy and Planning Division, EHSD
Susan Jeong, Administrative Services Assistant III, EHSD
Ryan Hernandez, CCC Water Agency
Jonathan Bash, Chief of Staff, District III
Ali Saidi, Public Defender's Office
Anne O, Chief of Staff, District IV

Attendees: Carly Finkle
Zuleika Godinez
Joe Greaves

1. Introductions

   After the Committee members introduced themselves and self-introductions of attendees was made, the Chair announced that the County's state advocate, Cathy Christian, was on the conference line to participate in the meeting.

2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

   The Committee heard public comment about concerns related to immigration policies and a request to support SB 54.

3. ACCEPT the report on the State Budget and CONSIDER recommending that the Board of Supervisors send a letter to the Legislature opposing the Governor's proposal to discontinue the Coordinated Care Initiative and eliminate the In Home Supportive Services (IHSS) maintenance-of-effort (MOE).

The Committee voted to send the letter to the Board of Supervisors to concur in the opposition to the elimination of the CCI and the IHSS MOE.

AYE: Chair Diane Burgis, Vice Chair Karen Mitchoff
Passed

4. CONSIDER finding that a position of "Support" on SB 2 (Atkins): Building Homes and Jobs Act and "Support" on SB 3 (Beall): Affordable Housing Bond Act of 2018 is consistent with the Board of Supervisors' adopted 2017 State Platform, and directing staff to prepare letters of support for the Chair of the Board's signature.

Supervisor Mitchoff expressed concerns about the "return to source" aspect of SB 2, not having sufficient assurance that the funding generated in Contra Costa County would return to fund affordable housing opportunities in Contra Costa. She requested that these concerns be communicated to our delegation and the bill's author. No position would be recommended until that issue is further addressed. The Committee voted unanimously to recommend to the Board a "Support" position on SB 3.

AYE: Chair Diane Burgis, Vice Chair Karen Mitchoff
Passed

5. CONSIDER finding that a position of "Support" on AB 42 (Bonta): Bail Reform, SB 10 (Hertzberg): Bail: Pretrial Release, and SB 167 (Skinner): Supplemental Security Income & CalFresh: Preenrollment, is consistent with the Board of Supervisors' adopted 2017 State Platform and direct staff to prepare and distribute advocacy letters as needed.

The Committee voted to recommend the Board consider a position of "support" on AB 42, SB 10, and SB 167. The Committee directed staff to place these bills on the Board's consent calendar. The Committee requested that staff provide data to the Committee on the composition of the pre-trial population in the County jails. The Public Defender's Reentry Coordinator will attempt to provide that data.

AYE: Chair Diane Burgis, Vice Chair Karen Mitchoff
Passed

6. REVIEW the Master List of State Bills of Interest to Contra Costa County and provide direction to staff, as needed.

Several additional bills were brought to the Committee and staff's attention, including AB 3, SB 6 and AB 236, which will all be added to the Master List of Bills.

AYE: Chair Diane Burgis, Vice Chair Karen Mitchoff
Passed

7. ACCEPT the report on federal issues and provide direction to staff, as needed.

PROVIDE input to Congressman Thompson on H.R. 38 " Concealed Carry Reciprocity Act of 2017" and H.R. 367 "Hearing Protection Act of 2017."

The Committee accepted the report on federal issues and considered Congressman Thompson's request for input on the two bills related to concealed carry reciprocity and silencers: H.R. 38 and H.R. 367. They expressed similar perspective to Congressman Thompson, indicating that the bills would not help to ensure public safety.

AYE: Chair Diane Burgis, Vice Chair Karen Mitchoff

Passed

8. The next meeting is currently scheduled for March 13, 2017 at 10:30 a.m. in Room 101, 651 Pine Street, Martinez.

9. Adjourn

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lara.delaney@cao.cccounty.us

2/13/17

LEGISLATION COMMITTEE

SIGN-IN SHEET

Signing in is voluntary. You may attend this meeting without signing in.

Name	Representing	Phone
Ellen McDonnell	Public Defender's Office	(925) 335-8075
Ali Saidi	Public Defender's Office	~~(510)~~ (510) 412-4931
Devorah Levine	EHSD	(925) 313-1615
Susan Jorry	EHSD	925.313.1780
Carly Finkle	Food Bank of Contra Costa + Solano	925 334 2766
Zuleika Godinez	Ensuring Opportunity Campaign	510-234-1200 ext 307
Ryan Hernandez	CCC Water Agency	925-674-7824
Jonathan Bash	District III	925-252-4500
Anne O	BOS DIV	925-521-7100
Joe Greaves	ACCMA	510-654-5385

Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE **4.**

Meeting Date: 03/13/2017
Subject: American Health Care Act
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2017-11
Referral Name: American Health Care Act
Presenter: Jim Gross, Nielsen Merksamer **Contact:** L. DeLaney, 925-335-1097

Referral History:

Congressional House Republicans released their plan to repeal and replace the Affordable Care Act on March 6, 2017. See Attachment A.

While there are multiple proposals, there are some common threads in the concepts and details. It should also be noted that the recent draft of the Congressional Republican proposal is already two weeks old and members are claiming it is already out of date.

The Board of Supervisors' adopted 2017 Federal Platform contains the following policy on Health:

SUPPORT full funding of the Federal Medicaid program by the federal government. Medicaid provides access to health care for people whose income and resources are insufficient to pay for health care. It is jointly funded by Federal and State governments. The Patient Protection and Affordable Care Act (also known as the ACA) significantly expanded both eligibility for and federal funding of Medicaid. OPPOSE amendments to the ACA that would reduce support for Medicaid/Medi-Cal payments to providers.

The American Health Care Act has been reviewed by Dr. William Walker, Director of Contra Costa Health Services. Based on his analysis, he recommends that the Legislation Committee find that the Board's existing Platform policy is sufficient to find the American Health Care Act in opposition to adopted policy. In addition, the County Welfare Directors Association and CSAC have sent a letter to California's congressional delegation in opposition to the American Health Care Act. (*See Attachment B*.)

Referral Update:

Tom Joseph of Waterman and Associates produced this analysis for CSAC members.

First ACA and then the intertwined Medicaid block grant or per-capita cap

Every leaked draft and concept paper repeals, sooner or later, the Medicaid expansion under ACA. In the draft bill, for the 31 states which expanded Medicaid to cover uninsured individuals and families at 138 percent of poverty, the 95% federal match for expansion would end January 1, 2020 (a little under 3 years from now). Within that, there are some drafts that would allow states to continue to receive the enhanced match for those individuals that were enrolled by a date certain, until they dropped off the rolls, where other drafts would stop the enhanced match for everyone immediately. *The takeaway at this point is that the enhanced match will disappear under any ACA replacement plan, with the timing of the phase-out to be determined.*

However, there is a potential interaction with the Medicaid per-capita cap proposal and where the way in which the baseline is set may mitigate the fiscal benefits of this transition policy. And, there is an interesting sweetener for non-expansion states that would give them a temporary funding boost (amount not specified and at the expense of expansion states like CA) so as to not 'penalize' them for refusal to opt into the enhanced Medicaid benefits under the ACA.

Impacts on Taxes and Subsidies

All of the ACA drafts also end the tax penalties for individuals or small businesses who didn't purchase insurance after Jan 1, 2016 – the mandate would still be there since that is a policy that can't be touched under reconciliation, but the tax penalty would go away, essentially repealing the mandate – clearly a concern for insurance companies which will experience adverse selection since healthy millennials and others may choose to forego buying coverage while those who are sick or who have pre-existing conditions would continue to sign up.

The leaked bill and other drafts repeal the premium and cost-sharing subsidies targeted to low-to-moderate income individuals buying on the exchange. Currently, the size of the ACA subsidies depends on the individual's income and the price of the premiums in their locality. Instead of subsidies, the replacement bills have tax credits – either advanceable or refundable. In some respects they are indeed a subsidy – but under a different name and structure. There are some significant differences, however.

Unlike the ACA, subsidies for low- to middle-income individuals and families, the tax credits would be available to everyone purchasing private plans, regardless of income level or the price of the premium in that locale. There would be no sliding scale for the credit tied to what the premium would be.

The bills and concept papers also repeal all of the taxes supporting the ACA - - most of them at the end of this year. Those taxes included increased Medicare tax on the wealthy, medical device tax, higher taxes on investment income of wealthy individuals and host of other taxes.

In the leaked drafts, those taxes would be replaced with a tax on high value employer-provided health insurance plans - -much like the Cadillac tax on high value plans, including a number of plans counties have developed and we successfully have delayed until 2020 with bipartisan support.

Individuals would have to pay taxes on the value of a plan which exceeds the 90th percentile of all

group health plan benefits – so whatever the dollar difference is above the 90th percentile that benefit would be reported to the IRS and taxable as gross income. If it remains, how much money it raises and what the political opposition will be by employers and taxpayers is yet unknown.

Moving on to Medicaid block grant or per capita

Those tax mechanisms and the elimination of the enhanced Medicaid match are also enmeshed with a proposal to simultaneously cap the Medicaid program. Again, the details differ in each draft, but the key questions and concerns remain constant when evaluating them.

A consensus appears to be emerging among congressional Republicans and some Republican governors to change the Medicaid program from an entitlement to states to a payment mechanism that provides states with capped amounts of funding whose amounts differ among different groups of individuals served by the program – women and kids, persons with disabilities, and those in long term care. Enrollees under each category would be given a set amount of funding which would then be aggregated in a payment to the state. And, states could claim an allotment for a newly-eligible individual.

Additionally, how and whether dollars spent on Medicaid expansion populations would be built into the cap remains an outstanding question. Clearly as California is an expansion state, we are arguing expansion dollars should be built into the allocation, while the 19 non-expansion states argue that they would be disadvantaged in a new capped environment because they didn't expand under the ACA.

Setting aside the cost-shifts that ultimately will occur, the key questions under this approach are:

- What will be the fiscal year used as a baseline to calculate the allocations for each state?
- What type of inflator will be used to grow the capped federal allocation over time?

Which year is chosen as a baseline will be critical, especially for states that have expanded coverage and the type of inflationary increase – CPI, Medical Care Index, or a blend of the two will be really important since even under a capped environment, the first few years will not appear to be a big deal to governors currently in office and their legislators – it's the compounding of small cuts over time which will be problematic for future governors and legislatives to deal with. And, it remains an open question whether built into this base will be revenues generated by DSH payments to hospitals or IGT's to match federal funds.

It will be the responsibility of the Congressional Budget Office (CBO) to calculate the federal costs and impact on the uninsured rate when analyzing the how the replacing the ACA and a Medicaid per-capita cap interact with each other.

So what might we know in terms of impact? Both nationally and more specifically for California?

Assuming the starting point for the GOP is total ACA repeal and block granting Medicaid, the GOP has to build a new health system that would start with the following calculations made by CBO which, again, is the entity they must use when determining impacts of bills.

With an ACA repeal (again this would be the baseline) according to CBO 18-32 million people lose coverage due to loss of Medicaid and/or subsidies.

Under a Medicaid block grant – CBO estimates that an average state will experience a cut of 25%

to its Medicaid budget averaged over the next ten years – the cuts compound and are relatively small in the early years, but would exceed 33% in the out years.

The Centers for Disease Control and Prevention (CDC) states that the uninsured rate in Medicaid expansion states is now 9.3% -- cut nearly in half since 2013 (18.4%), and the uninsured rate in non-Medicaid expansion states 17.5% -- down from 22.7% since 2013 but not declining any more.

Further California-specific ACA and Medi-Cal statistics are impressive:

- Since ACA law took effect, the state's uninsured rate has been cut in half, with 91 percent of all Californians currently insured.
- Approximately 1.2 million residents have purchased healthcare plans thru *Covered California*. The vast majority of these individuals – roughly 90 percent – are receiving subsidies to help pay their premiums.
- If the ACA is dismantled, $5 billion would be lost in health insurance subsidies and cost-sharing for individuals who obtain health coverage through *Covered California*.
- According to a study by the University of California Berkeley Labor Center, 209,000 jobs would be lost if Congress eliminates the ACA. While the majority of job losses would be in healthcare, other industries would be affected due to the impact on local economies. All told, repealing the ACA could cost California's economy over $20 billion in GDP and another $1.5 billion in lost state and local tax revenue, according to the study.
- Since the ACA was enacted, Medi-Cal enrollment has grown by 62 percent. More than 5 million have gained coverage. From 8.6 million to over 14 million, a 62 percent increase.
- That includes 3.7 million due to CA taking advantage of the expansion funds.
- If the Medicaid expansion is repealed, $15 billion would be cut from the state's annual $100 billion Medi-Cal budget.
- And, a Medicaid per-capita cap would financially disadvantage California much more than other states, by locking it into low allocations due to the state's historically low per-beneficiary spending rate. This is due, in part, to the state's use of managed care (10.3 million individuals are in such plans) and its low provider reimbursement rates.

Recommendation(s)/Next Step(s):

CONSIDER finding that an "Oppose" position on the American Health Care Act is consistent with the Board of Supervisors' adopted 2017 Federal Platform and direct staff to send advocacy letters, as needed.

Fiscal Impact (if any):

As the Legislative Analyst's Office (LAO) notes: "There is substantial federal uncertainty about the future of the ACA including whether and which components of the ACA might be repealed, when any repealed components of the ACA would become inoperative, and what policies could replace those in the ACA. Some of the components most at risk for repeal include federal funding for the ACA optional expansion, federal funding for premium subsidies and cost-sharing reductions through Health Benefit Exchanges, enhanced federal funding for other health care programs and services in Medicaid, and the individual and employer mandate tax penalties. If these components are repealed without replacement, there would be significant consequences for California, including the potential loss of substantial annual federal health care funding, the uncertain survival of Covered California, a potentially considerable increase in the number of uninsured Californians, and a possible disruption of the commercial health insurance market.

Given the uncertainty around the future of the ACA and the substantial federal funding at risk, we recommend the Legislature maintain fiscal prudence in preparation for changes at the federal level, and consider how changes to the ACA could require a reevaluation of the state-local health care financing relationship."

Attachments

Attachment A

Attachment B

COMMITTEE PRINT

Budget Reconciliation Legislative Recommendations Relating to Repeal and Replace of the Patient Protection and Affordable Care Act

TITLE I—ENERGY AND COMMERCE

Subtitle A—Patient Access to Public Health Programs

SEC. 101. THE PREVENTION AND PUBLIC HEALTH FUND.

(a) IN GENERAL.—Subsection (b) of section 4002 of the Patient Protection and Affordable Care Act (42 U.S.C. 300u–11), as amended by section 5009 of the 21st Century Cures Act, is amended—

(1) in paragraph (2), by adding ''and'' at the end;

(2) in paragraph (3)—

(A) by striking ''each of fiscal years 2018 and 2019'' and inserting ''fiscal year 2018''; and

(B) by striking the semicolon at the end and inserting a period; and

(3) by striking paragraphs (4) through (8).

(b) RESCISSION OF UNOBLIGATED FUNDS.—Of the funds made available by such section 4002, the unobligated balance at the end of fiscal year 2018 is rescinded.

SEC. 102. COMMUNITY HEALTH CENTER PROGRAM.

Effective as if included in the enactment of the Medicare Access and CHIP Reauthorization Act of 2015 (Public Law 114–10, 129 Stat. 87), paragraph (1) of section 221(a) of such Act is amended by inserting ", and an additional $422,000,000 for fiscal year 2017" after "2017".

SEC. 103. FEDERAL PAYMENTS TO STATES.

(a) IN GENERAL.—Notwithstanding section 504(a), 1902(a)(23), 1903(a), 2002, 2005(a)(4), 2102(a)(7), or 2105(a)(1) of the Social Security Act (42 U.S.C. 704(a), 1396a(a)(23), 1396b(a), 1397a, 1397d(a)(4), 1397bb(a)(7), 1397ee(a)(1)), or the terms of any Medicaid waiver in effect on the date of enactment of this Act that is approved under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n), for the 1-year period beginning on the date of the enactment of this Act, no Federal funds provided from a program referred to in this subsection that is considered direct spending for any year may be made available to a State for payments to a prohibited entity, whether made directly to the prohibited entity or through a managed care organization under contract with the State.

(b) DEFINITIONS.—In this section:

(1) PROHIBITED ENTITY.—The term ''prohibited entity'' means an entity, including its affiliates, subsidiaries, successors, and clinics—

(A) that, as of the date of enactment of this Act—

(i) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(ii) is an essential community provider described in section 156.235 of title 45, Code of Federal Regulations (as in effect on the date of enactment of this Act), that is primarily engaged in family planning services, reproductive health, and related medical care; and

(iii) provides for abortions, other than an abortion—

(I) if the pregnancy is the result of an act of rape or incest; or

(II) in the case where a woman suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician,

place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself; and

(B) for which the total amount of Federal and State expenditures under the Medicaid program under title XIX of the Social Security Act in fiscal year 2014 made directly to the entity and to any affiliates, subsidiaries, successors, or clinics of the entity, or made to the entity and to any affiliates, subsidiaries, successors, or clinics of the entity as part of a nationwide health care provider network, exceeded $350,000,000.

(2) DIRECT SPENDING.—The term ''direct spending'' has the meaning given that term under section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)).

Subtitle B—Medicaid Program Enhancement

SEC. 111. REPEAL OF MEDICAID PROVISIONS.

The Social Security Act is amended—

(1) in section 1902 (42 U.S.C. 1396a)—

(A) in subsection (a)(47)(B), by inserting ''and provided that any such election shall cease to be effective on January 1, 2020, and no such election shall be made after that date'' before the semicolon at the end; and

(B) in subsection (l)(2)(C), by inserting ''and ending December 31, 2019,'' after ''January 1, 2014,'';

(2) in section 1915(k)(2) (42 U.S.C. 1396n(k)(2)), by striking ''during the period described in paragraph (1)'' and inserting ''on or after the date referred to in paragraph (1) and before January 1, 2020''; and

(3) in section 1920(e) (42 U.S.C. 1396r–1(e)), by striking ''under clause (i)(VIII), clause (i)(IX), or clause (ii)(XX) of subsection (a)(10)(A)'' and inserting ''under clause (i)(VIII) or clause (ii)(XX) of section 1902(a)(10)(A) before January 1, 2020, section 1902(a)(10)(A)(i)(IX),''.

SEC. 112. REPEAL OF MEDICAID EXPANSION.

(a) IN GENERAL.—Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)) is amended—

(1) in clause (i)(VIII), by inserting ''at the option of a State,'' after ''January 1, 2014,''; and

(2) in clause (ii)(XX), by inserting ''and ending December 31, 2019,'' after ''2014,''.

(b) TERMINATION OF EFMAP FOR NEW ACA EXPANSION ENROLLEES.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (y)(1), in the matter preceding subparagraph (A), by striking ''with respect to'' and all that follows through ''shall be'' and inserting ''with respect to amounts expended before January 1, 2020, by such State for medical assistance for newly eligible individuals described in subclause (VIII) of section 1902(a)(10)(A)(i) who are enrolled under the State plan (or a waiver of the plan) before such date and with respect to amounts expended after such date by such State for medical assistance for individuals described in such subclause who were enrolled under such plan (or waiver of such plan) as of December 31, 2019, and who do not have a break in eligibility for medical assistance under such State plan (or waiver) for more than one month after such date, shall be''; and

(2) in subsection (z)(2)—

(A) in subparagraph (A), by striking ''medical assistance for individuals'' and all that follows through ''shall be'' and inserting

"amounts expended before January 1, 2020, by such State for medical assistance for individuals described in section 1902(a)(10)(A)(i)(VIII) who are nonpregnant childless adults with respect to whom the State may require enrollment in benchmark coverage under section 1937 and who are enrolled under the State plan (or a waiver of the plan) before such date and with respect to amounts expended after such date by such State for medical assistance for individuals described in such section, who are nonpregnant childless adults with respect to whom the State may require enrollment in benchmark coverage under section 1937, who were enrolled under such plan (or waiver of such plan) as of December 31, 2019, and who do not have a break in eligibility for medical assistance under such State plan (or waiver) for more than one month after such date, shall be" ; and

(B) in subparagraph (B)(ii)—

(i) in subclause (III), by adding "and" at the end; and

(ii) by striking subclauses (IV), (V), and (VI) and inserting the following new subclause:

"(IV) 2017 and each subsequent year is 80 percent.".

(c) SUNSET OF ESSENTIAL HEALTH BENEFITS REQUIREMENT.—Section 1937(b)(5) of the Social Security Act (42 U.S.C. 1396u–7(b)(5)) is amended by adding at the end the following: "This paragraph shall not apply after December 31, 2019.".

SEC. 113. ELIMINATION OF DSH CUTS.

Section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f)) is amended—

(1) in paragraph (7)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) in the matter preceding subclause (I), by striking "2025" and inserting "2019"; and

(ii) in clause (ii)—

(I) in subclause (I), by adding "and" at the end;

(II) in subclause (II), by striking the semicolon at the end and inserting a period; and

(III) by striking subclauses (III) through (VIII); and

(B) by adding at the end the following new subparagraph:

"(C) EXEMPTION FROM EXEMPTION FOR NON-EXPANSION STATES.—

"(i) IN GENERAL.—In the case of a State that is a non-expansion State for a fiscal year, subparagraph (A)(i) shall not apply to the DSH allotment for such State and fiscal year.

"(ii) NO CHANGE IN REDUCTION FOR EXPANSION STATES.—In the case of a State that is an expansion State for a fiscal year, the DSH allotment for such State and fiscal year shall be determined as if clause (i) did not apply.

"(iii) NON-EXPANSION AND EXPANSION STATE DEFINED.—

"(I) The term 'expansion State' means with respect to a fiscal year, a State that, as of July 1 of the preceding fiscal year, provides for eligibility under clause (i)(VIII) or (ii)(XX) of section 1902(a)(10)(A) for medical assistance under this title (or

a waiver of the State plan approved under section 1115).

"(II) The term 'non-expansion State' means, with respect to a fiscal year, a State that is not an expansion State."; and

(2) in paragraph (8), by striking "fiscal year 2025" and inserting "fiscal year 2019".

SEC. 114. REDUCING STATE MEDICAID COSTS.

(a) LETTING STATES DISENROLL HIGH DOLLAR LOTTERY WINNERS.—

(1) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(17), by striking "(e)(14), (e)(14)" and inserting "(e)(14), (e)(15)"; and

(B) in subsection (e)—

(i) in paragraph (14) (relating to modified adjusted gross income), by adding at the end the following new subparagraph:

"(J) TREATMENT OF CERTAIN LOTTERY WINNINGS AND INCOME RECEIVED AS A LUMP SUM.—

"(i) IN GENERAL.—In the case of an individual who is the recipient of qualified

lottery winnings (pursuant to lotteries occurring on or after January 1, 2020) or qualified lump sum income (received on or after such date) and whose eligibility for medical assistance is determined based on the application of modified adjusted gross income under subparagraph (A), a State shall, in determining such eligibility, include such winnings or income (as applicable) as income received—

"(I) in the month in which such winnings or income (as applicable) is received if the amount of such winnings or income is less than $80,000;

"(II) over a period of 2 months if the amount of such winnings or income (as applicable) is greater than or equal to $80,000 but less than $90,000;

"(III) over a period of 3 months if the amount of such winnings or income (as applicable) is greater than or equal to $90,000 but less than $100,000; and

"(IV) over a period of 3 months plus 1 additional month for each increment of $10,000 of such winnings or income (as applicable) received, not to exceed a period of 120 months (for winnings or income of $1,260,000 or more), if the amount of such winnings or income is greater than or equal to $100,000.

"(ii) COUNTING IN EQUAL INSTALLMENTS.—For purposes of subclauses (II), (III), and (IV) of clause (i), winnings or income to which such subclause applies shall be counted in equal monthly installments over the period of months specified under such subclause.

"(iii) HARDSHIP EXEMPTION.—An individual whose income, by application of clause (i), exceeds the applicable eligibility threshold established by the State, may continue to be eligible for medical assistance to the extent that the State determines, under procedures established by the State under the State plan (or in the case of a waiver of the plan under section 1115,

incorporated in such waiver), or as otherwise established by such State in accordance with such standards as may be specified by the Secretary, that the denial of eligibility of the individual would cause an undue medical or financial hardship as determined on the basis of criteria established by the Secretary.

''(iv) NOTIFICATIONS AND ASSISTANCE REQUIRED IN CASE OF LOSS OF ELIGIBILITY.—A State shall, with respect to an individual who loses eligibility for medical assistance under the State plan (or a waiver of such plan) by reason of clause (i), before the date on which the individual loses such eligibility, inform the individual of the date on which the individual would no longer be considered ineligible by reason of such clause to receive medical assistance under the State plan or under any waiver of such plan and the date on which the individual would be eligible to reapply to receive such medical assistance.

''(v) QUALIFIED LOTTERY WINNINGS DEFINED.—In this subparagraph, the term

'qualified lottery winnings' means winnings from a sweepstakes, lottery, or pool described in paragraph (3) of section 4402 of the Internal Revenue Code of 1986 or a lottery operated by a multistate or multijurisdictional lottery association, including amounts awarded as a lump sum payment.

"(vi) QUALIFIED LUMP SUM INCOME DEFINED.—In this subparagraph, the term 'qualified lump sum income' means income that is received as a lump sum from one of the following sources:

"(I) Monetary winnings from gambling (as defined by the Secretary and including monetary winnings from gambling activities described in section 1955(b)(4) of title 18, United States Code).

"(II) Income received as liquid assets from the estate (as defined in section 1917(b)(4)) of a deceased individual."; and

(ii) by striking "(14) EXCLUSION" and inserting "(15) EXCLUSION".

(2) RULES OF CONSTRUCTION.—

(A) INTERCEPTION OF LOTTERY WINNINGS ALLOWED.—Nothing in the amendment made by paragraph (1)(B)(i) shall be construed as preventing a State from intercepting the State lottery winnings awarded to an individual in the State to recover amounts paid by the State under the State Medicaid plan under title XIX of the Social Security Act for medical assistance furnished to the individual.

(B) APPLICABILITY LIMITED TO ELIGIBILITY OF RECIPIENT OF LOTTERY WINNINGS OR LUMP SUM INCOME.—Nothing in the amendment made by paragraph (1)(B)(i) shall be construed, with respect to a determination of household income for purposes of a determination of eligibility for medical assistance under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (or a waiver of such plan) made by applying modified adjusted gross income under subparagraph (A) of section 1902(e)(14) of such Act (42 U.S.C. 1396a(e)(14)), as limiting the eligibility for such medical assistance of any individual that is a member of the household other than the individual (or the individual's spouse) who received

qualified lottery winnings or qualified lump-sum income (as defined in subparagraph (J) of such section 1902(e)(14), as added by paragraph (1)(B)(i) of this subsection).

(b) REPEAL OF RETROACTIVE ELIGIBILITY.—

(1) IN GENERAL.—

(A) STATE PLAN REQUIREMENTS.—Section 1902(a)(34) of the Social Security Act (42 U.S.C. 1396a(a)(34)) is amended by striking ''in or after the third month before the month in which he made application'' and inserting ''in or after the month in which the individual made application''.

(B) DEFINITION OF MEDICAL ASSISTANCE.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended by striking ''in or after the third month before the month in which the recipient makes application for assistance'' and inserting ''in or after the month in which the recipient makes application for assistance''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to medical assistance with respect to individuals whose eligibility for such assistance is based on an application for such assist-

ance made (or deemed to be made) on or after October 1, 2017.

(c) ENSURING STATES ARE NOT FORCED TO PAY FOR INDIVIDUALS INELIGIBLE FOR THE PROGRAM.—

(1) IN GENERAL.—Section 1137(f) of the Social Security Act (42 U.S.C. 1320b–7(f)) is amended—

(A) by striking ''Subsections (a)(1) and (d)'' and inserting ''(1) Subsections (a)(1) and (d)''; and

(B) by adding at the end the following new paragraph:

''(2)(A) Subparagraphs (A) and (B)(ii) of subsection (d)(4) shall not apply in the case of an initial determination made on or after the date that is 6 months after the date of the enactment of this paragraph with respect to the eligibility of an alien described in subparagraph (B) for benefits under the program listed in subsection (b)(2).

''(B) An alien described in this subparagraph is an individual declaring to be a citizen or national of the United States with respect to whom a State, in accordance with section 1902(a)(46)(B), requires—

''(i) pursuant to 1902(ee), the submission of a social security number; or

"(ii) pursuant to 1903(x), the presentation of satisfactory documentary evidence of citizenship or nationality.".

(2) NO PAYMENTS FOR MEDICAL ASSISTANCE PROVIDED BEFORE PRESENTATION OF EVIDENCE.—Section 1903(i)(22) of the Social Security Act (42 U.S.C. 1396b(i)(22)) is amended—

(A) by striking "with respect to amounts expended" and inserting "(A) with respect to amounts expended";

(B) by inserting "and" at the end; and

(C) by adding at the end the following new subparagraph:

"(B) in the case of a State that elects to provide a reasonable period to present satisfactory documentary evidence of such citizenship or nationality pursuant to paragraph (2)(C) of section 1902(ee) or paragraph (4) of subsection (x) of this section, for amounts expended for medical assistance for such an individual (other than an individual described in paragraph (2) of such subsection (x)) during such period;".

(3) CONFORMING AMENDMENTS.—Section 1137(d)(4) of the Social Security Act (42 U.S.C. 1320b–7(d)(4)) is amended—

(A) in subparagraph (A), in the matter preceding clause (i), by inserting ''subject to subsection (f)(2),'' before ''the State''; and

(B) in subparagraph (B)(ii), by inserting ''subject to subsection (f)(2),'' before ''pending such verification''.

(d) UPDATING ALLOWABLE HOME EQUITY LIMITS IN MEDICAID.—

(1) IN GENERAL.—Section 1917(f)(1) of the Social Security Act (42 U.S.C. 1396p(f)(1)) is amended—

(A) in subparagraph (A), by striking ''subparagraphs (B) and (C)'' and inserting ''subparagraph (B)'';

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (B); and

(D) in subparagraph (B), as so redesignated, by striking ''dollar amounts specified in this paragraph'' and inserting ''dollar amount specified in subparagraph (A)''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by paragraph (1) shall apply with respect to eligibility determinations made after the date that

is 180 days after the date of the enactment of this section.

(B) EXCEPTION FOR STATE LEGISLATION.—In the case of a State plan under title XIX of the Social Security Act that the Secretary of Health and Human Services determines requires State legislation in order for the respective plan to meet any requirement imposed by amendments made by this subsection, the respective plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such an additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

SEC. 115. SAFETY NET FUNDING FOR NON-EXPANSION STATES.

Title XIX of the Social Security Act is amended by inserting after section 1923 (42 U.S.C. 1396r–4) the following new section:

"ADJUSTMENT IN PAYMENT FOR SERVICES OF SAFETY NET PROVIDERS IN NON-EXPANSION STATES

"SEC. 1923A. (a) IN GENERAL.—Subject to the limitations of this section, for each year during the period beginning with 2018 and ending with 2021, each State that is one of the 50 States or the District of Columbia and that, as of July 1 of the preceding year, did not provide for eligibility under clause (i)(VIII) or (ii)(XX) of section 1902(a)(10)(A) for medical assistance under this title (or a waiver of the State plan approved under section 1115) (each such State or District referred to in this section for the year as a 'non-expansion State') may adjust the payment amounts otherwise provided under the State plan under this title (or a waiver of such plan) to health care providers that provide health care services to individuals enrolled under this title (in this section referred to as 'eligible providers').

"(b) INCREASE IN APPLICABLE FMAP.—Notwithstanding section 1905(b), the Federal medical assistance percentage applicable with respect to expenditures attributable to a payment adjustment under subsection (a) for

which payment is permitted under subsection (c) shall be equal to—

"(1) 100 percent for calendar quarters in calendar years 2018, 2019, 2020, and 2021; and

"(2) 95 percent for calendar quarters in calendar year 2022.

"(c) LIMITATIONS; DISQUALIFICATION OF STATES.—

"(1) ANNUAL ALLOTMENT LIMITATION.—Payment under section 1903(a) shall not be made to a State with respect to any payment adjustment made under this section for all calendar quarters in a year in excess of the $2,000,000,000 multiplied by the ratio of—

"(A) the population of the State with income below 138 percent of the poverty line in 2015 (as determined based the table entitled 'Health Insurance Coverage Status and Type by Ratio of Income to Poverty Level in the Past 12 Months by Age' for the universe of the civilian noninstitutionalized population for whom poverty status is determined based on the 2015 American Community Survey 1-Year Estimates, as published by the Bureau of the Census), to

"(B) the sum of the populations under subparagraph (A) for all non-expansion States.

"(2) LIMITATION ON PAYMENT ADJUSTMENT AMOUNT FOR INDIVIDUAL PROVIDERS.—The amount of a payment adjustment under subsection (a) for an eligible provider may not exceed the provider's costs incurred in furnishing health care services (as determined by the Secretary and net of payments under this title, other than under this section, and by uninsured patients) to individuals who either are eligible for medical assistance under the State plan (or under a waiver of such plan) or have no health insurance or health plan coverage for such services.

"(d) DISQUALIFICATION IN CASE OF STATE COVERAGE EXPANSION.—If a State is a non-expansion for a year and provides eligibility for medical assistance described in subsection (a) during the year, the State shall no longer be treated as a non-expansion State under this section for any subsequent years.".

SEC. 116. PROVIDING INCENTIVES FOR INCREASED FREQUENCY OF ELIGIBILITY REDETERMINATIONS.

(a) IN GENERAL.—Section 1902(e)(14) of the Social Security Act (42 U.S.C. 1396a(e)(14)) (relating to modified adjusted gross income), as amended by section 114(a)(1), is further amended by adding at the end the following:

"(K) FREQUENCY OF ELIGIBILITY REDETERMINATIONS.—Beginning on October 1, 2017, and notwithstanding subparagraph (H), in the case of an individual whose eligibility for medical assistance under the State plan under this title (or a waiver of such plan) is determined based on the application of modified adjusted gross income under subparagraph (A) and who is so eligible on the basis of clause (i)(VIII) or clause (ii)(XX) of subsection (a)(10)(A), a State shall redetermine such individual's eligibility for such medical assistance no less frequently than once every 6 months.".

(b) CIVIL MONETARY PENALTY.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7(a)) is amended, in the matter following paragraph (10), by striking "(or, in cases under paragraph (3)" and inserting the following: "(or, in cases under paragraph (1) in which an individual was knowingly enrolled on or after October 1, 2017, pursuant to section 1902(a)(10)(A)(i)(VIII) for medical assistance under the State plan under title XIX whose income does not meet the income threshold specified in such section or in which a claim was presented on or after October 1, 2017, as a claim for an item or service furnished to an individual described in such section but

whose enrollment under such State plan is not made on the basis of such individual's meeting the income threshold specified in such section, $20,000 for each such individual or claim; in cases under paragraph (3)''.

(c) INCREASED ADMINISTRATIVE MATCHING PERCENTAGE.—For each calendar quarter during the period beginning on October 1, 2017, and ending on December 31, 2019, the Federal matching percentage otherwise applicable under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) with respect to State expenditures during such quarter that are attributable to meeting the requirement of section 1902(e)(14) (relating to determinations of eligibility using modified adjusted gross income) of such Act shall be increased by 5 percentage points with respect to State expenditures attributable to activities carried out by the State (and approved by the Secretary) to increase the frequency of eligibility redeterminations required by subparagraph (K) of such section (relating to eligibility redeterminations made on a 6-month basis) (as added by subsection (a)).

Subtitle C—Per Capita Allotment for Medical Assistance

SEC. 121. PER CAPITA ALLOTMENT FOR MEDICAL ASSISTANCE.

Title XIX of the Social Security Act is amended—

(1) in section 1903 (42 U.S.C. 1396b)—

(A) in subsection (a), in the matter before paragraph (1), by inserting ''and section 1903A(a)'' after ''except as otherwise provided in this section''; and

(B) in subsection (d)(1), by striking ''to which'' and inserting ''to which, subject to section 1903A(a),''; and

(2) by inserting after such section 1903 the following new section:

''SEC. 1903A. PER CAPITA-BASED CAP ON PAYMENTS FOR MEDICAL ASSISTANCE.

''(a) APPLICATION OF PER CAPITA CAP ON PAYMENTS FOR MEDICAL ASSISTANCE EXPENDITURES.—

''(1) IN GENERAL.—If a State has excess aggregate medical assistance expenditures (as defined in paragraph (2)) for a fiscal year (beginning with fiscal year 2020), the amount of payment to the State under section 1903(a)(1) for each quarter in the following fiscal year shall be reduced by ¼ of the excess aggregate medical assistance payments (as defined in paragraph (3)) for that previous fiscal year. In this section, the term 'State' means only the 50 States and the District of Columbia.

"(2) EXCESS AGGREGATE MEDICAL ASSISTANCE EXPENDITURES.—In this subsection, the term 'excess aggregate medical assistance expenditures' means, for a State for a fiscal year, the amount (if any) by which—

"(A) the amount of the adjusted total medical assistance expenditures (as defined in subsection (b)(1)) for the State and fiscal year; exceeds

"(B) the amount of the target total medical assistance expenditures (as defined in subsection (c)) for the State and fiscal year.

"(3) EXCESS AGGREGATE MEDICAL ASSISTANCE PAYMENTS.—In this subsection, the term 'excess aggregate medical assistance payments' means, for a State for a fiscal year, the product of—

"(A) the excess aggregate medical assistance expenditures (as defined in paragraph (2)) for the State for the fiscal year; and

"(B) the Federal average medical assistance matching percentage (as defined in paragraph (4)) for the State for the fiscal year.

"(4) FEDERAL AVERAGE MEDICAL ASSISTANCE MATCHING PERCENTAGE.—In this subsection, the term 'Federal average medical assistance matching

percentage' means, for a State for a fiscal year, the ratio (expressed as a percentage) of—

"(A) the amount of the Federal payments that would be made to the State under section 1903(a)(1) for medical assistance expenditures for calendar quarters in the fiscal year if paragraph (1) did not apply; to

"(B) the amount of the medical assistance expenditures for the State and fiscal year.

"(b) ADJUSTED TOTAL MEDICAL ASSISTANCE EXPENDITURES.—Subject to subsection (g), the following shall apply:

"(1) IN GENERAL.—In this section, the term 'adjusted total medical assistance expenditures' means, for a State—

"(A) for fiscal year 2016, the product of—

"(i) the amount of the medical assistance expenditures (as defined in paragraph (2)) for the State and fiscal year, reduced by the amount of any excluded expenditures (as defined in paragraph (3)) for the State and fiscal year otherwise included in such medical assistance expenditures; and

"(ii) the 1903A FY16 population percentage (as defined in paragraph (4)) for the State; or

"(B) for fiscal year 2019 or a subsequent fiscal year, the amount of the medical assistance expenditures (as defined in paragraph (2)) for the State and fiscal year that is attributable to 1903A enrollees, reduced by the amount of any excluded expenditures (as defined in paragraph (3)) for the State and fiscal year otherwise included in such medical assistance expenditures.

"(2) MEDICAL ASSISTANCE EXPENDITURES.—In this section, the term 'medical assistance expenditures' means, for a State and fiscal year, the medical assistance payments as reported by medical service category on the Form CMS-64 quarterly expense report (or successor to such a report form, and including enrollment data and subsequent adjustments to any such report, in this section referred to collectively as a 'CMS-64 report') that directly result from providing medical assistance under the State plan (including under a waiver of the plan) for which payment is (or may otherwise be) made pursuant to section 1903(a)(1).

"(3) EXCLUDED EXPENDITURES.—In this section, the term 'excluded expenditures' means, for a State and fiscal year, expenditures under the State plan (or under a waiver of such plan) that are attributable to any of the following:

"(A) DSH.—Payment adjustments made for disproportionate share hospitals under section 1923.

"(B) MEDICARE COST-SHARING.—Payments made for medicare cost-sharing (as defined in section 1905(p)(3)).

"(C) SAFETY NET PROVIDER PAYMENT ADJUSTMENTS IN NON-EXPANSION STATES.—Payment adjustments under subsection (a) of section 1923A for which payment is permitted under subsection (c) of such section.

"(4) 1903A FY 16 POPULATION PERCENTAGE.—In this subsection, the term '1903A FY16 population percentage' means, for a State, the Secretary's calculation of the percentage of the actual medical assistance expenditures, as reported by the State on the CMS–64 reports for calendar quarters in fiscal year 2016, that are attributable to 1903A enrollees (as defined in subsection (e)(1)).

"(c) TARGET TOTAL MEDICAL ASSISTANCE EXPENDITURES.—

"(1) CALCULATION.—In this section, the term 'target total medical assistance expenditures' means, for a State for a fiscal year, the sum of the products, for each of the 1903A enrollee categories (as defined in subsection (e)(2)), of—

"(A) the target per capita medical assistance expenditures (as defined in paragraph (2)) for the enrollee category, State, and fiscal year; and

"(B) the number of 1903A enrollees for such enrollee category, State, and fiscal year, as determined under subsection (e)(4).

"(2) TARGET PER CAPITA MEDICAL ASSISTANCE EXPENDITURES.—In this subsection, the term 'target per capita medical assistance expenditures' means, for a 1903A enrollee category, State, and a fiscal year, an amount equal to—

"(A) the provisional FY19 target per capita amount for such enrollee category (as calculated under subsection (d)(5)) for the State; increased by

"(B) the percentage increase in the medical care component of the consumer price index

for all urban consumers (U.S. city average) from September of 2019 to September of the fiscal year involved.

"(d) CALCULATION OF FY19 PROVISIONAL TARGET AMOUNT FOR EACH 1903A ENROLLEE CATEGORY.—Subject to subsection (g), the following shall apply:

"(1) CALCULATION OF BASE AMOUNTS FOR FISCAL YEAR 2016.—For each State the Secretary shall calculate (and provide notice to the State not later than April 1, 2018, of) the following:

"(A) The amount of the adjusted total medical assistance expenditures (as defined in subsection (b)(1)) for the State for fiscal year 2016.

"(B) The number of 1903A enrollees for the State in fiscal year 2016 (as determined under subsection (e)(4)).

"(C) The average per capita medical assistance expenditures for the State for fiscal year 2016 equal to—

"(i) the amount calculated under subparagraph (A); divided by

"(ii) the number calculated under subparagraph (B).

"(2) FISCAL YEAR 2019 AVERAGE PER CAPITA AMOUNT BASED ON INFLATING THE FISCAL YEAR 2016 AMOUNT TO FISCAL YEAR 2019 BY CPI-MEDICAL.—The Secretary shall calculate a fiscal year 2019 average per capita amount for each State equal to—

"(A) the average per capita medical assistance expenditures for the State for fiscal year 2016 (calculated under paragraph (1)(C)); increased by

"(B) the percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average) from September, 2016 to September, 2019.

"(3) AGGREGATE AND AVERAGE EXPENDITURES PER CAPITA FOR FISCAL YEAR 2019.—The Secretary shall calculate for each State the following:

"(A) The amount of the adjusted total medical assistance expenditures (as defined in subsection (b)(1)) for the State for fiscal year 2019.

"(B) The number of 1903A enrollees for the State in fiscal year 2019 (as determined under subsection (e)(4)).

"(4) PER CAPITA EXPENDITURES FOR FISCAL YEAR 2019 FOR EACH 1903A ENROLLEE CATEGORY.—The Secretary shall calculate (and provide notice to each State not later than January 1, 2020, of) the following:

"(A)(i) For each 1903A enrollee category, the amount of the adjusted total medical assistance expenditures (as defined in subsection (b)(1)) for the State for fiscal year 2019 for individuals in the enrollee category, calculated by excluding from medical assistance expenditures those expenditures attributable to expenditures described in clause (iii) or non-DSH supplemental expenditures (as defined in clause (ii)).

"(ii) In this paragraph, the term 'non-DSH supplemental expenditure' means a payment to a provider under the State plan (or under a waiver of the plan) that—

"(I) is not made under section 1923;

"(II) is not made with respect to a specific item or service for an individual;

"(III) is in addition to any payments made to the provider under the plan (or waiver) for any such item or service; and

"(IV) complies with the limits for additional payments to providers under the plan (or waiver) imposed pursuant to section 1902(a)(30)(A), including the regulations specifying upper payment limits under the State plan in part 447 of title 42, Code of Federal Regulations (or any successor regulations).

"(iii) An expenditure described in this clause is an expenditure that meets the criteria specified in subclauses (I), (II), and (III) of clause (ii) and is authorized under section 1115 for the purposes of funding a delivery system reform pool, uncompensated care pool, a designated state health program, or any other similar expenditure (as defined by the Secretary).

"(B) For each 1903A enrollee category, the number of 1903A enrollees for the State in fiscal year 2019 in the enrollee category (as determined under subsection (e)(4)).

"(C) For fiscal year 2016, the State's non-DSH supplemental payment percentage is equal to the ratio (expressed as a percentage) of—

"(i) the total amount of non-DSH supplemental expenditures (as defined in subparagraph (A)(ii)) for the State for fiscal year 2016; to

"(ii) the amount described in subsection (b)(1)(A) for the State for fiscal year 2016.

"(D) For each 1903A enrollee category an average medical assistance expenditures per capita for the State for fiscal year 2019 for the enrollee category equal to—

"(i) the amount calculated under subparagraph (A) for the State, increased by the non-DSH supplemental payment percentage for the State (as calculated under subparagraph (C)); divided by

"(ii) the number calculated under subparagraph (B) for the State for the enrollee category.

"(5) PROVISIONAL FY19 PER CAPITA TARGET AMOUNT FOR EACH 1903A ENROLLEE CATEGORY.—Subject to subsection (f)(2), the Secretary shall calculate for each State a provisional FY19 per capita target amount for each 1903A enrollee category equal to the average medical assistance expenditures

per capita for the State for fiscal year 2019 (as calculated under paragraph (4)(D)) for such enrollee category multiplied by the ratio of—

"(A) the product of—

"(i) the fiscal year 2019 average per capita amount for the State, as calculated under paragraph (2); and

"(ii) the number of 1903A enrollees for the State in fiscal year 2019, as calculated under paragraph (3)(B); to

"(B) the amount of the adjusted total medical assistance expenditures for the State for fiscal year 2019, as calculated under paragraph (3)(A).

"(e) 1903A ENROLLEE; 1903A ENROLLEE CATEGORY.—Subject to subsection (g), for purposes of this section, the following shall apply:

"(1) 1903A ENROLLEE.—The term '1903A enrollee' means, with respect to a State and a month, any Medicaid enrollee (as defined in paragraph (3)) for the month, other than such an enrollee who for such month is in any of the following categories of excluded individuals:

"(A) CHIP.—An individual who is provided, under this title in the manner described

in section 2101(a)(2), child health assistance under title XXI.

"(B) IHS.—An individual who receives any medical assistance under this title for services for which payment is made under the third sentence of section 1905(b).

"(C) BREAST AND CERVICAL CANCER SERVICES ELIGIBLE INDIVIDUAL.—An individual who is entitled to medical assistance under this title only pursuant to section 1902(a)(10)(A)(ii)(XVIII).

"(D) PARTIAL-BENEFIT ENROLLEES.—An individual who—

"(i) is an alien who is entitled to medical assistance under this title only pursuant to section 1903(v)(2);

"(ii) is entitled to medical assistance under this title only pursuant to subclause (XII) or (XXI) of section 1902(a)(10)(A)(ii) (or pursuant to a waiver that provides only comparable benefits);

"(iii) is a dual eligible individual (as defined in section 1915(h)(2)(B)) and is entitled to medical assistance under this title (or under a waiver) only for some or

all of medicare cost-sharing (as defined in section 1905(p)(3)); or

"(iv) is entitled to medical assistance under this title and for whom the State is providing a payment or subsidy to an employer for coverage of the individual under a group health plan pursuant to section 1906 or section 1906A (or pursuant to a waiver that provides only comparable benefits).

"(2) 1903A ENROLLEE CATEGORY.—The term '1903A enrollee category' means each of the following:

"(A) ELDERLY.—A category of 1903A enrollees who are 65 years of age or older.

"(B) BLIND AND DISABLED.—A category of 1903A enrollees (not described in the previous subparagraph) who are eligible for medical assistance under this title on the basis of being blind or disabled.

"(C) CHILDREN.—A category of 1903A enrollees (not described in a previous subparagraph) who are children under 19 years of age.

"(D) EXPANSION ENROLLEES.—A category of 1903A enrollees (not described in a

previous subparagraph) for whom the amounts expended for medical assistance are subject to an increase or change in the Federal medical assistance percentage under subsection (y) or (z)(2), respectively, of section 1905.

"(E) OTHER NONELDERLY, NONDISABLED, NON-EXPANSION ADULTS.—A category of 1903A enrollees who are not described in any previous subparagraph.

"(3) MEDICAID ENROLLEE.—The term 'Medicaid enrollee' means, with respect to a State for a month, an individual who is eligible for medical assistance for items or services under this title and enrolled under the State plan (or a waiver of such plan) under this title for the month.

"(4) DETERMINATION OF NUMBER OF 1903A ENROLLEES.—The number of 1903A enrollees for a State and fiscal year, and, if applicable, for a 1903A enrollee category, is the average monthly number of Medicaid enrollees for such State and fiscal year (and, if applicable, in such category) that are reported through the CMS–64 report under (and subject to audit under) subsection (h).

"(f) SPECIAL PAYMENT RULES.—

"(1) APPLICATION IN CASE OF RESEARCH AND DEMONSTRATION PROJECTS AND OTHER WAIVERS.—In the case of a State with a waiver of the State plan approved under section 1115, section 1915, or another provision of this title, this section shall apply to medical assistance expenditures and medical assistance payments under the waiver, in the same manner as if such expenditures and payments had been made under a State plan under this title and the limitations on expenditures under this section shall supersede any other payment limitations or provisions (including limitations based on a per capita limitation) otherwise applicable under such a waiver.

"(2) TREATMENT OF STATES EXPANDING COVERAGE AFTER FISCAL YEAR 2016.—In the case of a State that did not provide for medical assistance for the 1903A enrollee category described in subsection (e)(2)(D) during fiscal year 2016 but which provides for such assistance for such category in a subsequent year, the provisional FY19 per capita target amount for such enrollee category under subsection (d)(5) shall be equal to the provisional FY19 per capita target amount for the 1903A enrollee category described in subsection (e)(2)(E).

"(3) IN CASE OF STATE FAILURE TO REPORT NECESSARY DATA.—If a State for any quarter in a fiscal year (beginning with fiscal year 2019) fails to satisfactorily submit data on expenditures and enrollees in accordance with subsection (h)(1), for such fiscal year and any succeeding fiscal year for which such data are not satisfactorily submitted—

"(A) the Secretary shall calculate and apply subsections (a) through (e) with respect to the State as if all 1903A enrollee categories for which such expenditure and enrollee data were not satisfactorily submitted were a single 1903A enrollee category; and

"(B) the growth factor otherwise applied under subsection (c)(2)(B) shall be decreased by 1 percentage point.

"(g) RECALCULATION OF CERTAIN AMOUNTS FOR DATA ERRORS.—The amounts and percentage calculated under paragraphs (1) and (4)(C) of subsection (d) for a State for fiscal year 2016, and the amounts of the adjusted total medical assistance expenditures calculated under subsection (b) and the number of Medicaid enrollees and 1903A enrollees determined under subsection (e)(4) for a State for fiscal year 2016, fiscal year 2019, and any subsequent fiscal year, may be adjusted by the Secretary

based upon an appeal (filed by the State in such a form, manner, and time, and containing such information relating to data errors that support such appeal, as the Secretary specifies) that the Secretary determines to be valid, except that any adjustment by the Secretary under this subsection for a State may not result in an increase of the target total medical assistance expenditures exceeding 2 percent.

''(h) REQUIRED REPORTING AND AUDITING OF CMS–64 DATA; TRANSITIONAL INCREASE IN FEDERAL MATCHING PERCENTAGE FOR CERTAIN ADMINISTRATIVE EXPENSES.—

''(1) REPORTING.—In addition to the data required on form Group VIII on the CMS–64 report form as of January 1, 2017, in each CMS-64 report required to be submitted (for each quarter beginning on or after October 1, 2018), the State shall include data on medical assistance expenditures within such categories of services and categories of enrollees (including each 1903A enrollee category and each category of excluded individuals under subsection (e)(1)) and the numbers of enrollees within each of such enrollee categories, as the Secretary determines are necessary (including timely guidance published as soon as possible after the date of the enactment

of this section) in order to implement this section and to enable States to comply with the requirement of this paragraph on a timely basis.

''(2) AUDITING.—The Secretary shall conduct for each State an audit of the number of individuals and expenditures reported through the CMS–64 report for fiscal year 2016, fiscal year 2019, and each subsequent fiscal year, which audit may be conducted on a representative sample (as determined by the Secretary).

''(3) TEMPORARY INCREASE IN FEDERAL MATCHING PERCENTAGE TO SUPPORT IMPROVED DATA REPORTING SYSTEMS FOR FISCAL YEARS 2018 AND 2019.—For amounts expended during calendar quarters beginning on or after October 1, 2017, and before October 1, 2019—

''(A) the Federal matching percentage applied under section 1903(a)(3)(A)(i) shall be increased by 10 percentage points to 100 percent;

''(B) the Federal matching percentage applied under section 1903(a)(3)(B) shall be increased by 25 percentage points to 100 percent; and

''(C) the Federal matching percentage applied under section 1903(a)(7) shall be in-

creased by 10 percentage points to 60 percent but only with respect to amounts expended that are attributable to a State's additional administrative expenditures to implement the data requirements of paragraph (1).''.

Subtitle D—Patient Relief and Health Insurance Market Stability

SEC. 131. REPEAL OF COST-SHARING SUBSIDY.

(a) IN GENERAL.—Section 1402 of the Patient Protection and Affordable Care Act is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to cost-sharing reductions (and payments to issuers for such reductions) for plan years beginning after December 31, 2019.

SEC. 132. PATIENT AND STATE STABILITY FUND.

The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following new title:

''TITLE XXII—PATIENT AND STATE STABILITY FUND

''SEC. 2201. ESTABLISHMENT OF PROGRAM.

''There is hereby established the 'Patient and State Stability Fund' to be administered by the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services (in this section referred to as the 'Administrator'), to pro-

vide funding, in accordance with this title, to the 50 States and the District of Columbia (each referred to in this section as a 'State') during the period, subject to section 2204(c), beginning on January 1, 2018, and ending on December 31, 2026, for the purposes described in section 2202.

"SEC. 2202. USE OF FUNDS.

''A State may use the funds allocated to the State under this title for any of the following purposes:

''(1) Helping, through the provision of financial assistance, high-risk individuals who do not have access to health insurance coverage offered through an employer enroll in health insurance coverage in the individual market in the State, as such market is defined by the State (whether through the establishment of a new mechanism or maintenance of an existing mechanism for such purpose).

''(2) Providing incentives to appropriate entities to enter into arrangements with the State to help stabilize premiums for health insurance coverage in the individual market, as such markets are defined by the State.

''(3) Reducing the cost for providing health insurance coverage in the individual market and small group market, as such markets are defined by the

State, to individuals who have, or are projected to have, a high rate of utilization of health services (as measured by cost).

"(4) Promoting participation in the individual market and small group market in the State and increasing health insurance options available through such market.

"(5) Promoting access to preventive services; dental care services (whether preventive or medically necessary); vision care services (whether preventive or medically necessary); prevention, treatment, or recovery support services for individuals with mental or substance use disorders; or any combination of such services.

"(6) Providing payments, directly or indirectly, to health care providers for the provision of such health care services as are specified by the Administrator.

"(7) Providing assistance to reduce out-of-pocket costs, such as copayments, coinsurance, premiums, and deductibles, of individuals enrolled in health insurance coverage in the State.

"SEC. 2203. STATE ELIGIBILITY AND APPROVAL; DEFAULT SAFEGUARD.

"(a) ENCOURAGING STATE OPTIONS FOR ALLOCATIONS.—

"(1) IN GENERAL.—To be eligible for an allocation of funds under this title for a year during the period described in section 2201 for use for one or more purposes described in section 2202, a State shall submit to the Administrator an application at such time (but, in the case of allocations for 2018, not later than 45 days after the date of the enactment of this title and, in the case of allocations for a subsequent year, not later than March 31 of the previous year) and in such form and manner as specified by the Administrator and containing—

"(A) a description of how the funds will be used for such purposes;

"(B) a certification that the State will make, from non-Federal funds, expenditures for such purposes in an amount that is not less than the State percentage required for the year under section 2204(e)(1); and

"(C) such other information as the Administrator may require.

"(2) AUTOMATIC APPROVAL.—An application so submitted is approved unless the Administrator noti-

fies the State submitting the application, not later than 60 days after the date of the submission of such application, that the application has been denied for not being in compliance with any requirement of this title and of the reason for such denial.

"(3) ONE-TIME APPLICATION.—If an application of a State is approved for a year, with respect to a purpose described in section 2202, such application shall be treated as approved, with respect to such purpose, for each subsequent year through 2026.

"(4) TREATMENT AS A STATE HEALTH CARE PROGRAM.—Any program receiving funds from an allocation for a State under this title, including pursuant to subsection (b), shall be considered to be a 'State health care program' for purposes of sections 1128, 1128A, and 1128B.

"(b) DEFAULT FEDERAL SAFEGUARD.—

"(1) IN GENERAL.—

"(A) 2018.—For allocations made under this title for 2018, in the case of a State that does not submit an application under subsection (a) by the 45-day submission date applicable to such year under subsection (a)(1)and in the case of a State that does submit such an appli-

cation by such date that is not approved, subject to section 2204(e), the Administrator, in consultation with the State insurance commissioner, shall use the allocation that would otherwise be provided to the State under this title for such year, in accordance with paragraph (2), for such State.

"(B) 2019 THROUGH 2026.—In the case of a State that does not have in effect an approved application under this section for 2019 or a subsequent year beginning during the period described in section 2201, subject to section 2204(e), the Administrator, in consultation with the State insurance commissioner, shall use the allocation that would otherwise be provided to the State under this title for such year, in accordance with paragraph (2), for such State.

"(2) REQUIRED USE FOR MARKET STABILIZATION PAYMENTS TO ISSUERS.—An allocation for a State made pursuant to paragraph (1) for a year shall be used to carry out the purpose described in section 2202(2) in such State by providing payments to appropriate entities described in such section with respect to claims that exceed $50,000 (or, with respect to allocations made under this title for 2020

or a subsequent year during the period specified in section 2201, such dollar amount specified by the Administrator), but do not exceed $350,000 (or, with respect to allocations made under this title for 2020 or a subsequent year during such period, such dollar amount specified by the Administrator), in an amount equal to 75 percent (or, with respect to allocations made under this title for 2020 or a subsequent year during such period, such percentage specified by the Administrator) of the amount of such claims.

"SEC. 2204. ALLOCATIONS.

"(a) APPROPRIATION.—For the purpose of providing allocations for States (including pursuant to section 2203(b)) under this title there is appropriated, out of any money in the Treasury not otherwise appropriated—

"(1) for 2018, $15,000,000,000;

"(2) for 2019, $15,000,000,000;

"(3) for 2020, $10,000,000,000;

"(4) for 2021, $10,000,000,000;

"(5) for 2022, $10,000,000,000;

"(6) for 2023, $10,000,000,000;

"(7) for 2024, $10,000,000,000;

"(8) for 2025, $10,000,000,000; and

"(9) for 2026, $10,000,000,000.

"(b) ALLOCATIONS.—

"(1) PAYMENT.—

"(A) IN GENERAL.—From amounts appropriated under subsection (a) for a year, the Administrator shall, with respect to a State and not later than the date specified under subparagraph (B) for such year, allocate, subject to subsection (e), for such State (including pursuant to section 2203(b)) the amount determined for such State and year under paragraph (2).

"(B) SPECIFIED DATE.—For purposes of subparagraph (A), the date specified in this clause is—

"(i) for 2018, the date that is 45 days after the date of the enactment of this title; and

"(ii) for 2019 and subsequent years, January 1 of the respective year.

"(2) ALLOCATION AMOUNT DETERMINATIONS.—

"(A) FOR 2018 AND 2019.—

"(i) IN GENERAL.—For purposes of paragraph (1), the amount determined under this paragraph for 2018 and 2019

for a State is an amount equal to the sum of—

"(I) the relative incurred claims amount described in clause (ii) for such State and year; and

"(II) the relative uninsured and issuer participation amount described in clause (iv) for such State and year.

"(ii) RELATIVE INCURRED CLAIMS AMOUNT.—For purposes of clause (i), the relative incurred claims amount described in this clause for a State for 2018 and 2019 is the product of—

"(I) 85 percent of the amount appropriated under subsection (a) for the year; and

"(II) the relative State incurred claims proportion described in clause (iii) for such State and year.

"(iii) RELATIVE STATE INCURRED CLAIMS PROPORTION.—The relative State incurred claims proportion described in this clause for a State and year is the amount equal to the ratio of—

"(I) the adjusted incurred claims by the State, as reported through the medical loss ratio annual reporting under section 2718 of the Public Health Service Act for the third previous year; to

"(II) the sum of such adjusted incurred claims for all States, as so reported, for such third previous year.

"(iv) RELATIVE UNINSURED AND ISSUER PARTICIPATION AMOUNT.—For purposes of clause (i), the relative uninsured and issuer participation amount described in this clause for a State for 2018 and 2019 is the product of—

"(I) 15 percent of the amount appropriated under subsection (a) for the year; and

"(II) the relative State uninsured and issuer participation proportion described in clause (v) for such State and year.

"(v) RELATIVE STATE UNINSURED AND ISSUER PARTICIPATION PROPORTION.—The relative State uninsured and

issuer participation proportion described in this clause for a State and year is—

"(I) in the case of a State not described in clause (vi) for such year, 0; and

"(II) in the case of a State described in clause (vi) for such year, the amount equal to the ratio of—

"(aa) the number of individuals residing in such State who for the third preceding year were not enrolled in a health plan or otherwise did not have health insurance coverage (including through a Federal or State health program) and whose income is below 100 percent of the poverty line applicable to a family of the size involved; to

"(bb) the sum of the number of such individuals for all States described in clause (vi) for the third preceding year.

"(vi) STATES DESCRIBED.—For purposes of clause (v), a State is described in

this clause, with respect to 2018 and 2019, if the State satisfies either of the following criterion:

"(I) The number of individuals residing in such State and described in clause (v)(II)(aa) was higher in 2015 than 2013.

"(II) The State have fewer than three health insurance issuers offering qualified health plans through the Exchange for 2017.

"(B) FOR 2020 THROUGH 2026.—For purposes of paragraph (1), the amount determined under this paragraph for a year (beginning with 2020) during the period described in section 2201 for a State is an amount determined in accordance with an allocation methodology specified by the Administrator which—

"(i) takes into consideration the adjusted incurred claims of such State, the number of residents of such State who for the previous year were not enrolled in a health plan or otherwise did not have health insurance coverage (including through a Federal or State health pro-

gram) and whose income is below 100 percent of the poverty line applicable to a family of the size involved, and the number of health insurance issuers participating in the insurance market in such State for such year;

"(ii) is established after consultation with health care consumers, health insurance issuers, State insurance commissioners, and other stakeholders and after taking into consideration additional cost and risk factors that may inhibit health care consumer and health insurance issuer participation; and

"(iii) reflects the goals of improving the health insurance risk pool, promoting a more competitive health insurance market, and increasing choice for health care consumers.

"(c) ANNUAL DISTRIBUTION OF PREVIOUS YEAR'S REMAINING FUNDS.— In carrying out subsection (b), the Administrator shall, with respect to a year (beginning with 2020 and ending with 2027), not later than March 31 of such year—

"(1) determine the amount of funds, if any, from the amounts appropriated under subsection (a) for the previous year but not allocated for such previous year; and

"(2) if the Administrator determines that any funds were not so allocated for such previous year, allocate such remaining funds, in accordance with the allocation methodology specified pursuant to subsection (b)(2)(B)—

"(A) to States that have submitted an application approved under section 2203(a) for such previous year for any purpose for which such an application was approved; and

"(B) for States for which allocations were made pursuant to section 2203(b) for such previous year, to be used by the Administrator for such States, to carry out the purpose described in section 2202(2) in such States by providing payments to appropriate entities described in such section with respect to claims that exceed $1,000,000;

with, respect to a year before 2027, any remaining funds being made available for allocations to States for the subsequent year.

"(d) AVAILABILITY.—Amounts appropriated under subsection (a) for a year and allocated to States in accordance with this section shall remain available for expenditure through December 31, 2027.

"(e) CONDITIONS FOR AND LIMITATIONS ON RECEIPT OF FUNDS.—The Secretary may not make an allocation under this title for a State, with respect to a purpose described in section 2202—

"(1) in the case of an allocation that would be made to a State pursuant to section 2203(a), if the State does not agree that the State will make available non-Federal contributions towards such purpose in an amount equal to—

"(A) for 2020, 7 percent of the amount allocated under this subsection to such State for such year and purpose;

"(B) for 2021, 14 percent of the amount allocated under this subsection to such State for such year and purpose;

"(C) for 2022, 21 percent of the amount allocated under this subsection to such State for such year and purpose;

"(D) for 2023, 28 percent of the amount allocated under this subsection to such State for such year and purpose;

"(E) for 2024, 35 percent of the amount allocated under this subsection to such State for such year and purpose;

"(F) for 2025, 42 percent of the amount allocated under this subsection to such State for such year and purpose; and

"(G) for 2026, 50 percent of the amount allocated under this subsection to such State for such year and purpose;

"(2) in the case of an allocation that would be made for a State pursuant to section 2203(b), if the State does not agree that the State will make available non-Federal contributions towards such purpose in an amount equal to—

"(A) for 2020, 10 percent of the amount allocated under this subsection to such State for such year and purpose;

"(B) for 2021, 20 percent of the amount allocated under this subsection to such State for such year and purpose; and

"(C) for 2022, 30 percent of the amount allocated under this subsection to such State for such year and purpose;

"(D) for 2023, 40 percent of the amount allocated under this subsection to such State for such year and purpose;

"(E) for 2024, 50 percent of the amount allocated under this subsection to such State for such year and purpose;

"(F) for 2025, 50 percent of the amount allocated under this subsection to such State for such year and purpose; and

"(G) for 2026, 50 percent of the amount allocated under this subsection to such State for such year and purpose; or

"(3) if such an allocation for such purpose would not be permitted under subsection (c)(7) of section 2105 if such allocation were payment made under such section.".

SEC. 133. CONTINUOUS HEALTH INSURANCE COVERAGE INCENTIVE.

Subpart I of part A of title XXVII of the Public Health Service Act is amended—

(1) in section 2701(a)(1)(B), by striking "such rate" and inserting "subject to section 2711, such rate";

(2) by redesignating the second section 2709 as section 2710; and

(3) by adding at the end the following new section:

"SEC. 2711. ENCOURAGING CONTINUOUS HEALTH INSURANCE COVERAGE.

"(a) PENALTY APPLIED.—

"(1) IN GENERAL.—Notwithstanding section 2701, subject to the succeeding provisions of this section, a health insurance issuer offering health insurance coverage in the individual or small group market shall, in the case of an individual who is an applicable policyholder of such coverage with respect to an enforcement period applicable to enrollments for a plan year beginning with plan year 2019 (or, in the case of enrollments during a special enrollment period, beginning with plan year 2018), increase the monthly premium rate otherwise applicable to such individual for such coverage during each month of such period, by an amount determined under paragraph (2).

"(2) AMOUNT OF PENALTY.—The amount determined under this paragraph for an applicable policyholder enrolling in health insurance coverage described in paragraph (1) for a plan year, with respect to each month during the enforcement period applicable to enrollments for such plan year, is the

amount that is equal to 30 percent of the monthly premium rate otherwise applicable to such applicable policyholder for such coverage during such month.

"(b) DEFINITIONS.—For purposes of this section:

"(1) APPLICABLE POLICYHOLDER.—The term 'applicable policyholder' means, with respect to months of an enforcement period and health insurance coverage, an individual who—

"(A) is a policyholder of such coverage for such months;

"(B) cannot demonstrate (through presentation of certifications described in section 2704(e) or in such other manner as may be specified in regulations, such as a return or statement made under section 6055(d) or 36C of the Internal Revenue Code of 1986), during the look-back period that is with respect to such enforcement period, there was not a period of at least 63 continuous days during which the individual did not have creditable coverage (as defined in paragraph (1) of section 2704(c) and credited in accordance with paragraphs (2) and (3) of such section); and

"(C) in the case of an individual who had been enrolled under dependent coverage under a

group health plan or health insurance coverage by reason of section 2714 and such dependent coverage of such individual ceased because of the age of such individual, is not enrolling during the first open enrollment period following the date on which such coverage so ceased.

"(2) LOOK-BACK PERIOD.—The term 'look-back period' means, with respect to an enforcement period applicable to an enrollment of an individual for a plan year beginning with plan year 2019 (or, in the case of an enrollment of an individual during a special enrollment period, beginning with plan year 2018) in health insurance coverage described in subsection (a)(1), the 12-month period ending on the date the individual enrolls in such coverage for such plan year.

"(3) ENFORCEMENT PERIOD.—The term 'enforcement period' means—

"(A) with respect to enrollments during a special enrollment period for plan year 2018, the period beginning with the first month that is during such plan year and that begins subsequent to such date of enrollment, and ending with the last month of such plan year; and

"(B) with respect to enrollments for plan year 2019 or a subsequent plan year, the 12-month period beginning on the first day of the respective plan year.".

SEC. 134. INCREASING COVERAGE OPTIONS.

Section 1302 of the Patient Protection and Affordable Care Act (42 U.S.C. 18022) is amended—

(1) in subsection (a)(3), by inserting "and with respect to a plan year before plan year 2020" after "subsection (e)"; and

(2) in subsection (d), by adding at the end the following:

"(5) SUNSET.—The provisions of this subsection shall not apply after December 31, 2019, and after such date any reference to this subsection or level of coverage or plan described in this subsection and any requirement under law applying such a level of coverage or plan shall have no force or effect (and such a requirement shall be applied as if this section had been repealed).".

SEC. 135. CHANGE IN PERMISSIBLE AGE VARIATION IN HEALTH INSURANCE PREMIUM RATES.

Section 2701(a)(1)(A)(iii) of the Public Health Service Act (42 U.S.C. 300gg(a)(1)(A)(iii)), as inserted by section 1201(4) of Public Law 111–148, is amended by in-

serting after ''3 to 1 for adults (consistent with section 2707(c))'' the following: ''or, for plan years beginning on or after January 1, 2018, as the Secretary may implement through interim final regulation, 5 to 1 for adults (consistent with section 2707(c)) or such other ratio for adults (consistent with section 2707(c)) as the State involved may provide''.

☒

County Welfare Directors Association
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March 7, 2017

Re: Oppose the American Health Care Act

Dear California Congressional Delegation Member:

The California State Association of Counties (CSAC) and the County Welfare Directors Association of California (CWDA) oppose the American Health Care Act (AHCA). Released last night, the Energy and Commerce and Ways and Means Committee drafts will increase the number of individuals without health coverage and will shift costs to California's counties, who form the health care safety net in our state. Given the complex inter-relationships between provisions repealing major components of the Affordable Care Act (ACA) and capping the federal contribution to Medicaid, we have not had sufficient time to estimate the actual county and state costs and numbers of individuals who will lose their health insurance, but both appear to be significant. We also are deeply concerned that the House committees with jurisdiction over repealing and replacing the ACA are marking up the bill without holding meaningful public hearings and prior to a Congressional Budget Office estimate on the costs of the AHCA.

Similar to any other piece of landmark legislation, the ACA could be improved. However, the increase in health insurance access and coverage in California due to the ACA has been striking. Since its enactment, the state's uninsured rate has been cut by nearly two-thirds, with the uninsured rate at 7.1 percent, down from 18.6 percent, since the ACA began, according to the Centers for Disease Control and Prevention. This decrease is due to 3.7 million newly eligible Californians who are now covered though the Medicaid expansion and another 2 million previously eligible but not enrolled. An additional 1.2 million individuals have purchased private plans through Covered California, with the vast majority – roughly 90 percent – receiving subsidies to help pay for the premiums.

Pending our in-depth analysis of the measure, we have a number of significant initial concerns, including the following:

Eliminating the ACA Medicaid Expansion: CSAC and CWDA oppose the elimination of the Medicaid expansion. As noted above, the expansion has provided coverage to 3.7 million individuals. The elimination of the enhanced match will shift costs to the state and ultimately counties. Moreover, if there is even one month in which coverage was interrupted for those individuals currently covered - even if the reason is beyond their control - the federal match rate is lowered to 50 percent. The intent of such an administrative provision effectively shifts costs to states and counties.

Medicaid Eligibility Changes: While we have not determined the exact impact of the provisions, the bill will decrease the number of individuals who are covered by Medicaid by changing the manner in which counties are able to cover individuals quickly and maintain that coverage over time. The administrative processes in the measure are burdensome and will cut individuals from Medicaid. They include: eliminating expanded presumptive eligibility; creating a six-month eligibility redetermination process for persons covered under the ACA Medicaid expansion; eliminating the three-month retroactive eligibility for new enrollees; and, eliminating the reasonable opportunity period for an applicant to provide documentation that they are a citizen or have a satisfactory immigration status. Each of these administrative changes will create barriers to health care and shifts costs to states and counties.

Medicaid Per Capita Cap: CSAC and CWDA oppose the provision limiting the federal government's contribution to Medicaid. Since its inception, Medicaid has been a federal-state-county partnership where each partner pays its share of the costs of any eligible individual. Capping the federal share of Medicaid would dismantle that partnership, shifting the proportionate costs exceeding the capped federal allocation to states and counties. Further, the growth mechanism proposed (medical care CPI for urban consumers) is not sensitive enough to the changing needs and costs of care for various age and demographic groups.

In addition to being unresponsive to increasing costs due to our aging population or other extraordinary circumstances that may arise in a state, a Medicaid per capita cap will financially disadvantage California due to the state's historically low per-beneficiary spending rate. Our state has kept Medicaid costs low, due primarily to our use of managed care (10.3 million individuals are in such plans) and low provider reimbursement rates. A per capita cap penalizes the state for our low per-person spending while other less efficient states will be rewarded. The per capita approach does not recognize the changing dynamic of health care financing toward a managed care environment that uses actuarially sound rates and shares risk among parties.

While we recognize that the proposal is not a block grant which places a hard cap on federal spending, we note that a recent Congressional Budget Office estimate of the impact of a Medicaid block grant projected a cut of $1 trillion in federal Medicaid spending over ten years, amounting to a 25 percent cut in the federal contribution.

Elimination of Enhanced Match for Certain In-Home Supportive Services (IHSS): CSAC and CWDA oppose the sunset of the six percentage point increase in the federal match for the Community First Choice Option (CFCO). Our state provides a system of home and community based attendant care for some of our most vulnerable residents in order to keep them in their homes and out of long term care. About 40 percent of our IHSS recipients are being served under this federal option, which should be maintained.

Repealing the Prevention and Public Health Fund: CSAC and CWDA oppose its repeal. Last year, California received approximately $90 million from the Fund to invest in public health prevention activities to protect all Californians. The Fund supports our state and local health departments' initiatives to reduce infectious diseases and prevent chronic disease, among other efforts. The Fund enables the federal government's state and local partners to determine how best to meet the public health needs of their

local communities.

Providing Non-Expansion States with Increased Medicaid Funding: CSAC and CWDA oppose restoring the cuts in Medicaid Disproportionate Share Payments to non-expansion states in 2018, while delaying restoration of those same payments to California and other expansion states until 2020. We also oppose rewarding non-expansion states with $10 billion over five years to bolster their safety net system solely because they chose not to draw down ACA funding available to them. While covering the uninsured should be a national priority, the bill's provisions essentially cut the federal financial contributions to our system and use a portion of the resulting savings from expansion states to fund states that have not made use of the ACA's provisions to increase health coverage.

Repeal of ACA Taxes: While CSAC and CWDA do not have a position on most of the taxes supporting the ACA, CSAC in particular has consistently opposed the 40 percent excise tax on high cost employer-sponsored plans. CSAC continues to oppose that tax and is struck by the fact that the Ways and Means bill repeals all of the taxes with the exception the so-called Cadillac plan tax. The bill once again just delays its implementation from 2020 to 2025. CSAC urges its repeal.

If you have questions about our positions, please have your staff contact Tom Joseph, Washington Representative for CSAC and CWDA, at 202.898.1446 or tj@wafed.com.

Sincerely,

Frank Mecca | Executive Director, CWDA

Matt Cate | Executive Director, CSAC

Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE **5.**

Meeting Date:	03/13/2017
Subject:	AB 71 (Chiu): Taxes: Credits: Low-Income Housing
Submitted For:	LEGISLATION COMMITTEE,
Department:	County Administrator
Referral No.:	2017-08
Referral Name:	AB 71: Taxes: Credits: Low-Income Housing
Presenter:	Kara Douglas, DCD **Contact:** L. DeLaney, 925-335-1097

Referral History:

The Board of Supervisors' adopted 2017 State Platform includes the following policy:

165. SUPPORT efforts to increase the supply of affordable housing, including, but not limited to, state issuance of private activity bonds, affordable and low income housing bond measures, low-income housing tax credits and state infrastructure financing. *This position supports a number of goals in the County General Plan Housing Element.*

Staff of the Department of Conservation and Development recommends that the Legislation Committee consider recommending to the Board of Supervisors a position of "Support" on AB 71 (Chiu): Taxes: Credits: Low-Income Housing, as it finds AB 71 consistent with policy #165.

Referral Update:

AB 71 (Chiu): Taxes: Credits: Low-Income Housing is a bill that increases, under the Insurance Taxation Law, the Personal Income Tax Law, and the Corporation Tax Law, the aggregate housing credit dollar amount that may be allocated among low-income housing projects and farmworker housing projects. It would also disallow a specified mortgage-related deduction under the Personal Income Tax Law and provides for allowable credit amounts.

Committee:	Assembly Housing and Community Development Committee
Hearing:	03/08/2017 9:00 am, State Capitol, Room 126

The text of the bill is Attachment A. The Committee analysis is provided below.

2017 CA A 71: Bill Analysis - 03/07/2017 - Assembly Housing & Community Development Committee, Hearing Date 03/08/2017

Date of Hearing: March 8, 2017

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

SUBJECT: Taxes: credits: low-income housing: allocation increase

SUMMARY: Eliminates the mortgage interest deduction on second homes, increases the state Low-Income Housing Tax Credit (LIHTC) Program by $300 million, and makes changes to the LIHTC. Specifically, this bill:

1) Eliminates mortgage interest paid on a qualified second home as a deduction taxpayers can take against their state income tax.

2) Beginning in 2018, and each year thereafter, increases the allocation of state LIHTC by an additional $300 million and adjusts that amount for inflation beginning in 2019.

3) Beginning in 2018, increase the amount of low-income housing tax credits set-aside for farmworker housing from $500,000 to $25 million.

4) Provides that any low-income housing tax credits set-aside for farmworker housing developments that go unused of the $25 million will be available for qualified non-farmworker housing projects.

5) Provides that a sponsor that receives an award of 9% federal LIHTC cannot receive an allocation from the additional $300 million of state LIHTC but shall remain eligible for the $70 million allocation available prior to 2017.

6) Provides a newly constructed or the rehabilitated portion of an existing low-income housing project that is not located in a Difficult to Develop Area (DDA) or a Qualified Census Tract (QCT) and receives federal 4% LIHTC is eligible for cumulative state LIHTC over four years of 50% of the qualified basis of the building.

7) Provides the acquisition portion of an existing low-income housing project that is not located in a DDA or a QCT and receives federal 4% LIHTC is eligible for state LIHTC over four years of 13% of the qualified basis of the building.

8) Allows the Tax Credit Allocation Committee (TCAC) to replace federal LIHTC with state LIHTC for a new or existing low-income housing project that is a located in a DDA or QCT and receives federal 4% LIHTC of up to 50% of the qualified basis of the building, provided that the total amount of credits does not exceed 130%.

9) Provides that a low-income housing project is eligible for a cumulative state LIHTC of 95% of the qualified basis of the building over four years of the eligible basis if it meets all of the following requirements:

a) It is at least 15 years old;

b) It is a single room occupancy (SRO), special needs housing building, is in a rural area, or serves households with very-low income or extremely low-income residents;

c) It is serving households of very low or extremely low-income provided that the average income at the time of admission is no more than 45% of the median gross income adjusted for household

size; and

d) It would have insufficient state credits to qualify to complete substantial rehabilitation due to a low appraised value.

10) Adds the following definitions:

a) "Extremely low-income" has the same meaning as Health and Safety Code Section 50053.

b) "Rural area" means a rural area as defined in Health and Safety Code Section 50199.21.

c) "Special needs housing" has the same meaning as paragraph (4) of Subdivision (g) of Section 10325 of Title 4 of the California Code of Regulations.

d) "SRO" means single room occupancy.

e) "Very low-income" has the same meaning as in Health and Safety Code Section 50053.

11) Includes an urgency clause.

EXISTING LAW:

1) Federal Internal Revenue Service (IRS) law allows a taxpayer to deduct the mortgage interest paid on up to $1 million in mortgage debt on a "qualified residence."

2) Federal IRS law defines a "qualified residence" for purposes of a mortgage interest deduction as a house, condominium, cooperative, mobile home, house trailer, boat, or similar property that has sleeping, cooking, and toilet facilities.

3) Federal IRS law defines a "qualified residence" as:

a) A principal residence; or

b) A second residence that is either not rented out for any portion of the year or a second home that you use for a portion of the year. If a second residence is rented out for a portion of the year a taxpayer must use this home more than 14 days or more than 10% of the number of days during the year that the residence is rented at a fair rental, whichever is longer.

4) Allows TCAC to award state LIHTCs to developments in a QCT or a DDA if the project is also receiving federal LIHTC, under the following conditions:

a) Developments restrict at least 50% of the units to special needs households; and

b) The state credits do not exceed 130% of the eligible basis of the building.

5) Allows TCAC to replace federal LIHTC with state LIHTC of up to 130% of a project's eligible basis if the federal LIHTC is reduced in an equivalent amount.

6) Defines a QTC as any census tract designated by the Department of Housing and Urban Development (HUD) in which either 50% or more of the households have an income that is less than 60% of the area median gross income or that has a poverty rate of at least 25%.

7) Defines a DDA as an area designated by HUD on an annual basis that has high construction, land, and utility costs relative to area median gross income.

8) Provides that a low-income housing development that is a new building and is receiving 9% federal LIHTC credits is eligible to receive state LIHTC over four years of 30% of the qualified basis of the building.

9) Provides that a low-income housing development that is a new building that is receiving federal LIHTC, is "at risk of conversion" is eligible to receive state LIHTC over four years of 13% of the qualified basis of the building.

10) Defines "at risk of conversion" to mean a property that satisfies all of the following criteria:

a) A multifamily rental housing development in which at least 50% of the units receive government assistance pursuant to any of the following:

b) Project based Section 8 vouchers;

c) Below-Market-Interest-Rate Program;

d) Federal Rental Housing Assistance Program;

e) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965;

f) Programs pursuant to Section 515 of the Housing Act of 1949; and

g) Federal LIHTC.

11) Includes an urgency clause.

FISCAL EFFECT: Unknown.

COMMENTS:

California has reduced its funding for the creation of affordable homes by 79%, from approximately $1.7 billion a year to nearly nothing. According to the California Housing Consortium, California has a shortfall of 1.5 million affordable units for extremely low and very-low income renter households. The Public Policy Institute of California reports that 32% of mortgaged homeowners and 47% of renters spend more than one-third of their total household income on housing and that while California has 12% of the nation's population, it has 20% of the nation's homeless.

Voter-approved bonds have been an important source of funding to support the creation of affordable housing. Proposition 46 of 2002 and Proposition 1C of 2006 together provided $4.95 billion for affordable housing. These funds financed the construction, rehabilitation, and preservation of 57,220 affordable apartments, including 2,500 supportive homes for people experiencing homelessness, and over 11,600 shelter spaces. In addition, these funds have helped 57,290 families become or remain homeowners. Nearly all of these funds have been awarded.

In 1945, the Legislature authorized local governments to create redevelopment agencies (RDAs) to address urban blight in local communities. RDAs were formed by a city or county that would declare an area blighted and in need of urban renewal. After this declaration, most of the growth in property tax revenue from the "project area" was distributed to the city or county's RDA as "tax increment revenues" instead of being distributed as general purpose revenues to other local agencies serving the area. By 2008, redevelopment was redirecting 12% of property taxes statewide away from schools and other local taxing entities and into community development and affordable housing. In fiscal year 2009-10, redevelopment agencies collectively deposited $1.075 billion of property tax increment revenues into their low and moderate-income housing funds.

In 2011, facing a severe budget shortfall, the Governor proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Ultimately, the Legislature approved and the Governor signed two measures, AB 26 X1 (Blumenfield), Chapter 5, Statutes of 2011-12 First Extraordinary Session, and AB 27 X1 (Blumenfield), Chapter 6, Statutes of 2011-12 First Extraordinary Session, that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA) and the League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to AB 26 X1. However, the Court did grant the petition with respect to AB 27 X1. As a result, all RDAs were required to dissolve as of February 1, 2012.

The Department of Housing and Community Development's California's Housing Future: Challenges and Opportunities Draft Statewide Housing Assessment 2025 (Assessment) finds, "unstable funding for affordable home development is impeding our ability to meet California's housing needs, particularly for lower-income households." In the options to address the state's lack of affordable housing the Assessment proposes identifying "an ongoing source of funding for affordable housing that does not add new costs or cost pressures to the state' General Fund, but that does align with other State policy goals." The report further states "California needs both public and private investment, as well as land use solutions to address critical housing challenges. Funding programs cannot address California's housing need alone and land use policy changes...are critical. However, even with drastic changes in land use policy to increase supply, the needs of certain populations cannot be met by the private market alone. Funding programs allow the State to target resources to these populations."

Purpose of this bill: According to the author, "California is undergoing an unprecedented housing affordability crisis with a shortfall of over one million affordable homes. With the elimination of California's redevelopment agencies and the exhaustion of state housing bonds, California has reduced its funding for the development and preservation of affordable homes by 79% -- from approximately $1.7 billion a year to nearly nothing. There is currently no permanent source of funding to compensate for this loss. The housing crisis has contributed to a growing homeless population, increased pressure on local public safety nets, and the outward migration of thousands of long-time California residents. The state's primary housing program is the mortgage interest deduction. We invest $5 billion a year in individuals who have already purchased homes while over half of our state is made up of renters. In addition, we invest approximately $300 million to subsidize owners with the means to purchase not one, but two homes. In the face of a severe housing crisis, it is necessary to reevaluate this investment and redirect the revenues subsidizing those with second homes to the LIHTC."

Mortgage interest deduction: In conformity with federal law, California law allows taxpayers to

deduct the mortgage interest paid on up to $1 million in debt for a principal and second residence. A second residence is limited to a home that is either not rented out at any point in the year or one that the taxpayer can rent out but must also live in for part of the year. Taxpayers can deduct mortgage interest from both their federal and state tax liability. According to the Franchise Tax Board (FTB), the mortgage interest deduction resulted in approximately $5 billion in revenue loss for 2016-17 of which $360 million is a result of interest deducted on second homes. According to the FTB, on average about 4.2 million taxpayers claim a mortgage interest deduction each year on taxable returns over the last few years. Based on federal data from Fannie Mae, 4.76% of the mortgage market is made up of second homes, so approximately 195,000 of California taxpayers or .5% of the state's total population take a mortgage interest deduction on a second home. According to the FTB the average deduction for a second home in California is roughly $11,600, and at an average tax rate of 8% the average taxpayer would reduce their taxes by $928.

According to the U.S. Center on Budget and Policy Priorities, the mortgage interest deduction is a regressive tax that benefits those at higher incomes that itemize deductions. In 2012, 77% of the benefits went to homeowners with incomes above $100,000. Meanwhile, close to half of homeowners with mortgages -- most of them middle- and lower-income families -- receive no benefit from the deduction. Approximately 35% of the benefits went to homeowners with incomes above $200,000 and taxpayers in this income group who claimed the deduction received an average subsidy of about $5,000. According to the California Budget and Policy Center, in California of the total $3.8 billion in reduced tax revenue from the mortgage interest deduction in 2012, $2.8 billion or 72% went to households with incomes of $100,000 or more. Those households represent 43% of the households claiming the deduction.

In regards to the mortgage interest deduction, the FTB states in California Income Tax Expenditures: Compendium of Individual Provisions, Report for 2013 Tax Year Data, "whether or not increasing homeownership is a valid goal, most economists believe that the value of the tax break is generally capitalized into the value of the home. In other words, on average, housing prices should increase by the expected tax savings over the time period that the house will be owned. Therefore this deduction does not actually make housing more affordable for homeowners. Instead it results in a transfer from the state treasury to people who already owned homes at the time the deduction was granted or, in the case of new construction, to whomever owned the land at the time it becomes obvious that the land will be zoned for residential use. In fact, homeowners who do not itemize or whose income places them in low rate brackets are likely to find housing less affordable because they will not receive a tax reduction large enough to offset the increasing prices of housing. Additionally if the goal is to encourage homeownership there is no reason to extend the benefit to second homes."

According to a 1990 report issued by the Legislative Analyst's Office (LAO) "the primary rationale for the current mortgage interest deduction is to provide a financial incentive for families to buy a home. However, the tax subsidy made available under this program undoubtedly accrues as a windfall benefit to taxpayers who would have purchased homes anyway, and it encourages the purchase of bigger and more expensive homes, as well as vacation homes rather than basic housing." The report goes on to make recommendations to reform the mortgage interest deduction "to reduce the incentives it currently provides to purchase luxury homes and vacation homes" including to limit the total amount of interest deducted each year or to disallow interest deductions on second homes. At the time the LAO estimated the revenue gain from eliminating the deduction for second homes would be $55 million to $65 million annually.

AB 71 proposes to eliminate the mortgage interest deduction on second homes which on average results in $300 million in lost revenue to the state each year and increase the LIHTC by $300 million. Taxpayers could continue to deduct mortgage interest from their federal tax liability.

Low-Income Housing Tax Credit Program: In 1986, the federal government authorized the LIHTC program to enable affordable housing developers to raise private capital through the sale of tax credits to investors. Two types of federal tax credits are available and are generally referred to as 9% and 4% credits. TCAC administers the program and awards credits to qualified developers who can then sell those credits to private investors who use the credits to reduce their federal tax liability. The developer in turn invests the capital into the affordable housing project.

Each state receives an annual ceiling of 9% federal tax credits. In 2015 it was $2.30 per capita, which worked out to $94 million in credits in California that can be taken by investors each year for 10 years. Federal LIHTCs are oversubscribed by a 3:1 ratio. Unlike 9% LIHTC, federal 4% tax credits are not capped, however they must be used in conjunction with tax-exempt private activity mortgage revenue bonds which are capped and are administered by the California Debt Limit Allocation Committee

In 1987, the legislature authorized a state LIHTC program to augment the federal tax credit program. State tax credits can only be awarded to projects that also receive federal LIHTCs, except for farmworker housing projects, which can receive state credits without federal credits. Investors can claim the state credit over four years. Projects that receive either state or federal tax credits are required to maintain the housing at affordable levels for 55 years.

Changes to the LIHTC: AB 71 would increase the state LIHTC allocation by an additional $300 million to fill the gap in funding that was created by the loss of redevelopment and the exhaustion of state voter-approved bonds. In addition to increasing the total amount of state LIHTC, AB 71 proposes to increase the amount of state tax credits awarded to a project that is also receiving 4% federal tax credits from 13% to 50% of the qualified basis. This would more than triple the amount of equity that an investor purchasing a state tax credit would receive which would bring the return on 4% credits in line with 9% credits and result in greater affordability for the project.

Federal LIHTC can be used anywhere in the state, but projects are given an additional 30% boost on their eligible basis if the project is located in a DDA or a QCT. Because these areas by definition have a higher-poverty level and there is a higher concentration of extremely low-income or homeless individuals and families, housing needs deep subsidy to make it affordable. Existing state law does not allow state tax credits to be awarded in DDAs and QCTs with one exception: housing developments where 50% of the units are for special needs populations. The rationale for this prohibition is projects in these areas can qualify for more federal tax credits and therefore are already advantaged. AB 71 would also allow state tax credits to be awarded to projects without regard to DDA or QCT status with the main purpose of providing enough state tax credits to match the value of a 9% federal tax credit.

AB 71 includes a set-aside from the $300 million increase to the LIHTC program of $25 million for farmworker housing. There is currently a $500,000 set-aside of low-income housing tax credits for farmworker housing developments serving farmworkers and their families. AB 71 would require any unused credits from the $25 million set-aside to go to qualified non-farmworker housing projects that don't receive funding under the main program.

Many low-income housing developments in the state are older and in need of rehabilitation. These

projects need higher levels of equity investments because of their age, level of repairs needed, and the low rents. It is hard for these projects to compete for state tax credits because the assessed value is low and therefore the eligible basis upon which the amount of tax credits the project can qualify for is also low. To assist these older projects, AB 71 would allow them to receive state tax credits of 95% over four years. To qualify, projects would need to be at least 15 years old, serve low and extremely low-income households, be an SRO, in a rural area, and have insufficient state credits to complete substantial rehabilitation due to a low appraised value.

Arguments in support:

According to California Tax Reform Association, there is no valid public policy reason for the second home mortgage interest deduction. The major tax benefit from second homeownership is federal and will continue with this bill. Since there is no other budget or statutory policy of the state to encourage second homes, the only policy argument for this provision is conformity with federal law. While sometimes the state conforms to federal law because of complexity, there is little complexity to disallowing the mortgage interest deduction for a second home.

Arguments in opposition:

The California Association of Realtors (CAR) is opposed to AB 71 unless it is amended to remove the elimination of the mortgage interest deduction for second homes. CAR supports increasing the amount of tax credits available for low income housing however, they argue that the amount of the mortgage interest deduction is already capped regardless of whether the taxpayer has one home or two, that second homes may not necessarily be "vacation" homes but could be used by owners who commute to work during the week, and that the economic health of recreational areas in the state would be harmed by eliminating the mortgage interest deduction on second homes.

Related legislation: AB 35 (Chiu) (2015) increased the LIHTC by $300 million and did not include the elimination of the mortgage interest deduction. The bill was approved 79-0 on the Assembly Floor and was vetoed by the Governor.

Double referred: If AB 71 passes out of this committee, the bill will be referred to the Committee on Revenue and Taxation.

REGISTERED SUPPORT / OPPOSITION:

Support

California Housing Consortium (co-sponsor)

California Housing Partnership (co-sponsor)

Housing California (co-sponsor)

Abode Communities

ACCE

Affirmed Housing

Betty T. Yee, California State Controller

California Alternative Payment Program Association

California Apartment Association

California Bicycle Coalition

California Coalition for Rural Housing

California Community Economic Development Association

California Reinvestment Coalition

California Tax Reform Association

CCraig Consulting

Christian Church Homes

City of Oakland

Community Development Commission of Mendocino County

Community Housing Opportunities Corporation

Community Housing Partnership

Council of Community Housing Organizations, San Francisco

Downtown Women's Center

EAH Housing

East Bay Developmental Disabilities Legislative Coalition

East bay Housing Organizations

Eden Housing

Family Care Network, Inc.

First Place for Youth

Fred Finch Youth Center

Fresno Housing Authority

Friends Committee on Legislation of California

Greenbelt Alliance

Grounded Solutions Network

Highridge Costa Companies

House Farm Workers!

Housing Authority of the County of Santa Barbara

Housing Choices Coalition

Housing Consortium of the East Bay

Housing Trust Fund, San Luis Obispo County

Housing Trust Silicon Valley

Innovative Housing Opportunities

John Stewart Company

LeadingAge California

LifeSteps

LINC Housing

Little Tokyo Service Center

Manzanita Services

Mercy Housing

MidPen Housing Corporation

Move LA

Mutual Housing California

Napa Valley Community Housing

Non-Profit Housing Association of Northern California

Promise Energy

Public Advocates

Resources for Community Development

Rural Community Assistance Corporation

Sacramento Housing Alliance

San Diego Housing Federation

Satellite Affordable Housing Associates

Self-Help Enterprises

Skid Row Housing Trust

Small Business for Affordable Housing, Petaluma

Southern California Association of Nonprofit Housing

State Building and Construction Trades Council of California

SV@Home

Tenderloin Neighborhood Development Corporation

The Kennedy Commission

The Pacific Companies

Wakeland Housing and Development Corporation

Opposition

California Association of Realtors

Analysis Prepared by: Lisa Engel / H. & C.D. / 916-319-2085

Recommendation(s)/Next Step(s):

Fiscal Impact (if any):
Unknown at this time.

Attachments

Attachment A: Bill Text AB 71

AMENDED IN ASSEMBLY MARCH 2, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 71

Introduced by Assembly Members Chiu, Bonta, and Kalra
(Coauthors: Assembly Members ~~Mullin, Ting, and McCarty~~ *McCarty, Mullin, and Ting*)

December 16, 2016

An act to amend Sections 12206, 17058, 17225, and 23610.5 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 71, as amended, Chiu. ~~Taxes:~~ *Income taxes:* credits: low-income housing: ~~allocation increase.~~ *farmworker housing.*

~~Existing~~

(1) Existing law establishes a low-income housing tax credit program pursuant to which the California Tax Credit Allocation Committee provides procedures and requirements for the ~~allocation~~ *allocation, in modified conformity with federal law,* of state insurance, personal income, and corporation tax credit amounts ~~among~~ *to* qualified low-income housing projects ~~in modified conformity to federal law~~ that have been allocated, or qualify for, a federal low-income housing tax credit, and ~~for~~ farmworker housing. Existing law limits the total annual amount of the state low-income housing credit for which a federal low-income housing credit is required to the sum of $70,000,000, as increased by any percentage increase in the Consumer Price Index for the preceding calendar year, any unused credit for the preceding calendar years, and the amount of housing credit ceiling returned in the calendar year. Existing law additionally allows a state credit, which is not

dependent on receiving a federal low-income housing ~~credit; the aggregate of which is~~ *credit, of* $500,000 per calendar year for projects to provide farmworker housing. *For purposes of determining the credit amount, existing law defines the term "applicable percentage" depending on, among other things, whether the qualified low-income building is a new building that is not federally subsidized, a new building that is federally subsidized, or is an existing building that is "at risk of conversion." Except for specified special needs applications for projects within a difficult development area (DDA) or qualified census tract (QCT), existing law authorizes all credit ceiling applications to request state credits provided that the applicant is not requesting a 130% basis adjustment for purposes of calculating the federal credit award amount.*

This bill, under the ~~Insurance Taxation Law,~~ *law governing the taxation of insurers,* the Personal Income Tax Law, and the Corporation Tax Law, for calendar years beginning *in* 2018, would increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects to $300,000,000, as specified, and would allocate to farmworker housing projects ~~$500,000~~ *$25,000,000* per year of that amount. *The bill would delete that special needs exception and authorization to request state credits provided the applicant is not requesting a 130% basis adjustment for purposes of the federal credit amount.* The bill, under ~~the insurance taxation law, the Personal Income Tax Law, and the Corporation Tax Law,~~ *those laws,* would modify the definition of applicable percentage relating to qualified low-income buildings ~~that meet specified criteria.~~ *to depend on whether the building is a new or existing building not located in a DDA or QCT and federally subsidized, a new or existing building located in a DDA or QCT and federally subsidized, or a building that is, among other things, at least 15 years old, serving households of very low income or extremely low income, and will complete substantial rehabilitation, as specified.*

~~The~~

(2) The Personal Income Tax Law allows various deductions in computing the income that is subject to the taxes imposed by that law, including allowing a deduction for a limited amount of interest paid or accrued on mortgages for a taxpayer's 2nd residence, in modified conformity with federal income tax laws.

This bill would disallow that deduction.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Bring California Home Act.

~~SECTION 1.~~

SEC. 2. Section 12206 of the Revenue and Taxation Code is amended to read:

12206. (a) (1) There shall be allowed as a credit against the "tax," as described by Section 12201, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, members in the case of a limited liability company, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, the limited liability company in the case of a limited liability company, and the "S" corporation in the case of an "S" corporation.

(4) "Extremely low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(5) "Very low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, and before January 1, 2020, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall attach a copy of the certification to any return upon which a tax credit is claimed under this section.

(D) In the case of a failure to attach a copy of the certification for the year to the return in which a tax credit is claimed under this section, no credit under this section shall be allowed for that year until a copy of that certification is provided.

(E) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.

(F) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building that is a new building, as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit, and the regulations promulgated thereunder, and not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(1) of the Internal Revenue Code, relating to determination of applicable percentage.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that (A) is a new building, as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit, and the regulations promulgated thereunder, (B) not located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code,

relating to increase in credit for buildings in high cost areas, and (C) is federally subsidized, the term "applicable percentage" means for the first three years, 15 percent of the qualified basis of the building, and for the fourth year, 5 percent of the qualified basis of the building.

(3) In the case of any qualified low-income building that is (A) an existing building, as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit, and the regulations promulgated thereunder, (B) not located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high cost areas, and (C) is federally subsidized, the term applicable percentage means the following:

(i) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(ii) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) In the case of any qualified low-income building that is (A) a new or an existing building, (B) located in designated difficult development areas (DDAs) or qualified census tracts (QCTs) as defined in Section ~~42(d)(5)(B),~~ *42(d)(5)(B) of the Internal Revenue Code,* relating to increase in credit for buildings in high cost areas, of the Internal Revenue Code, and (C) federally subsidized, the California Tax Credit Allocation Committee shall reduce the amount of California credit to be allocated under paragraphs (2) and (3) by taking into account the increased federal credit received due to the basis boost provided under Section ~~42(d)(5)(B),~~ *42(d)(5)(B) of the Internal Revenue Code*, relating to increase in credit for buildings in high cost ~~areas, of the Internal Revenue Code.~~ *areas.*

(5) In the case of any qualified low-income building that meets all of the requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three years and 5 percent for the fourth year. A qualified low-income building receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph (3).

(A) The qualified low-income building is at least 15 years old.

(B) The qualified low-income building is serving households of very low income or extremely low income such that the average maximum household income as restricted, pursuant to an existing regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section 42 of the Internal Revenue Code, relating to low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the average targeted household income to no more than 45 percent of the area median income.

(C) The qualified low-income building would have insufficient credits under paragraphs (2) and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any

time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special rule for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the taxable year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during

or after credit allocation year, Code shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(I)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall not be applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 17058, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) (A) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Three hundred million dollars ($300,000,000) for the 2018 calendar year, and, for the 2019 calendar year and each calendar year thereafter, three hundred million dollars ($300,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2018 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) (A) ~~Five hundred thousand dollars ($500,000)~~ *Of the amount allocated pursuant to subparagraph (B) of paragraph (1), twenty-five million dollars ($25,000,000)* per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

~~(B) Five hundred thousand dollars ($500,000) of the amount allocated pursuant to subparagraph (B) of paragraph (1) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.~~

(B) The amount of any unallocated or returned credits pursuant to this paragraph per calendar year shall be added to the aggregate amount of credits allocated pursuant to subparagraph (B) of paragraph (1).

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) (1) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the provisions in paragraph (2) shall be substituted in its place.

(2) The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement

shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code, shall apply, provided that the agreement includes all of the following provisions:

(A) A term not less than the compliance period.

(B) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(C) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(E) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(F) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(G) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(H) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement

until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) (I) Existing projects that are “at risk of conversion.”

(II) For purposes of this section, the term “at risk of conversion,” with respect to an existing property means a property that satisfies all of the following criteria:

(ia) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(Ia) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(Ib) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(Ic) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(Id) Programs for rent supplement assistance pursuant to Section 18 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(Ie) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(If) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code, relating to low-income housing credits.

(ib) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(ic) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(id) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(k) Section 42(*l*) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(*l*) In the case where the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1993.

(n) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(o) (1) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, and before January 1, 2020, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed subject to both of the following conditions:

(A) The credit is sold for consideration that is not less than 80 percent of the amount of the credit.

(B) The unrelated party or parties purchasing any or all of the credit pursuant to this subdivision is a taxpayer allowed the credit under this section for the taxable year of the purchase or any prior taxable year or is a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code, relating to low-income housing credit, for the taxable year of the purchase or any prior taxable year in connection with any project located in this state. For purposes of this subparagraph, "taxpayer allowed the credit under this section" means a taxpayer that is allowed the credit under this section without regard to the purchase of a credit pursuant to this subdivision.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) (A) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(B) (i) Except as provided in clause (ii), a credit shall not be resold by the unrelated party to another taxpayer or other party.

(ii) All or any portion of any credit allowed under this section may be resold once by an original purchaser to one or more unrelated parties, subject to all of the requirements of this subdivision.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(6) Notwithstanding paragraph (1), the taxpayer, with the approval of the Executive Director of the California Tax Credit Allocation Committee, may rescind the election to sell all or any portion of the credit allowed under this section if the consideration for the credit falls below 80 percent of the amount of the credit after the California Tax Credit Allocation Committee reservation.

(p) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(q) This section shall remain in effect for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.

~~SEC. 2.~~

SEC. 3. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the "net tax," defined in Section 17039, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of an individual, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of an individual, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(4) "Extremely low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(5) "Very low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety

Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, and before January 1, 2020, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(iii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20

of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership, or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.

(E) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building that is a new building, as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit, and the regulations promulgated thereunder, and not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(1) of the Internal Revenue Code, relating to determination of applicable percentage.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that (A) is a new building, as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit, and the regulations promulgated thereunder, (B) not located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high cost areas, and (C) is federally subsidized, the term "applicable percentage" means for the first three years, 15 percent of the qualified basis of the building, and for the fourth year, 5 percent of the qualified basis of the building.

(3) In the case of any qualified low-income building that is (A) an existing building, as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit, and the regulations promulgated thereunder, (B) not located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to an increase in credit for buildings in high-cost areas, and (C) is federally subsidized, the term applicable percentage means the following:

(i) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(ii) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) In the case of any qualified low-income building that is (A) a new or an existing building, (B) located in designated difficult development areas (DDAs) or qualified census tracts (QCTs) as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high cost areas, and (C) federally subsidized, the California Tax Credit Allocation Committee shall reduce the amount of California credit to be allocated under paragraphs (2) and (3) by taking into account the increased federal credit received due to the basis boost provided under Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high cost areas.

(5) In the case of any qualified low-income building that meets all of the requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three years and 5 percent for the fourth year. A qualified

low-income building receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph (3).

(A) The qualified low-income building is at least 15 years old.

(B) The qualified low-income building is serving households of very low-income or extremely low-income such that the average maximum household income as restricted, pursuant to an existing regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section 42 of the Internal Revenue Code, relating to low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the average targeted household income to no more than 45 percent of the area median income.

(C) The qualified low-income building would have insufficient credits under paragraphs (2) and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special rules for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the taxable year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, shall not be applicable and instead the following provisions shall be applicable.

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(I)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, do not apply to this section.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) (A) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Three hundred million dollars ($300,000,000) for the 2018 calendar year, and, for the 2019 calendar year and each calendar year thereafter, three hundred million dollars ($300,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2018 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the

increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) (A) ~~Five hundred thousand dollars ($500,000)~~ *Of the amount allocated pursuant to subparagraph (B) of paragraph (1), twenty-five million dollars ($25,000,000)* per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

~~(B) Five hundred thousand dollars ($500,000) of the amount allocated pursuant to subparagraph (B) of paragraph (1) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.~~

(B) The amount of any unallocated or returned credits pursuant to this paragraph per calendar year shall be added to the aggregate amount of credits allocated pursuant to subparagraph (B) of paragraph (1).

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the following

requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and

operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need and demand for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and that the

proposed operating income shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) (I) Existing projects that are “at risk of conversion.”

(II) For purposes of this section, the term "at risk of conversion," with respect to an existing property means a property that satisfies all of the following criteria:

(ia) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(Ia) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(Ib) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(Ic) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(Id) Programs for rent supplement assistance pursuant to Section 18 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(Ie) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(If) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

(ib) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(ic) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(id) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, regarding rehabilitation expenditures except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity

constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application.

(k) Section 42(*l*) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(*l*) In the case where the credit allowed under this section exceeds the net tax, the excess may be carried over to reduce the net tax in the following year, and succeeding taxable years, if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) (1) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, and before January 1, 2020, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee

to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed subject to both of the following conditions:

(A) The credit is sold for consideration that is not less than 80 percent of the amount of the credit.

(B) The unrelated party or parties purchasing any or all of the credit pursuant to this subdivision is a taxpayer allowed the credit under this section for the taxable year of the purchase or any prior taxable year or is a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code, relating to low-income housing credit, for the taxable year of the purchase or any prior taxable year in connection with any project located in this state. For purposes of this subparagraph, "taxpayer allowed the credit under this section" means a taxpayer that is allowed the credit under this section without regard to the purchase of a credit pursuant to this subdivision.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) (A) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(B) (i) Except as provided in clause (ii), a credit shall not be resold by the unrelated party to another taxpayer or other party.

(ii) All or any portion of any credit allowed under this section may be resold once by an original purchaser to one or more unrelated parties, subject to all of the requirements of this subdivision.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall

remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(6) Notwithstanding paragraph (1), the taxpayer, with the approval of the Executive Director of the California Tax Credit Allocation Committee, may rescind the election to sell all or any portion of the credit allowed under this section if the consideration for the credit falls below 80 percent of the amount of the credit after the California Tax Credit Allocation Committee reservation.

(r) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(s) Any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.

(t) This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.

(u) The amendments to this section made by Chapter 1222 of the Statutes of 1993 shall apply only to taxable years beginning on or after January 1, 1994.

~~SEC. 3.~~

SEC. 4. Section 17225 of the Revenue and Taxation Code is amended to read:

17225. (a) Section 163(h)(3)(E) of the Internal Revenue Code, relating to mortgage insurance premiums treated as interest, shall not apply.

(b) Sections ~~163(h)(4)(A)(I)(II)~~ *163(h)(4)(A)(i)(II)* and 163(h)(4)(A)(ii)(II) of the Internal Revenue Code shall not apply.

~~SEC. 4.~~

SEC. 5. Section 23610.5 of the Revenue and Taxation Code is amended to read:

23610.5. (a) (1) There shall be allowed as a credit against the "tax," defined by Section 23036, a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, relating to low-income housing credit, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a "C" corporation, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a "C" corporation, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(4) "Extremely low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(5) "Very low income households" has the same meaning as in Section 50053 of the Health and Safety Code.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the project's housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code, relating to special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(C) (i) For a project that receives a preliminary reservation of the state low-income housing tax credit, allowed pursuant to subdivision (a), on or after January 1, 2009, and before January 1, 2020, the credit shall be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, regardless of how the federal low-income housing tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code, relating to determination of distributive share.

(ii) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the federal credit shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until and treated as if it occurred in the first taxable year immediately following the taxable year in which the federal credit period expires for the project described in clause (i).

(iii) This subparagraph shall not apply to a project that receives a preliminary reservation of state low-income housing tax credits under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code unless the project also receives a preliminary reservation of federal low-income housing tax credits.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership, or an "S" corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, shall apply to this section.

(E) (i) The California Tax Credit Allocation Committee may allocate a credit under this section in exchange for a credit allocated pursuant to Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high-cost areas, in amounts up to 30 percent of the eligible basis of a building if the credits allowed under Section 42 of the Internal Revenue Code, relating to low-income housing credit, are reduced by an equivalent amount.

(ii) An equivalent amount shall be determined by the California Tax Credit Allocation Committee based upon the relative amount required to produce an equivalent state tax credit to the taxpayer.

(c) Section 42(b) of the Internal Revenue Code, relating to applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings, shall be modified as follows:

(1) In the case of any qualified low-income building that is a new building, as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit, and the regulations promulgated thereunder, and not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(1) of the Internal Revenue Code, relating to determination of applicable percentage.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(2) In the case of any qualified low-income building that (A) is a new building, as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit, and the regulations promulgated thereunder, (B) not located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high cost areas, and (C) is federally subsidized, the term "applicable percentage" means for the first three years, 15 percent of the qualified basis of the

building, and for the fourth year, 5 percent of the qualified basis of the building.

(3) In the case of any qualified low-income building that is (A) an existing building, as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit, and the regulations promulgated thereunder, (B) not located in designated difficult development areas (DDAs) or qualified census tracts (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high cost areas, and (C) is federally subsidized, the term applicable percentage means the following:

(i) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(ii) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) In the case of any qualified low-income building that is (A) a new or an existing building, (B) located in designated difficult development areas (DDAs) or qualified census tracts (QCTs) as defined in Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high cost areas, and (C) federally subsidized, the California Tax Credit Allocation Committee shall ~~determine~~ *reduce* the amount of *California* credit to be allocated under ~~subparagraph (E) of paragraph (2) of subdivision (b) required to produce an equivalent state tax credit to the taxpayer, as produced in paragraph (2),~~ *paragraphs (2) and (3) by* taking into account the *increased federal credit received due to the* basis boost provided under Section 42(d)(5)(B) of the Internal Revenue Code, relating to increase in credit for buildings in high cost areas.

(5) In the case of any qualified low-income building that meets all of the requirements of subparagraphs (A) through (D), inclusive, the term "applicable percentage" means 30 percent for each of the first three years and 5 percent for the fourth year. A qualified low-income building receiving an allocation under this paragraph is ineligible to also receive an allocation under paragraph (3).

(A) The qualified low-income building is at least 15 years old.

(B) The qualified low-income building is serving households of very low income or extremely low income such that the average maximum household income as restricted, pursuant to an existing

regulatory agreement with a federal, state, county, local, or other governmental agency, is not more than 45 percent of the area median gross income, as determined under Section 42 of the Internal Revenue Code, relating to low-income housing credit, adjusted by household size, and a tax credit regulatory agreement is entered into for a period of not less than 55 years restricting the average targeted household income to no more than 45 percent of the area median income.

(C) The qualified low-income building would have insufficient credits under paragraphs (2) and (3) to complete substantial rehabilitation due to a low appraised value.

(D) The qualified low-income building will complete the substantial rehabilitation in connection with the credit allocation herein.

(d) The term "qualified low-income housing project" as defined in Section 42(c)(2) of the Internal Revenue Code, relating to qualified low-income building, is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code, relating to low-income housing credit.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an "S" corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code, relating to in general.

(e) The provisions of Section 42(f) of the Internal Revenue Code, relating to definition and special rules relating to credit period, shall be modified as follows:

(1) The term "credit period" as defined in Section 42(f)(1) of the Internal Revenue Code, relating to credit period defined, is modified by substituting "four taxable years" for "10 taxable years."

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code, relating to special rule for 1st year of credit period, shall not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code, relating to determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period, is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code, relating to allocated credit amount to apply to all taxable years ending during or after credit allocation year, shall not be applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(I)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code, relating to limitation on aggregate credit allowable with respect to projects located in a state, shall not be applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of all the following:

(1) (A) Seventy million dollars ($70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars ($70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor.

(B) Three hundred million dollars ($300,000,000) for the 2018 calendar year, and, for the 2019 calendar year and each calendar year thereafter, three hundred million dollars ($300,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2018 calendar year. For the purposes of this paragraph, the term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) (A) ~~Five hundred thousand dollars ($500,000)~~ *Of the amount allocated pursuant to subparagraph (B) of paragraph (1), twenty-five million dollars ($25,000,000)* per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

~~(B) Five hundred thousand dollars ($500,000) of the amount allocated pursuant to subparagraph (B) of paragraph (1) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.~~

(B) The amount of any unallocated or returned credits pursuant to this paragraph per calendar year shall be added to the aggregate amount of credits allocated pursuant to subparagraph (B) of paragraph (1).

(5) The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(h) The term "compliance period" as defined in Section 42(i)(1) of the Internal Revenue Code, relating to compliance period, is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the following shall be substituted in its place:

The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory

agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be recorded in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and that allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code, relating to low-income housing credit, as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and operating the project in accordance with the regulatory agreement until the enforcer determines the housing sponsor is in a position to operate the project in accordance with the regulatory agreement; applying to any court for specific performance; securing the

appointment of a receiver to operate the project; or any other relief as may be appropriate.

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of two or more periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code, relating to plans for allocation of credit among projects. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code, relating to qualified allocation plan and relating to certain selection criteria must be used, respectively.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, relating to responsibilities of housing credit agencies, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units are low-income units with three or more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) (I) Existing projects that are “at risk of conversion.”

(II) For purposes of this section, the term “at risk of conversion,” with respect to an existing property means a property that satisfies all of the following criteria:

(ia) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(Ia) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(Ib) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(Ic) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(Id) Programs for rent supplement assistance pursuant to Section 18 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(Ie) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(If) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

(ib) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment any time within five years before or after the date of application to the California Tax Credit Allocation Committee.

(ic) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(id) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code, regarding rehabilitation expenditures except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue

of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k) Section 42(*l*) of the Internal Revenue Code, relating to certifications and other reports to secretary, shall be modified as follows:

The term "secretary" shall be replaced by the term "Franchise Tax Board."

(*l*) In the case where the credit allowed under this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding taxable years if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) (1) A corporation may elect to assign any portion of any credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, "affiliated corporation" has the meaning provided in subdivision (b) of Section 25110, as that section was amended by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that "100 percent" is substituted for "more than 50 percent" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993, and "voting common stock" is substituted for "voting stock" wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the corporation that originally receives the credit.

(B) Shall be irrevocable for the taxable year the credit is allowed, once made.

(C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of the affiliated corporations that assign and receive the credits.

(r) (1) For a project that receives a preliminary reservation under this section beginning on or after January 1, 2016, and before January 1, 2020, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee to sell all or any portion of any credit allowed under this section to one or more unrelated parties for each taxable year in which the credit is allowed subject to both of the following conditions:

(A) The credit is sold for consideration that is not less than 80 percent of the amount of the credit.

(B) (i) The unrelated party or parties purchasing any or all of the credit pursuant to this subdivision is a taxpayer allowed the credit under this section for the taxable year of the purchase or any prior taxable year or is a taxpayer allowed the federal credit under Section 42 of the Internal Revenue Code, relating to low-income housing credit, for the taxable year of the purchase or any prior taxable year in connection with any project located in this state.

(ii) For purposes of this subparagraph, "taxpayer allowed the credit under this section" means a taxpayer that is allowed the

credit under this section without regard to the purchase of a credit pursuant to this subdivision without regard to any of the following:

(I) The purchase of a credit under this section pursuant to this subdivision.

(II) The assignment of a credit under this section pursuant to subdivision (q).

(III) The assignment of a credit under this section pursuant to Section 23363.

(2) (A) The taxpayer that originally received the credit shall report to the California Tax Credit Allocation Committee within 10 days of the sale of the credit, in the form and manner specified by the California Tax Credit Allocation Committee, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party or parties to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the taxpayer for the sale of the credit.

(B) The California Tax Credit Allocation Committee shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Tax Credit Allocation Committee and the Franchise Tax Board, of the taxpayers that have sold or purchased a credit pursuant to this subdivision.

(3) (A) A credit may be sold pursuant to this subdivision to more than one unrelated party.

(B) (i) Except as provided in clause (ii), a credit shall not be resold by the unrelated party to another taxpayer or other party.

(ii) All or any portion of any credit allowed under this section may be resold once by an original purchaser to one or more unrelated parties, subject to all of the requirements of this subdivision.

(4) Notwithstanding any other law, the taxpayer that originally received the credit that is sold pursuant to paragraph (1) shall remain solely liable for all obligations and liabilities imposed on the taxpayer by this section with respect to the credit, none of which shall apply to a party to whom the credit has been sold or subsequently transferred. Parties that purchase credits pursuant to paragraph (1) shall be entitled to utilize the purchased credits in the same manner in which the taxpayer that originally received the credit could utilize them.

(5) A taxpayer shall not sell a credit allowed by this section if the taxpayer was allowed the credit on any tax return of the taxpayer.

(6) Notwithstanding paragraph (1), the taxpayer, with the approval of the Executive Director of the California Tax Credit Allocation Committee, may rescind the election to sell all or any portion of the credit allowed under this section if the consideration for the credit falls below 80 percent of the amount of the credit after the California Tax Credit Allocation Committee reservation.

(s) The California Tax Credit Allocation Committee may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the California Tax Credit Allocation Committee pursuant to this section.

(t) Any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.

(u) This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credit, remains in effect.

(v) The amendments to this section made by Chapter 1222 of the Statutes of 1993 shall apply only to taxable years beginning on or after January 1, 1994, except that paragraph (1) of subdivision (q), as amended, shall apply to taxable years beginning on or after January 1, 1993.

~~SEC. 5.~~

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide affordable housing opportunities at the earliest possible time, it is necessary for this act to take effect immediately.

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Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE **6.**

Meeting Date:	03/13/2017
Subject:	AB 210 (Santiago): Homeless Multidisciplinary Personnel Team
Submitted For:	LEGISLATION COMMITTEE,
Department:	County Administrator
Referral No.:	2017-07
Referral Name:	AB 210: Homeless Multidisciplinary Personnel Team
Presenter:	L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

The Legislative Advocate in the Los Angeles County Chief Executive Office is seeking support for AB 210 (Santiago). A Fact Sheet and a sample Letter of Support has been provided. (Attachments A and B) The bill has been reviewed by Contra Costa Director of the Health, Housing, and Homeless Services Division, Lavonna Martin. She is recommending that the Legislation Committee consider a recommendation of "Support" to the Board of Supervisors. The 2017 State Platform does not contain any policies directly related to AB 210.

Referral Update:

AB 210 authorizes counties to also establish a homeless adult, child, and family multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services and to allow provider agencies to share confidential information for the purpose of coordinating such services.

Disposition:	Pending
Committee:	Assembly Human Services Committee
Hearing:	03/21/2017 1:30 pm, State Capitol, Room 437

The text of the bill is *Attachment C*.

Comments from Lavonna Martin, Director of Health, Housing and Homeless Services, Health Services Department: "I have been watching this closely through my participation in the Housing CA policy committee. This indeed is a great bill for communities that have a difficult time navigating the hoops to share/disclose information. For that reason alone, it should be supported.

I will say that Contra Costa has had less of a struggle sharing information across our Health Services system because we are all under the same umbrella. In many cases, we try to work collaboratively to share pertinent information with the correct releases in place. It isn't a perfect system, but it appears we do it more easily than some communities where homeless services are not within a health services dept

not within a health services dept.
Additionally, Whole Person Care is making it easier to share health, social, and homeless service data as we are moving to create data warehouses and/or bi-directional data sharing between systems of care. I see this legislation really coming in handy as care coordination across our systems is on the horizon (not only within Health Services but between EHSD). I think where this legislation really comes in handy is sharing across departments such as Health Services to EHSD and/or Housing Authorities.

With that said, any legislation that would support such sharing of information would only strengthen our ability to provide services to homeless individuals. We would just need to determine how to develop and fund such teams in our system of care. It is worth noting that BH clinicians and EHSD staff are integral parts of the homeless system of care. In my opinion, it is these types of partnerships that should continue to be expanded."

Recommendation(s)/Next Step(s):

CONSIDER recommending to the Board of Supervisors a position of "Support" on AB 210 (Santiago): Homeless Multidisciplinary Personnel Team, as recommended by Lavonna Martin, Director of Health, Housing and Homeless Services.

Attachments

Attachment A: AB 210 Fact Sheet
Attachment B: Sample Letter
Attachment C: Bill Text AB 210

AB 210 (Santiago)
Homeless Multidisciplinary Personnel Team

Bill Summary

AB 210 would allow counties to establish a homeless multidisciplinary personnel team (MDT) to facilitate the identification, assessment, and linkage of homeless individuals to housing and supportive services. This bill would allow members of the MDT to share confidential information with one another in order to better coordinate and provide services to homeless individuals and families.

Existing Law

WIC § 18961.7 authorizes counties to establish a child abuse MDT to allow the sharing of confidential information in order to investigate reports of suspected child abuse or neglect.

Background

Homelessness has become a significant health and human services issue throughout California. Our state is home to over 20 percent of the nation's homeless population. In Los Angeles County alone, over 46,000 individuals are currently homeless

A homeless MDT is a team with representatives from a variety of disciplines (agencies) who are trained in the identification and treatment of homeless individuals and/or families.

In 2011, WIC § 18961.7 was enacted, authorizing counties to establish MDT's for the purpose of addressing child abuse and neglect. Since then, over 50 MDTs have been established in over 47 counties. MDT's ability to freely share confidential information has successfully provided a wide range of services to over 10,000 children who have experienced abuse and neglect.

Need for AB 210

Current State law does not expressly authorize the sharing of data on homeless youth, families, or single adults between county departments and homeless service providers. Thus, public agencies and other homeless service providers are constrained in the type of information that may be shared. For example, service need, service receipt, and duration of service(s) provided to a homeless client cannot be freely shared among county departments and homeless service providers who are often delivering services to the same homeless clients. This results in service duplication and/or fragmentation.

That is why AB 210 is needed. This measure would allow departments and agencies within a county to share confidential information through an established homeless MDT to reduce duplication and/or fragmentation of services. By facilitating communication and coordination among county agencies and service providers, this bill will improve government efficiency and enhance continuity of care for homeless individuals and families.

What the Bill Does

AB 210 authorizes counties to establish a homeless adult, child, and family MDT. Specifically, AB 210:

- Authorizes MDT members to exchange confidential information in-person, telephonically, and electronically.
- Requires counties that choose to establish homeless MDTs to develop protocols describing how and what information may be shared.
- Requires a copy of the protocols to be made available to each participating member in the MDT.
- Requires every MDT member who receives information regarding homeless children and families to be under the same privacy and confidentiality penalties as the person disclosing or providing the information.
- Requires the shared information to be maintained in a manner that ensures

maximum protection of privacy and confidentiality rights.

- Applies existing civil and criminal penalties to the inappropriate disclosure of information by the team members.

Support

Los Angeles County (Sponsor)

Opposition

None on file.

For More Information

Marilyn Limon
Assembly Member, Miguel Santiago
916.319.2053 | Marilyn.Limon@asm.ca.gov

Date

The Honorable Blanca E. Rubio, Chair
Assembly Human Services Committee
State Capitol, Room 5175
Sacramento, California 95814

RE: AB 210 (Santiago), As Introduced – Support
Relating to Homeless Multidisciplinary Personnel Teams - Assembly Human Services Committee

Dear Assembly Member Rubio,

(Name of your Organization) supports AB 210 (Santiago) relating to Homeless multidisciplinary personnel teams.

Specifically, AB 210 would: 1) authorize counties to establish homeless adult, child and family multidisciplinary teams (MDTs); 2) require counties that choose to establish homeless MDTs to develop protocols on sharing confidential information; 3) authorize MDT members to exchange confidential information in-person, telephonically and electronically; and 4) establish privacy protections.

Currently, there is no statutory authority for county departments and homeless service providers to share data on homeless youth, families, or single adults. The ability to share information would help to facilitate the identification, assessment, and linkage of homeless youth, families and individuals to the most appropriate housing and supportive services. It also would enable county departments and agencies to know what services homeless persons are currently receiving or have received in the past.

In January 2016, Los Angeles County released a study on services to homeless single adults which found that 40 percent of the total expenditures were incurred on behalf of just five percent of the single adults known to have been homeless during Fiscal Year 2014-15. Based on this study, the Los Angeles County Board of Supervisors directed County staff to target rental subsidies and related services to this heavy-user population. In response, the County developed a process where a heavy-services user list is made available to relevant County departments. However, because of current legal constraints, the information on the list of heavy users of services is limited to identifying information, such as name and date of birth, and does not include any information on current or past county services. This experience in Los Angeles County exemplifies the need for this legislation.

AB 210 would achieve better coordination of services and strengthen continuity of care for the homeless population.

We urge your “AYE” vote on AB 210.

Sincerely,

(Add your name)

c: Assembly Member Miguel Santiago
Each Member and Consultant,
Assembly Human Services Committee

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 210

Introduced by Assembly Member Santiago

January 23, 2017

An act to add Chapter 18 (commencing with Section 18999.8) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 210, as introduced, Santiago. Homeless multidisciplinary personnel team.

Existing law authorizes counties to establish a child abuse multidisciplinary personnel team, as defined, to allow provider agencies to share confidential information in order to investigate reports of suspected child abuse or neglect or for the purpose of child welfare agencies making detention determinations, as specified.

This bill would authorize counties to also establish a homeless adult, child, and family multidisciplinary personnel team, as defined, with the goal of facilitating the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services within that county to allow provider agencies to share confidential information, as specified, for the purpose of coordinating housing and supportive services to ensure continuity of care. The bill would authorize the homeless adult, child, and family multidisciplinary personnel team to designate qualified persons to be a member of the team and would require every member who receives information or records regarding children and families in his or her capacity as a member of the team to be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or

providing the information or records. The bill would also require the information or records to be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 18 (commencing with Section 18999.8) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 18. HOMELESS MULTIDISCIPLINARY PERSONNEL TEAM

18999.8. (a) Notwithstanding any other law, a county may establish a homeless adult, child, and family multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services within that county to allow provider agencies to share confidential information for the purpose of coordinating housing and supportive services to ensure continuity of care.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Homeless" means any recorded instance of an adult, child, or family self-identifying as homeless within the most recent 12 months, or any element contained in service utilization records indicating that an adult, child, or family experienced homelessness within the most recent 12 months.

(2) "Homeless adult, child, and family multidisciplinary personnel team" means any team of two or more persons who are trained in the identification and treatment of homeless adults, children, and families, and who are qualified to provide a broad range of services related to homelessness. The team may include, but shall not be limited to:

(A) Mental health and substance abuse services personnel and practitioners, child protective services personnel and social workers, or other trained counseling personnel.

(B) Police officers, probation officers, or other law enforcement agents.

(C) Legal counsel for the adult, child, or family representing them in a criminal matter.

(D) Medical personnel with sufficient training to provide health services.

(E) Social services workers with experience or training in the provision of services to homeless adults, children, or families or funding and eligibility for services.

(F) Veterans services providers and counselors.

(G) Domestic violence services providers and counselors.

(H) Any public or private school teacher, administrative officer, or certified pupil personnel employee.

(I) Housing or homeless services provider agencies and designated personnel.

(3) "Homeless services provider agency" means any governmental or other agency that has as one of its purposes the identification, assessment, and linkage of housing or supportive services to homeless adults, children, and families. The homeless services provider agencies serving adults, children, and families that may share information under this section include, but are not limited to, the following entities or service agencies:

(A) Social services.

(B) Child welfare services.

(C) Health services.

(D) Mental health services.

(E) Substance abuse services.

(F) Probation.

(G) Law enforcement.

(H) Legal counsel for the adult, child, or family representing them in a criminal matter.

(I) Veterans services and counseling.

(J) Domestic violence services and counseling.

(K) Schools.

(L) Homeless services.

(M) Housing.

(c) (1) Members of a homeless adult, child, and family multidisciplinary personnel team engaged in the identification, assessment, and linkage of housing and supportive services to homeless adults, families, or children may disclose to and exchange with one another information and writings that relate to any information that may be designated as confidential under state law

if the member of the team having that information or writing reasonably believes it is generally relevant to the identification, reduction, or elimination of homelessness or the provision of services. Any discussion relative to the disclosure or exchange of the information or writings during a team meeting is confidential and, notwithstanding any other law, testimony concerning that discussion is not admissible in any criminal, civil, or juvenile court proceeding.

(2) Disclosure and exchange of information pursuant to this section may occur telephonically and electronically if there is adequate verification of the identity of the homeless adult, child, and family multidisciplinary personnel who are involved in that disclosure or exchange of information.

(3) Disclosure and exchange of information pursuant to this section shall not be made to anyone other than members of the homeless adult, child, and family multidisciplinary personnel team, and those qualified to receive information as set forth in subdivision (d).

(d) The homeless adult, child, and family multidisciplinary personnel team may designate persons qualified pursuant to paragraph (2) of subdivision (b) to be a member of the team. A person designated as a team member pursuant to this subdivision may receive and disclose relevant information and records, subject to the confidentiality provisions of subdivision (f).

(e) The sharing of information permitted under subdivision (c) shall be governed by protocols developed in each county describing how and what information may be shared by the homeless adult, child, and family multidisciplinary personnel team to ensure that confidential information gathered by the team is not disclosed in violation of state or federal law. A copy of the protocols shall be distributed to each participating agency and to persons in those agencies who participate in the homeless adult, child, and family multidisciplinary personnel team.

(f) Every member of the homeless adult, child, and family multidisciplinary personnel team who receives information or records regarding children and families in his or her capacity as a member of the team shall be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or providing the information or records. The information or records obtained shall be maintained

in a manner that ensures the maximum protection of privacy and confidentiality rights.

(g) Notwithstanding Section 827 or any other law, members of a homeless adult, child, and family multidisciplinary personnel team engaged in the identification, assessment, and linkage of housing and supportive services to homeless adults, families, and children may disclose to and exchange with one another information and writings that relate to any incident of child abuse or neglect that may also be designated as confidential under state law if the team member having that information or writing reasonably believes it is generally relevant to the provision of services.

(h) This section shall not be construed to restrict guarantees of confidentiality provided under state or federal law.

(i) Information and records communicated or provided to the team members by all providers and agencies shall be deemed private and confidential and shall be protected from discovery and disclosure by all applicable statutory and common law protections. Existing civil and criminal penalties shall apply to the inappropriate disclosure of information held by the team members.

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Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE **7.**

Meeting Date: 03/13/2017

Subject: AB 211 (Bigelow): State Responsibility Area Fire Prevention Fees--SUPPORT

Submitted For: LEGISLATION COMMITTEE,

Department: County Administrator

Referral No.: 2017-10

Referral Name: AB 211 (Bigelow): State Responsibility Area Fire Prevention Fees

Presenter: L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

AB 211 was brought to staff's attention by Supervisor Burgis' chief of staff. Although the adopted 2017 State Platform does not contain a policy that relates directly to the fire prevention fee, the Board of Supervisors in 2012 supported a bill that would repeal the fee (AB 1506), and the Board of Supervisors has also supported AB 203 (Obernolte) in 2015 which would have to extended the period for paying or disputing a fire prevention fee from 30 days to 60 days from the date of assessment. (AB 203 died in committee).

Referral Update:

A "Fact Sheet" for AB 211 is included as Attachment A. The full text of the bill is Attachment B.

The bill has been referred to the Assembly Natural Resources Committee. No hearing date has been established for the bill as yet.

Recommendation(s)/Next Step(s):

CONSIDER recommending to the Board of Supervisors a "Support" position on AB 211 (Bigelow): State Responsibility Area Fire Prevention Fees.

Fiscal Impact (if any):

AB 211 will provide transparency to the public on the use of tax payer dollars. It is essential the Legislature require reporting of public funds to ensure accountability on how the fire prevention fee moneys are spent.

Attachments

AB 211 Fact Sheet

Attachment B: AB 211 Bill Text

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Sacramento, CA 95814
(916) 319-2005
FAX (916) 319-2105

DISTRICT OFFICE
33 C Broadway
Jackson, CA 95642
(209) 223-0505
FAX (209) 762-8262

Assembly California Legislature

FRANK BIGELOW
ASSEMBLYMEMBER, 5TH DISTRICT

COMMITEES
Vice Chair, Appropriations
Vice Chair, Governmental Organization
Insurance
Water, Parks & Wildlife

AB 211: FIRE FEE EXPENDITURES

PRINCIPAL COAUTHOR: SENATOR BERRYHILL COAUTHORS: ASSEMBLYMEMBERS OBERNOLTE & PATTERSON

IN BRIEF:
AB 211 would require the State Board of Forestry and Fire Protection to provide an annual report including itemized accounting of all expenditures of the fire prevention fee to the Legislature indefinitely.

EXISTING LAW:
Existing law requires the State Board of Forestry and Fire Protection to collect a fire prevention fee in the amount not to exceed $150 on each habitable structure in a state responsibility area. Exiting law requires, until January 31, 2017, the State Board of Forestry and Fire Protection to submit an annual written report to the Legislature on the expenditures of money collected from the fire prevention fee.

THE ISSUE:
It is the Legislature's duty to ensure tax payer dollars are being spent efficiently and that the reporting of those expenditures provides transparency. Currently, the reporting requirements provided by Section 4214 of the Public Resources Code provide an opportunity for vague reporting on the uses of the fire prevention fee. Additionally, those reporting requirements expire this year.

THE SOLUTION:
AB 211 will provide transparency to the public on the use of tax payer dollars. It is essential the Legislature require reporting of public funds to ensure accountability on how the fire prevention fee moneys are spent.

SUPPORT:
Rural County Representatives of California (1/26)

CONTACT:

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(916) 319-2005 or Katie.Masingale@asm.ca.gov

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 211

Introduced by Assembly Member Bigelow
(Principal coauthor: Senator Berryhill)
(Coauthors: Assembly Members Obernolte and Patterson)

January 23, 2017

An act to amend Section 4214 of the Public Resources Code, relating to fire prevention.

LEGISLATIVE COUNSEL'S DIGEST

AB 211, as introduced, Bigelow. State responsibility area fire prevention fees: reporting requirement.

Existing law requires the State Board of Forestry and Fire Protection to establish a fire prevention fee in an amount not to exceed $150 to be charged on each habitable structure on a parcel that is within a state responsibility area. Existing law requires the fee moneys to be expended, upon appropriation, in specified ways, including to reimburse the State Board of Equalization's expenses incurred in the collection of the fee and to the State Board of Forestry and Fire Protection and to the Department of Forestry and Fire Protection for administrative purposes, with excess moneys being expended only for specified fire prevention activities, as provided. Existing law, until January 31, 2017, requires the board to submit an annual written report to the Legislature on the status of the uses of the fee moneys.

This bill would require the report to include an itemized accounting of all expenditures from the fund and would require the reporting to occur annually for an indefinite period of time.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4214 of the Public Resources Code is amended to read:

4214. (a) Fire prevention fees collected pursuant to this chapter shall be expended, upon appropriation by the Legislature, as follows:

(1) The State Board of Equalization shall retain moneys necessary for the payment of refunds pursuant to Section 4228 and reimbursement of the State Board of Equalization for expenses incurred in the collection of the fee.

(2) The moneys collected, other than those retained by the State Board of Equalization pursuant to paragraph (1), shall be deposited into the State Responsibility Area Fire Prevention Fund, which is hereby created in the State Treasury, and shall be available to the board and the department to expend for fire prevention activities specified in subdivision (d) that benefit the owners of habitable structures within a state responsibility area who are required to pay the fire prevention fee. The amount expended to benefit the owners of habitable structures within a state responsibility area shall be commensurate with the amount collected from the owners within that state responsibility area. All moneys in excess of the costs of administration of the board and the department shall be expended only for fire prevention activities in counties with state responsibility areas.

(b) (1) The fund may also be used to cover the costs of administering this chapter.

(2) The fund shall cover all startup costs incurred over a period not to exceed two years.

(c) It is the intent of the Legislature that the moneys in this fund be fully appropriated to the board and the department each year in order to effectuate the purposes of this chapter.

(d) Moneys in the fund shall be used only for the following fire prevention activities, which shall benefit owners of habitable structures within the state responsibility areas who are required to pay the annual fire prevention fee pursuant to this chapter:

(1) Local assistance grants pursuant to subdivision (e).

(2) Grants to Fire Safe Councils, the California Conservation Corps, or certified local conservation corps for fire prevention projects and activities in the state responsibility areas.

(3) Grants to a qualified nonprofit organization with a demonstrated ability to satisfactorily plan, implement, and complete a fire prevention project applicable to the state responsibility areas. The department may establish other qualifying criteria.

(4) Inspections by the department for compliance with defensible space requirements around habitable structures in state responsibility areas as required by Section 4291.

(5) Public education to reduce fire risk in the state responsibility areas.

(6) Fire severity and fire hazard mapping by the department in the state responsibility areas.

(7) Other fire prevention projects in the state responsibility areas, authorized by the board.

(e) (1) The board shall establish a local assistance grant program for fire prevention activities designed to benefit habitable structures within state responsibility areas, including public education, that are provided by counties and other local agencies, including special districts, with state responsibility areas within their jurisdictions.

(2) In order to ensure an equitable distribution of funds, the amount of each grant shall be based on the number of habitable structures in state responsibility areas for which the applicant is legally responsible and the amount of moneys made available in the annual Budget Act for this local assistance grant program.

(f) By January 31, 2015, ~~and~~ *and, notwithstanding Section 10231.5 of the Government Code,* annually thereafter, the board shall submit to the Legislature a written report on the status and uses of the fund pursuant to this ~~chapter.~~ *chapter, including an itemized accounting of all expenditures from the fund.* The written report shall also include an evaluation of the benefits received by counties based on the number of habitable structures in state responsibility areas within their jurisdictions, the effectiveness of the board's grant programs, the number of defensible space inspections in the reporting period, the degree of compliance with defensible space requirements, measures to increase compliance, if any, and any recommendations to the Legislature.

~~(g) (1) The requirement for submitting a report imposed under subdivision (f) is inoperative on January 31, 2017, pursuant to Section 10231.5 of the Government Code.~~

~~(2)~~

(g) A report to be submitted pursuant to subdivision (f) shall be submitted in compliance with Section 9795 of the Government Code.

(h) It is essential that this article be implemented without delay. To permit timely implementation, the department may contract for services related to the establishment of the fire prevention fee collection process. For this purpose only, and for a period not to exceed 24 months, the ~~provisions of the~~ Public Contract Code or any other ~~provision of~~ law related to public contracting shall not apply.

O

Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE **8.**

Meeting Date:	03/13/2017
Subject:	AB 236 (Maienschein): CalWORKs Housing Assistance
Submitted For:	LEGISLATION COMMITTEE,
Department:	County Administrator
Referral No.:	
Referral Name:	AB 236 (Maienschein): CalWORKs Housing Assistance
Presenter:	Susan Jeong **Contact:** L. DeLaney, 925-335-1097

Referral History:

AB 236 (Maienschein): CalWORKs: Housing Assistance, is a bill that provides that homeless assistance is available to homeless families that would be eligible for aid under the CalWORK's program but for the fact that the only child or children in the family are in out-of-home placement pursuant to an order of the dependency court, if the family is receiving reunification services and the county determines that homeless assistance is necessary for reunification to occur. The bill text is *Attachment A*. The Committee analysis is below.

Staff of EHSD recommends that the Committee consider recommending to the Board of Supervisors a position of "Support" on AB 236.

Status: 03/07/2017 From ASSEMBLY Committee on HUMAN SERVICES: Do pass to Committee on APPROPRIATIONS. (7-0)

The Board's 2017 State Platform includes a policy that is indirectly related:

156. SUPPORT increase of daily rate available under Temporary HA from $65 per day to $85 per day for homeless CalWORKs families of four or fewer and provide an additional $15 per day for each additional family member up to a maximum of $145 daily.

Referral Update:

2017 CA A 236: Bill Analysis - 03/03/2017 - Assembly Human Services Committee, Hearing Date 03/07/2017

Date of Hearing: March 7, 2017

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Blanca Rubio, Chair

AB 236 (Maienschein) - As Introduced January 30, 2017

SUBJECT: CalWORKs: housing assistance

SUMMARY: Adopts changes to California Work Opportunity and Responsibility to Kids (CalWORKs) housing assistance for temporary shelter to: remove the requirement that the assistance only be available for a consecutive period of time, increase the daily assistance amount, and make the assistance available to certain families receiving reunification services through the child welfare services system.

Specifically, this bill:

1) Provides that homeless assistance for temporary shelter is available to homeless families that would be eligible for CalWORKs aid except for the fact that the only child or children in the family are in an out-of-home placement per an order of the dependency court and if the family is receiving reunification services and the county has determined that homeless assistance is necessary to reunification.

2) Increases the nonrecurring special needs benefit for temporary shelter from $65 to $85 a day for up to four members of a family and further, increases the daily maximum special needs benefit for temporary shelter, for families with eight or more members, from $125 to $145.

3) Removes the stipulation that the annual maximum16 days of temporary shelter assistance be used in consecutive calendar days, and instead provides for a maximum of 16 days of temporary assistance that may be used intermittently over the course of 12 months.

4) Deletes the requirement that, for cases in which domestic violence is verified as specified, temporary assistance be limited annually to two periods of a maximum of 16 consecutive calendar days and instead stipulates that, in these cases, there is a maximum annual availability of 32 days of temporary assistance.

5) Makes conforming technical amendments.

6) Provides that no continuous appropriation, as specified, shall be made to implement the provisions of this bill.

EXISTING LAW:

1) Establishes under federal law the Temporary Assistance for Needy Families (TANF) program to provide aid and welfare-to-work services to eligible families and, in California, provides that TANF funds for welfare-to-work services are administered through the CalWORKs program. (42 U.S.C. 601 et seq., WIC 11200 et seq.)

2) Establishes income, asset and real property limits used to determine eligibility for the program, including net income below the Maximum Aid Payment (MAP), based on family size and county of residence, which is around 40% of the Federal Poverty Level. (WIC 11150 to 11160, 11450 et seq.)

3) Establishes a 48-month lifetime limit of CalWORKs benefits for eligible adults, including 24 months during which a recipient must meet federal work requirements in order to retain eligibility. (WIC 11454, 11322.85)

4) Requires all individuals over 16 years of age, unless they are otherwise exempt, to participate in welfare-to-work activities as a condition of eligibility for CalWORKs. (WIC 11320.3, 11322.6)

5) Establishes the number of weekly hours of welfare-to-work participation necessary to remain eligible for aid, including requirements for an unemployed parent in a two-parent assistance unit, as specified. (WIC 11322.8)

6) Entitles a family to receive an allowance for nonrecurring special needs related to housing or homelessness after that family has used all available liquid resources in excess of $100, as specified, and grants this allowance for different purposes and amounts, as follows:

a) Replacement of clothing and household equipment and for emergency housing needs other than temporary shelter;

b) Temporary shelter assistance for homeless families receiving CalWORKs for one period annually of 16 consecutive days, except as specified, and counts a break in the consecutive use of this assistance as permanent exhaustion of the benefit; and

c) Permanent housing assistance available to pay for last month's rent and security deposits when these payments are reasonable conditions of securing a residence, or to pay for up to two months of rent arrearages, when these payments are a reasonable condition of preventing eviction. (WIC 11450 (f))

7) Prohibits the sum of all housing assistance for nonrecurring special needs provided for to exceed $600 per event. (WIC 11450 (f)(1))

8) Establishes that the purpose of the dependency system is the maximum safety and protection of children who are currently being abused, neglected, or exploited. Provides that the focus is on the preservation of the family, as well as the safety, protection, and physical and emotional well-being of the child. (WIC 300.2)

9) States the intent of the Legislature to preserve and strengthen a child's family ties whenever possible and to reunify a foster youth with his or her biological family whenever possible, or to provide a permanent placement alternative, such as adoption or guardianship. (WIC 16000)

10) Requires the court, if at the initial hearing the juvenile court orders a child be removed from his or her parent or guardian due to abuse or neglect, to order that child welfare reunification services be provided to the family as soon as possible in order to reunify the child with his or her family, if appropriate. (WIC 319 (e))

11) Requires the court, at a dispositional hearing, to order a social worker to provide child welfare services to a child who has been removed from his or her parents' or guardians' custody and to the parents or guardians in order to support the goal of reunification, for a specified time period, except under certain circumstances. Provides that children and families in the child welfare system should typically receive a full six months of reunification services if the child is under three years of age, and twelve months if the child is over three years of age, but that may be extended up to 18 or 24 months, as provided. (WIC 361.5 (a))

12) Provides that reunification services need not be provided if the court finds, by clear and convincing evidence, that specified conditions exist, including, among other conditions:

a) The parent or guardian is suffering from a mental disability that renders the parent incapable of using the reunification services;

b) The parent or guardian has caused the death of another child through abuse or neglect;

c) The child or a sibling has been adjudicated a dependent as the result of severe physical or sexual abuse;

d) The parent or guardian has been convicted of a violent felony; and

e) The parent or guardian has a history of drug or alcohol abuse and has failed to comply with treatment programs as provided. (WIC 361.5 (b))

13) Prevents the court from ordering reunification services for a parent or guardian in specified situations, unless the court finds that reunification is in the child's best interest. (WIC 361.5 (c))

14) Allows any party to petition the court to terminate reunification services early, and allows the court to terminate those services after finding, by clear and convincing evidence, that:

a) Circumstances now exist that, had they previously existed, would have led the court to bypass or not order reunification services; or,

b) The action or inaction of the parent or guardian creates a substantial likelihood that reunification will not occur, including but not limited to the parent's or guardian's failure to visit the child, or the failure to participate regularly and make substantive progress in a court-ordered treatment plan. (WIC 388 (c))

FISCAL EFFECT: Unknown.

COMMENTS:

CalWORKs: The CalWORKs program provides monthly income assistance and employment-related services aimed at moving children out of poverty and helping families meet basic needs. Federal funding for CalWORKs comes from the TANF block grant. The average 2016-17 monthly CalWORKs cash grant is $533.67 per household, and the maximum monthly grant amount for a family of three, if the family has no other income and lives in a high-cost county, is currently $714. According to recent data from the Department of Social Services (DSS), over 508,000 families rely on CalWORKs, including close to one million children.

Maximum grant amounts in high-cost counties of $714 per month for a family of three with no other income means about $23.80 per day, per family, or $7.93 per family member, per day to meet basic needs, including rent, clothing, utility bills, food, and anything else a family needs to ensure children can be cared for at home and safely remain with their families. This grant amount puts the annual household income at $8,568 per year, or 42% of the poverty level. Federal Poverty Guidelines for 2017 indicate that the poverty threshold for a family of three is $20,420 per year.

Homelessness in California: The US Department of Housing and Urban Development (HUD), in its Annual Homeless Assessment Report (AHAR), reported that on a single night in 2016, there were 549,928 homeless people counted in the United States (194,716 of these individuals were

people who were part of homeless families with children). That same report revealed that 22% (118,142) of those people experiencing homelessness were counted in California, 78,390 of which were unsheltered. It is important to note that this number is for a single night and is neither exhaustive of the number of Californians experiencing homelessness on a daily basis nor the number of Californians who experience homelessness each year.

Homelessness has particularly damaging effects on children. According to the National Center on Family Homelessness, nearly 2.5 million children in the US will experience homelessness over the course of a year. The AHAR revealed that on that same night in 2016, 22% of homeless individuals were children under age 18. The effects of homelessness on children span from hunger and related physical, cognitive and developmental issues to lowered academic achievement and increases in stress, depression, emotional instability and overall poor mental health.

CalWORKs homeless assistance: For purposes of identifying families eligible for CalWORKs homeless assistance, a family is considered homeless if the family lacks a fixed and regular nighttime residence, if the family's primary nighttime residence is a shelter, or if the family is residing in a public or private place that is not an appropriate sleeping place for human beings. Additionally, a family can be considered homeless for CalWORKs purposes if the family has received an eviction notice and the cause of eviction is the result of a verified financial hardship.

Temporary shelter assistance and permanent housing assistance are two types of housing assistance provided to homeless families under the CalWORKs program. Whereas permanent housing assistance can be provided to help secure or maintain permanent housing and help prevent eviction for a family, temporary shelter assistance is provided to homeless families for up to 16 consecutive days. Temporary shelter assistance for a family of up to four people is $65 per day, and $15 is provided for each additional family member. The maximum amount of temporary shelter assistance any family can receive is $125 per day, and the assistance can only be used to pay for housing provided in a commercial establishment, a shelter, or an established rental property. Additionally, CalWORKs recipients must provide proof to the county that they are searching for permanent housing while they are receiving this benefit and proof that the shelter assistance was used to pay for allowable housing. Any break in the use of the assistance, including one night spent with a friend or relative, automatically terminates a family's ability to receive shelter assistance for any days remaining within the 16 consecutive day limit. The 16 consecutive day limit is an annual limit for temporary shelter assistance, provided that a family doesn't meet criteria for an exception. A family may receive temporary shelter assistance for two periods of up to 16 consecutive days if the family's homelessness is the direct result of domestic violence as verified by a sworn statement.

In California each month, county CalWORKs offices receive an average of 4,300 requests for homeless assistance.

Reunification services: The court may order reunification services for parents who have had a child removed from the home and placed into the dependency system when it is determined that reunification with the family would ultimately benefit the child. These services can encompass a range of supports, including parenting classes, substance abuse treatment, family therapy, and home visiting, among others, aimed at responding to the needs of the child and the parents. Depending on the child's age, reunification services can be offered for between 6 months (for children under the age of 3) and 12 months (for children ages 3 and older). Extensions for certain

circumstances may be granted if there is a substantial probability that the child will be returned to the physical custody of his or her parents, and for parents in certain circumstances, including those making significant and consistent progress in a court-ordered residential substance abuse treatment program, or recently discharged from incarceration, institutionalization, or the custody of the United States Department of Homeland Security and making progress in establishing a safe home for the child.

Need for this bill: According to the author, "Because the temporary housing assistance is only available for 16 consecutive days, a break in assistance inadvertently punishes families who, for one reason or another, have to vacate their temporary lodgings for even one day. Out-of-area travel for job opportunities, childcare obligations, or medical related travel can interrupt a 16-day consecutive hotel stay. Sometimes the interruptions in the 16-day consecutive stay come when a family vacates a hotel or motel because it is unsuited for children or they have a temporary offer to stay with a family or friend. Whether or not the family has a choice to stop aid before the 16th day, the rule itself establishes a disincentive to find alternative arrangements, seek prospective opportunities for employment, or to tend to pressing health or family obligations during this time period. Further, the current per diem rate is insufficient for families with children and contributes to their conflict of not being able to find adequate shelter. The purpose of the CalWORKs temporary housing assistance is to enable homeless families with children to stay off of the street and more quickly secure permanent housing. [This bill] strengthens the ability of the program to achieve that goal by increasing options for our state's poorest families with children and improving program administration."

PRIOR LEGISLATION:

AB 1603 (Assembly Committee on Budget), Chapter 25, Statutes of 2016, among other things, permitted CalWORKs families receiving a temporary or permanent benefit under the Homeless Assistance Program to, as of January 1, 2017, receive this benefit once every 12 months, versus once in a lifetime.

AB 2631 (Santiago), 2016, would have removed the once-in-a-lifetime limit on CalWORKs homeless assistance benefits and extended from 16 days per lifetime to 30 days, per year, the permissible length of time for receipt of temporary shelter assistance. It died in the Assembly Appropriations Committee.

AB 702 (Maienschein), 2015, was substantially similar to AB 264 (Maienschein), 2014. It died in the Senate Appropriations Committee.

AB 264 (Maienschein), 2014, would have deleted the requirement that CalWORKs temporary shelter assistance be provided consecutively to a limit of 16 days and instead allowed a family to receive temporary shelter assistance for a total of 16 calendar days to be used at any time they were both homeless and receiving CalWORKs aid. It died in the Senate Appropriations Committee.

AB 1452 (Stone), 2014, would have provided additional temporary assistance to homeless families receiving CalWORKs benefits by increasing the daily temporary shelter assistance amount from $65 to $75 and attaching an annual cost of living adjustment to that amount. It died in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Coalition of California Welfare Rights Organizations, Inc., (Co-sponsor)

County Welfare Directors Association of California (CWDA) (Co-sponsor)

American Federation of State, County and Municipal Employees

California Alternative Payment Program (CAPPA)

California Association of Food Banks

California Catholic Conference, Inc.

California School Board Association (CSBA)

California State Association of Counties (CSAC)

Center for Law and Social Policy (CLASP)

Courage Campaign

Friends Committee on Legislation of CA (FCLCA)

San Francisco Living Wage Coalition

Santa Clara County Board of Supervisors

Ventura County Board of Supervisors

Western Center on Law and Poverty

Opposition

None on File.

Analysis Prepared by: Daphne Hunt / HUM. S. / (916) 319-2089

Recommendation(s)/Next Step(s):

CONSIDER recommending to the Board of Supervisors a position of "Support" on AB 236 (Maienschein): CalWORKs Housing Assistance, as recommended by staff of EHSD.

Attachments

Attachment A: Bill Text AB 236

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 236

Introduced by Assembly Member Maienschein

January 30, 2017

An act to amend Section 11450 of the Welfare and Institutions Code, relating to CalWORKs.

LEGISLATIVE COUNSEL'S DIGEST

AB 236, as introduced, Maienschein. CalWORKs: housing assistance.

Existing law establishes the California Work Opportunity and Responsibility to Kids (CalWORKs) program under which, through a combination of federal, state, and county funds, each county provides cash assistance and other benefits to qualified low-income families. As part of the CalWORKs program, a homeless family that has used all available liquid resources in excess of $100 is eligible for homeless assistance benefits to pay the costs of temporary shelter if the family is eligible for aid under the CalWORKs program. Under existing law, the nonrecurring special needs benefit to pay for temporary shelter for a family of up to 4 is $65 a day, and the 5th and additional members of the family each receive $15 per day, up to a daily maximum of $125. Under existing law, eligibility for temporary shelter assistance is limited to one period of up to 16 consecutive days every 12 months, except when the homelessness is caused by domestic violence that is verified by a sworn statement of the victim, in which case eligibility for temporary shelter assistance is limited to 2 periods of up to 16 consecutive calendar days.

This bill would also provide that homeless assistance is available to homeless families that would be eligible for aid under the CalWORKs program but for the fact that the only child or children in the family are

in out-of-home placement pursuant to an order of the dependency court, if the family is receiving reunification services and the county determines that homeless assistance is necessary for reunification to occur. The bill would also provide that the nonrecurring special needs benefit to pay for temporary shelter for a family of up to 4 is $85 a day, and the daily maximum is $145. The bill would delete the requirement that homeless assistance be used in consecutive calendar days. Because this bill would increase the administrative duties of counties, it would impose a state-mandated local program.

Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.

This bill would, instead, provide that the continuous appropriation would not be made for purposes of implementing the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) (1) (A) Aid shall be paid for each needy family, which shall include all eligible brothers and sisters of each eligible applicant or recipient child and the parents of the children, but shall not include unborn children, or recipients of aid under Chapter 3 (commencing with Section 12000), qualified for aid under this chapter. In determining the amount of aid paid, and notwithstanding the minimum basic standards of adequate care specified in Section 11452, the family's income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1, determined for the prospective semiannual period pursuant to Sections 11265.1, 11265.2, and 11265.3, and then calculated pursuant to Section 11451.5, shall be deducted from the sum specified in the following table, as adjusted for

cost-of-living increases pursuant to Section 11453 and paragraph (2). In no case shall the amount of aid paid for each month exceed the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2), plus any special needs, as specified in subdivisions (c), (e), and (f):

Number of eligible needy persons in the same home	Maximum aid
1	$ 326
2	535
3	663
4	788
5	899
6	1,010
7	1,109
8	1,209
9	1,306
10 or more	1,403

(B) If, when, and during those times that the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to that increase or decrease by the United States government, provided that no increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(2) The sums specified in paragraph (1) shall not be adjusted for cost of living for the 1990–91, 1991–92, 1992–93, 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through October 31, 1998, nor shall that amount be included in the base for calculating any cost-of-living increases for any fiscal year thereafter. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(b) (1) When the family does not include a needy child qualified for aid under this chapter, aid shall be paid to a pregnant child who

is 18 years of age or younger at any time after verification of pregnancy, in the amount that would otherwise be paid to one person, as specified in subdivision (a), if the child and her child, if born, would have qualified for aid under this chapter. Verification of pregnancy shall be required as a condition of eligibility for aid under this subdivision.

(2) Notwithstanding paragraph (1), when the family does not include a needy child qualified for aid under this chapter, aid shall be paid to a pregnant woman for the month in which the birth is anticipated and for the six-month period immediately prior to the month in which the birth is anticipated, in the amount that would otherwise be paid to one person, as specified in subdivision (a), if the woman and child, if born, would have qualified for aid under this chapter. Verification of pregnancy shall be required as a condition of eligibility for aid under this subdivision.

(3) Paragraph (1) shall apply only when the Cal-Learn Program is operative.

(c) The amount of forty-seven dollars ($47) per month shall be paid to pregnant women qualified for aid under subdivision (a) or (b) to meet special needs resulting from pregnancy if the woman and child, if born, would have qualified for aid under this chapter. County welfare departments shall refer all recipients of aid under this subdivision to a local provider of the Women, Infants, and Children program. If that payment to pregnant women qualified for aid under subdivision (a) is considered income under federal law in the first five months of pregnancy, payments under this subdivision shall not apply to persons eligible under subdivision (a), except for the month in which birth is anticipated and for the three-month period immediately prior to the month in which delivery is anticipated, if the woman and child, if born, would have qualified for aid under this chapter.

(d) For children receiving AFDC-FC under this chapter, there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month that, when added to the child's income, is equal to the rate specified in Section 11460, 11461, 11462, 11462.1, or 11463. In addition, the child shall be eligible for special needs, as specified in departmental regulations.

(e) In addition to the amounts payable under subdivision (a) and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority

of recipients. These recurring special needs shall include, but not be limited to, special diets upon the recommendation of a physician for circumstances other than pregnancy, and unusual costs of transportation, laundry, housekeeping services, telephone, and utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars ($10) by the number of recipients in the family who are eligible for assistance.

(f) After a family has used all available liquid resources, both exempt and nonexempt, in excess of one hundred dollars ($100), with the exception of funds deposited in a restricted account described in subdivision (a) of Section 11155.2, the family shall also be entitled to receive an allowance for nonrecurring special needs.

(1) An allowance for nonrecurring special needs shall be granted for replacement of clothing and household equipment and for emergency housing needs other than those needs addressed by paragraph (2). These needs shall be caused by sudden and unusual circumstances beyond the control of the needy family. The department shall establish the allowance for each of the nonrecurring special needs items. The sum of all nonrecurring special needs provided by this subdivision shall not exceed six hundred dollars ($600) per event.

(2) (A) *(i)* Homeless assistance is available to a homeless family seeking shelter when the family is eligible for aid under this chapter. ~~Homeless~~

(ii) Homeless assistance for temporary shelter is also available to homeless families that are apparently eligible for aid under this chapter. Apparent eligibility exists when evidence presented by the applicant, or that is otherwise available to the county welfare department, and the information provided on the application documents indicate that there would be eligibility for aid under this chapter if the evidence and information were verified. However, an alien applicant who does not provide verification of his or her eligible alien status, or a woman with no eligible children who does not provide medical verification of pregnancy, is not apparently eligible for purposes of this section.

(iii) Homeless assistance for temporary shelter is also available to homeless families that would be eligible for aid under this chapter but for the fact that the only child or children in the family

are in out-of-home placement pursuant to an order of the dependency court, if the family is receiving reunification services and the county determines that homeless assistance is necessary for reunification to occur.

(B) A family is considered homeless, for the purpose of this section, when the family lacks a fixed and regular nighttime residence; or the family has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or the family is residing in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. A family is also considered homeless for the purpose of this section if the family has received a notice to pay rent or quit. The family shall demonstrate that the eviction is the result of a verified financial hardship as a result of extraordinary circumstances beyond their control, and not other lease or rental violations, and that the family is experiencing a financial crisis that could result in homelessness if preventative assistance is not provided.

(3) (A) (i) A nonrecurring special needs benefit of ~~sixty-five dollars ($65)~~ *eighty-five dollars ($85)* a day shall be available to families of up to four members for the costs of temporary shelter, subject to the requirements of this paragraph. The fifth and additional members of the family shall each receive fifteen dollars ($15) per day, up to a daily maximum of one hundred ~~twenty-five dollars ($125).~~ *forty-five dollars ($145).* County welfare departments may increase the daily amount available for temporary shelter as necessary to secure the additional bedspace needed by the family.

(ii) This special needs benefit shall be granted or denied immediately upon the family's application for homeless assistance, and benefits shall be available for up to three working days. The county welfare department shall verify the family's homelessness within the first three working days and if the family meets the criteria of questionable homelessness established by the department, the county welfare department shall refer the family to its early fraud prevention and detection unit, if the county has such a unit, for assistance in the verification of homelessness within this period.

(iii) After homelessness has been verified, the three-day limit shall be extended for a period of time which, when added to the

initial benefits provided, does not exceed a total of 16 calendar days. This extension of benefits shall be done in increments of one week and shall be based upon searching for permanent housing which shall be documented on a housing search form, good cause, or other circumstances defined by the department. Documentation of a housing search shall be required for the initial extension of benefits beyond the three-day limit and on a weekly basis thereafter as long as the family is receiving temporary shelter benefits. Good cause shall include, but is not limited to, situations in which the county welfare department has determined that the family, to the extent it is capable, has made a good faith but unsuccessful effort to secure permanent housing while receiving temporary shelter benefits.

(B) (i) A nonrecurring special needs benefit for permanent housing assistance is available to pay for last month's rent and security deposits when these payments are reasonable conditions of securing a residence, or to pay for up to two months of rent arrearages, when these payments are a reasonable condition of preventing eviction.

(ii) The last month's rent or monthly arrearage portion of the payment (I) shall not exceed 80 percent of the family's total monthly household income without the value of CalFresh benefits or special needs benefit for a family of that size and (II) shall only be made to families that have found permanent housing costing no more than 80 percent of the family's total monthly household income without the value of CalFresh benefits or special needs benefit for a family of that size.

(iii) However, if the county welfare department determines that a family intends to reside with individuals who will be sharing housing costs, the county welfare department shall, in appropriate circumstances, set aside the condition specified in subclause (II) of clause (ii).

(C) The nonrecurring special needs benefit for permanent housing assistance is also available to cover the standard costs of deposits for utilities which are necessary for the health and safety of the family.

(D) A payment for or denial of permanent housing assistance shall be issued no later than one working day from the time that a family presents evidence of the availability of permanent housing. If an applicant family provides evidence of the availability of

permanent housing before the county welfare department has established eligibility for aid under this chapter, the county welfare department shall complete the eligibility determination so that the ~~denial of or payment for~~ *payment for, or denial of,* permanent housing assistance is issued within one working day from the submission of evidence of the availability of permanent housing, unless the family has failed to provide all of the verification necessary to establish eligibility for aid under this chapter.

(E) (i) Except as provided in clauses (ii) and (iii), eligibility for the temporary shelter assistance and the permanent housing assistance pursuant to this paragraph shall be limited to ~~one period of up to 16 consecutive~~ *a maximum of 16* calendar days of temporary assistance and one payment of permanent assistance every 12 months. A person who applies for homeless assistance benefits shall be informed ~~that the temporary shelter benefit of up to 16 consecutive days is available only once every 12 months, with certain exceptions, and that a break in the consecutive use of the benefit constitutes exhaustion of the temporary benefit~~ *that, with certain exceptions, the temporary shelter benefit is limited to a maximum of 16 calendar days* for that 12-month period.

(ii) A family that becomes homeless as a direct and primary result of a state or federally declared natural disaster shall be eligible for temporary and permanent homeless assistance.

(iii) A family shall be eligible for temporary and permanent homeless assistance when homelessness is a direct result of domestic violence by a spouse, partner, or roommate; physical or mental illness that is medically verified that shall not include a diagnosis of alcoholism, drug addiction, or psychological stress; or, the uninhabitability of the former residence caused by sudden and unusual circumstances beyond the control of the family including natural catastrophe, fire, or condemnation. These circumstances shall be verified by a third-party governmental or private health and human services agency, except that domestic violence may also be verified by a sworn statement by the victim, as provided under Section 11495.25. Homeless assistance payments based on these specific circumstances may not be received more often than once in any 12-month period. In addition, if the domestic violence is verified by a sworn statement by the victim, the homeless assistance payments shall be limited to ~~two periods of not more than 16 consecutive~~ *a maximum of 32* calendar days of

temporary assistance and two payments of permanent assistance. A county may require that a recipient of homeless assistance benefits who qualifies under this paragraph for a second time in a 24-month period participate in a homelessness avoidance case plan as a condition of eligibility for homeless assistance benefits. The county welfare department shall immediately inform recipients who verify domestic violence by a sworn statement of the availability of domestic violence counseling and services, and refer those recipients to services upon request.

(iv) If a county requires a recipient who verifies domestic violence by a sworn statement to participate in a homelessness avoidance case plan pursuant to clause (iii), the plan shall include the provision of domestic violence services, if appropriate.

(v) If a recipient seeking homeless assistance based on domestic violence pursuant to clause (iii) has previously received homeless avoidance services based on domestic violence, the county shall review whether services were offered to the recipient and consider what additional services would assist the recipient in leaving the domestic violence situation.

(vi) The county welfare department shall report necessary data to the department through a statewide homeless assistance payment indicator system, as requested by the department, regarding all recipients of aid under this paragraph.

(F) The county welfare departments, and all other entities participating in the costs of the CalWORKs program, have the right in their share to any refunds resulting from payment of the permanent housing. However, if an emergency requires the family to move within the 12-month period specified in subparagraph (E), the family shall be allowed to use any refunds received from its deposits to meet the costs of moving to another residence.

(G) Payments to providers for temporary shelter and permanent housing and utilities shall be made on behalf of families requesting these payments.

(H) The daily amount for the temporary shelter special needs benefit for homeless assistance may be increased if authorized by the current year's Budget Act by specifying a different daily allowance and appropriating the funds therefor.

(I) No payment shall be made pursuant to this paragraph unless the provider of housing is a commercial establishment, shelter, or

person in the business of renting properties who has a history of renting properties.

(g) The department shall establish rules and regulations ensuring the uniform statewide application of this section.

(h) The department shall notify all applicants and recipients of aid through the standardized application form that these benefits are available and shall provide an opportunity for recipients to apply for the funds quickly and efficiently.

(i) (A) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a).

(B) The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

(j) For children receiving Kin-GAP pursuant to Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month, which, when added to the child's income, is equal to the rate specified in Sections 11364 and 11387.

(k) (1) A county shall implement the semiannual reporting requirements in accordance with Chapter 501 of the Statutes of 2011 no later than October 1, 2013.

(2) Upon completion of the implementation described in paragraph (1), each county shall provide a certificate to the director certifying that semiannual reporting has been implemented in the county.

(3) Upon filing the certificate described in paragraph (2), a county shall comply with the semiannual reporting provisions of this section.

(*l*) This section shall become operative on January 1, 2017.

SEC. 2. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for purposes of this act.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE **9.**

Meeting Date: 03/13/2017

Subject: AB 435 (Thurmond): Child Care Subsidy Plans: County of Contra Costa

Submitted For: LEGISLATION COMMITTEE,

Department: County Administrator

Referral No.: 2017-09

Referral Name: AB 435 (Thurmond): Child Care Subsidy Plans: County of Contra Costa

Presenter: Camilla Rand, Community Services Bureau **Contact:** L. DeLaney, 925-335-1097

Referral History:

Sean Casey, Executive Director of First 5 Contra Costa, and Ruth Fernandez, Manager of Education Services for the Contra Costa County Office of Education, took the lead in sponsoring this bill with Assembly Member Tony Thurmond. However, the Director of the Community Services Bureau, Camilla Rand, states that they have been wanting to pursue this as well, as it is a "significant step to aligning the State guidelines with Head Start and also streamlining so many of the processes."

There are several related policies in the Board's adopted 2017 State Platform, including:

136. SUPPORT efforts to increase the number of subsidized child care slots to address the shortage of over 20,000 slots serving children 0-12 years of age in Contra Costa County; and SUPPORT efforts to enhance the quality of early learning programs and maintain local Quality Rating and Improvement Systems (QRIS) for early learning providers. Affordable child care is key to low-income workers remaining employed and there is a significant dearth of subsidized child care slots. Increasing quality of early learning is important to developing skills in the next generation.

137. SUPPORT legislation to expand early child care and education and increase funding for preschool and early learning.

AB 435 does not bring in more money directly but. rather, ensures current funds are maximized and not underutilized, while allowing more children to be served through broader eligibility guidelines, supporting policy #136 - the huge unmet need in this county.

Referral Update:

AB 435 (Thurmond): Child Care Subsidy Plans: County of Contra Costa is authored by a Contra Costa legislator, Mr. Tony Thurmond.

Disposition: Pending
Location: Assembly Human Services Committee

AB 435 authorizes the County of Contra Costa to develop and submit an individualized county child care subsidy plan. The Draft Fact Sheet is Attachment A. The bill text is Attachment B.

Recommendation(s)/Next Step(s):

CONSIDER recommending to the Board of Supervisors a position of "Support" on AB 435 (Thurmond): Child Care Subsidy Plans: County of Contra Costa.

Fiscal Impact (if any):

There is no change in the total dollar amount allocated to stated contracts in Contra Costa under this bill; the “rules” would allow more effective use of these funds to ensure they are spent. Last year Contra Costa contractors combined left 7% of the total allocation unspent. By pooling resources, more children will be served – no additional dollars .

Attachments

Attachment A: AB 435 Draft Fact Sheet
Attachment B: AB 435 Bill Text

Assemblymember Tony Thurmond, 15th Assembly District

AB 435 – Contra Costa Child Care Subsidy Pilot

IN BRIEF

AB 435 would authorize Contra Costa County to develop and implement an individualized county child care subsidy plan. The authorization would sunset January 1, 2022.

BACKGROUND

In 2003, AB 1326 (Simitian) authorized San Mateo County to develop and implement an individualized county child care subsidy plan to respond to challenges that the state child care subsidy system (with its single statewide income eligibility criteria, reimbursement and fund restrictions) presents to children, working families and providers in a county where the cost of living is well beyond the state median.

The plan was designed by the diverse members of the local child care planning council and subsequently approved by the San Mateo County Board of Supervisors and the San Mateo County Superintendent of Schools in 2004. The California Department of Education approved the plan for implementation on October 1, 2004.

In 2005, SB 701 (Migden) authorized the City and County of San Francisco to develop and implement its own individualized county child care subsidy plan, modeled on San Mateo County's pilot project. San Francisco's plan was developed and approved for implementation on September 8, 2005. Due to the success of the plans, the Legislature made the San Mateo and San Francisco county pilots permanent last year.

Also, last year AB 83[illegible] (Bonta) [illegible]uth[illegible]rize[illegible] the Alameda County to develop i[illegible] own [illegible]ndivi[illegible]ualized county child care subsidy plan, which would sunset January 1, 2021. Following Alameda, San Francisco and San Mateo's footsteps, in 2016, AB 2368 (Gordon) authorized Santa Clara County to develop its own individualized child care subsidy plan until January 1, 2022.

The fiscal reality of living in a high-cost county means that many families are deemed ineligible for subsidized child care and that provider reimbursement rates are insufficient to cover the cost, as a result, child care subsidy funds allocated to Contra Costa County are not fully utilized or expended.

In fact, according to Contra Costa County's Local Early Education Planning Council, approximately $3.8 million under the Title 5 state subsidized child care contracts has been returned to the state for fiscal year 2015-16.

Further, Contra Costa County has lost subsidized child care contractors. For example, last year, Kids Club in Antioch ended its State Preschool contract. This provider shut down its child care program due to lack of available child care facilities to continue operating a program that for years had been located at an elementary school district site.

Other State Preschool contractors continue to report challenges with operating their programs due to the low state reimbursement rates paid to provide high quality child care which inadequately cover their operational costs, therefore concluding that it is no longer cost effective to offer subsidized child care.

SOLUTION

Without taking funds from other counties, or increasing state costs, this pilot (as did the previous ones) would permit waivers of specific state rules: 1) family eligibility criteria, 2) family fees, 3) reimbursement rates, and 4) methods of maximizing the efficient use of subsidy funds.

SUPPORT

First 5 Contra Costa (Sponsor)

FOR MORE INFORMATION

Isabella Gonzalez Potter, Office of Asm. Tony Thurmond
916-319-2015 | Isabella.GonzalezPotter@asm.ca.gov

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 435

Introduced by Assembly Member Thurmond

February 13, 2017

An act to add and repeal Article 15.1.1 (commencing with Section 8333) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 435, as introduced, Thurmond. Child care subsidy plans: County of Contra Costa.

The Child Care and Development Services Act has a purpose of providing a comprehensive, coordinated, and cost-effective system of child care and development services for children from infancy to 13 years of age and their parents, including a full range of supervision, health, and support services through full- and part-time programs. Existing law requires the Superintendent of Public Instruction to develop standards for the implementation of quality child care programs. Existing law authorizes the County of Alameda and the County of Santa Clara, as a pilot project, to develop an individualized county child care subsidy plan, as provided.

This bill would authorize, until January 1, 2023, the County of Contra Costa to develop an individualized county child care subsidy plan, as specified. The bill would require the plan to be submitted to the local planning council and the Contra Costa County Board of Supervisors for approval, as specified. The bill would require the Early Education and Support Division of the State Department of Education to review and approve or disapprove the plan and any subsequent modifications to the plan. The bill would require the County of Contra Costa to

annually prepare and submit to the Legislature, the State Department of Social Services, and the State Department of Education a report that contains specified information relating to the success of the county's plan.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Contra Costa.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to build a stable, comprehensive, and adequately funded high-quality early learning and educational support system for children from birth to five years of age, inclusive, with alignment and integration into the K–12 education system by strategically using state and federal funds, and engaging all early care and education stakeholders, including K–12 education stakeholders, in an effort to provide access to affordable, high-quality services supported by adequate rates, integrated data systems, and a strong infrastructure that supports children and the educators that serve them.

SEC. 2. Article 15.1.1 (commencing with Section 8333) is added to Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, to read:

Article 15.1.1. Individualized County of Contra Costa Child Care Subsidy Plan

8333. The County of Contra Costa may, as a pilot project, develop and implement an individualized county child care subsidy plan. The plan shall ensure that child care subsidies received by the County of Contra Costa are used to address local needs, conditions, and priorities of working families in the community.

8333.1. For purposes of this article, "county" means the County of Contra Costa.

8333.2. (a) For purposes of this article, "plan" means an individualized county child care subsidy plan developed and approved under the pilot project described in Section 8333, which includes all of the following:

(1) An assessment to identify the county's goal for its subsidized child care system. The assessment shall examine whether the current structure of subsidized child care funding adequately supports working families in the county and whether the county's child care goals coincide with the state's requirements for funding, eligibility, priority, and reimbursement. The assessment shall also identify barriers in the state's child care subsidy system that inhibit the county from meeting its child care goals. In conducting the assessment, the county shall consider all of the following:

(A) The general demographics of families who are in need of child care, including employment, income, language, ethnic, and family composition.

(B) The current supply of available subsidized child care.

(C) The level of need for various types of subsidized child care services, including, but not limited to, infant care, after-hours care, and care for children with exceptional needs.

(D) The county's self-sufficiency income level.

(E) Income eligibility levels for subsidized child care.

(F) Family fees.

(G) The cost of providing child care.

(H) The regional market rates, as established by the department, for different types of child care.

(I) The standard reimbursement rate or state per diem for centers operating under contracts with the department.

(J) Trends in the county's unemployment rate and housing affordability index.

(2) (A) Development of a local policy to eliminate state-imposed regulatory barriers to the county's achievement of its desired outcomes for subsidized child care.

(B) The local policy shall do all of the following:

(i) Prioritize lowest income families first.

(ii) Follow the family fee schedule established pursuant to Section 8263 for those families that are income eligible, as defined by Section 8263.1.

(iii) Meet local goals that are consistent with the state's child care goals.

(iv) Identify existing policies that would be affected by the county's plan.

(v) (I) Authorize an agency that provides child care and development services in the county through a contract with the

department to apply to the department to amend existing contracts in order to benefit from the local policy.

(II) The department shall approve an application to amend an existing contract if the plan is modified pursuant to Section 8333.3.

(III) The contract of a department contractor who does not elect to request an amendment to its contract remains operative and enforceable.

(C) The local policy may supersede state law concerning child care subsidy programs with regard only to the following factors:

(i) Eligibility criteria, including, but not limited to, age, family size, time limits, income level, inclusion of former and current CalWORKs participants, and special needs considerations, except that the local policy shall not deny or reduce eligibility of a family that qualifies for child care pursuant to Section 8353. Under the local policy, a family that qualifies for child care pursuant to Section 8354 shall be treated for purposes of eligibility and fees in the same manner as a family that qualifies for subsidized child care on another basis pursuant to the local policy.

(ii) Fees, including, but not limited to, family fees, sliding scale fees, and copayments for those families that are not income eligible, as defined by Section 8263.1.

(iii) Reimbursement rates.

(iv) Methods of maximizing the efficient use of subsidy funds, including, but not limited to, multiyear contracting with the department for center-based child care, and interagency agreements that allow for flexible and temporary transfer of funds among agencies.

(v) Families with children enrolled in part-day California state preschool programs services, pursuant to Article 7 (commencing with Section 8235), may be eligible for up to two 180 day periods within a 24 month period without the family being certified as a new enrollment each year.

(3) Recognition that all funding sources utilized by contractors that provide child care and development services in the county are eligible to be included in the county's plan.

(4) Establishment of measurable outcomes to evaluate the success of the plan to achieve the county's child care goals, and to overcome any barriers identified in the state's child care subsidy system.

(b) Nothing in this section shall be construed to permit the county to change the regional market rate survey results for the county.

8333.3. (a) The plan shall be submitted to the local planning council, as defined in subdivision (g) of Section 8499, for approval. Upon approval of the plan by the local planning council, the Board of Supervisors of the County of Contra Costa shall hold at least one public hearing on the plan. Following the hearing, if the board votes in favor of the plan, the plan shall be submitted to the Early Education and Support Division of the department for review.

(b) Within 30 days of receiving the plan, the Early Education and Support Division shall review and either approve or disapprove the plan.

(c) Within 30 days of receiving a modification to the plan, the Early Education and Support Division shall review and either approve or disapprove that modification to the plan.

(d) The Early Education and Support Division may disapprove only those portions of modifications to the plan that are not in conformance with this article or that are in conflict with federal law.

8333.4. The county shall, by the end of the first fiscal year of operation under the approved child care subsidy plan, demonstrate, in the report required pursuant to Section 8333.5, an increase in the aggregate days a child is enrolled in child care in the county as compared to the enrollment in the final quarter of the 2016–17 fiscal year.

8333.5. (a) The county shall annually prepare and submit to the Legislature, the State Department of Social Services, and the department a report that summarizes the success of the county's plan, and the county's ability to maximize the use of funds and to improve and stabilize child care in the county.

(b) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

8333.6. A participating contractor shall receive any increase or decrease in funding that the contractor would have received if the contractor had not participated in the plan.

8333.7. This article shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted

statute, that is enacted before January 1, 2023, deletes or extends that date.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances in the County of Contra Costa. Existing law does not reflect the fiscal reality of living in the County of Contra Costa, a high-cost county where the cost of living is well beyond the state median level, resulting in reduced access to quality child care. In recognition of the unintended consequences of living in a high-cost county, this act is necessary to provide children and families in the County of Contra Costa proper access to child care through an individualized county child care subsidy plan.

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Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE **10.**

Meeting Date: 03/13/2017

Subject: AB 898 (Frazier): Property Taxation: Revenue Allocation and AB 899 (Frazier): Local Government Finance: Property Tax Revenue

Submitted For: LEGISLATION COMMITTEE,

Department: County Administrator

Referral No.: 2017-06

Referral Name: AB 898 and 899 (Frazier)

Presenter: L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

Both AB 898 (Frazier): Property Taxation: Revenue Allocation and AB 899 (Frazier): Local Government Finance: Property Tax Revenue have been introduced as "spot" bills by Assembly Member Frazier to provide additional property tax resources to fire services in East Contra Costa County.

These bills were introduced on 2/16/17 and are in the 30 day period following bill introduction during which bills cannot be amended; the bills have not been referred to committee. Staff is awaiting additional information about the bills.

Referral Update:

AB 898: Property Taxation: Revenue Allocation. This bill would reallocates property tax revenue to fire protection services. The current bill text is *Attachment A*.

AB 899: Local Government Finance: Property Tax Revenue. This bill provides for an election in the County of Contra Costa for the purpose of reallocating property tax revenues for fire protection services in that county. The bill text is *Attachment B*.

Recommendation(s)/Next Step(s):

DIRECT staff to continue to monitor the bill. DIRECT staff to work with the state advocate, Cathy Christian, to request a meeting with Assembly Member Frazier to discuss the bills in more detail.

Fiscal Impact (if any):

As proposed, the reallocation could potentially impact the County General Fund at approximately $970,776 (current yearly estimate) and the Library's share would be an additional $137,537.

Attachments

Attachment A: AB 898 Bill Text

Attachment B: AB 899 Bill Text

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 898

Introduced by Assembly Member Frazier

February 16, 2017

An act relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 898, as introduced, Frazier. Property taxation: revenue allocation: fire protection services.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures. Existing law generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing law provides for the computation, on the basis of these allocations, of apportionment factors that are applied to actual property tax revenues in each county in order to determine actual amounts of property tax revenue received by each recipient jurisdiction. The California Constitution requires that a statute that changes for any fiscal year the pro rata shares of ad valorem property tax revenues that are allocated among local agencies in a county be approved by a $\frac{2}{3}$ vote of each house of the Legislature.

This bill would state the intent of the Legislature to enact legislation that would reallocate property tax revenue to fire protection services.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to enact legislation that would reallocate property tax revenue to fire protection services.

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CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL No. 899

Introduced by Assembly Member Frazier

February 16, 2017

An act relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 899, as introduced, Frazier. Local government finance: property tax revenue allocations: County of Contra Costa.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenues to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined.

This bill would state the intent of the Legislature to enact legislation that would provide for an election in the County of Contra Costa for the purpose of reallocating property tax revenues for fire protection services in that county.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to enact legislation that would provide for an election in the County of

Contra Costa for the purpose of reallocating property tax revenues for fire protection services in that county.

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Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE **11.**

Meeting Date:	03/13/2017
Subject:	SB 222 (Hernandez): Inmates: Health Care Enrollment
Submitted For:	LEGISLATION COMMITTEE,
Department:	County Administrator
Referral No.:	2017-14
Referral Name:	SB 222 (Hernandez): Inmates: Health Care Enrollment
Presenter:	L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

SB 222 (Hernandez) was referred to the Legislation Committee by staff of the Employment and Human Services Department (EHSD). There are no specific policies in the Board's adopted 2017 State Platform that align directly with the bill, which aims to increase access to health care services for Medi-Cal beneficiaries immediately after incarceration. However, these kinds of policies and practices are aligned with the County's work to facilitate the successful reentry of returning residents from incarceration and health care access is a vital component of reentry.

Referral Update:

SB 222 (Hernandez): Inmates: Health Care Enrollment

Introduced:	02/02/2017
Disposition:	Pending
Location:	Senate Health Committee
Summary:	Requires the suspension of Medi-Cal benefits to end on the date he or she is no longer an inmate of a public institution or is no longer otherwise eligible for benefits under the Medi-Cal program. Requires the State Department of Health Care Services, in consultation with specified stakeholders, to develop and implement a simplified annual renewal process for individuals in a suspended eligibility status.
Status:	02/16/2017 To SENATE Committees on HEALTH and PUBLIC SAFETY.

Attachment A is a Fact Sheet from the bill's author. *Attachment B* is the bill text.

Recommendation(s)/Next Step(s):

CONSIDER recommending to the Board of Supervisors a position of "Support" on SB 222 (Hernandez): Access to Medi-Cal for Former Inmates, as recommended by staff of EHSD and the Office of Reentry and Justice.

Attachments

Attachment A: SB 222 Fact Sheet

Attachment B: SB 222 Bill Text

California State Senate
SENATOR
ED HERNANDEZ, O.D.
TWENTY-SECOND SENATE DISTRICT

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SB 222 (Hernandez)

Access to Medi-Cal for Former Inmates

Purpose

SB 222 will increase access to critical health care services for Medi-Cal beneficiaries immediately after incarceration, a time of increased risk for medical problems, recidivism, and even death.

Background

Many individuals entering California correctional facilities have long, untreated physical and behavioral health needs that require access to intensive health care services. Compared to other individuals in the community, incarcerated individuals are more likely to have chronic physical and mental conditions. For example, they have higher rates of tuberculosis, HIV, Hepatitis B and C, and diabetes. Additionally, they are two to four times more likely to suffer from a serious mental illness and more than 50% have a diagnosable substance abuse disorder. It is vital that access to health care benefits provided prior to incarceration are also available immediately upon release to allow for uninterrupted services. Proper health care has the potential to make a significant difference in the lives of this already vulnerable population by providing critical community services, avoiding crises and unnecessary institutionalization.

California's largest county, Los Angeles, reports that about 35% of individuals entering jail each month are Medi-Cal beneficiaries. While federal law does not allow Medicaid to pay for the cost of health care for individuals while incarcerated (with the exception of certain medical inpatient services provided outside of the correctional facility), the Centers for Medicare & Medicaid Services encourages states to allow individuals to remain enrolled but to have their Medicaid coverage suspended until they leave the correctional facility.

The problem

Under existing state law, Medi-Cal beneficiaries who become justice involved have their benefits suspended for one year or until they are released, whichever comes first. Anyone incarcerated for longer than one year has their Medi-Cal coverage terminated. Individuals who lose coverage due to longer-term incarceration need to reapply for coverage, a time- and labor-intensive process. Although some jails, and all state prisons, provide varying degrees of assistance to help individuals apply for Medi-Cal prior to

release, this process is not efficient for individuals who had their coverage terminated. Terminating benefits prior to release, rather than leaving individuals in a suspended status, increases the likelihood that they will not have adequate access to services upon release from incarceration. According to a report released by the Kaiser Family Foundation, improved access to services and better management of health conditions immediately after release from jail or prison has shown to reduce rates of recidivism, particularly among individuals with mental health and substance abuse disorders. Studies of suspension of Medicaid coverage for justice involved individuals implemented in Florida and Washington found those enrolled in Medicaid at the time of release had 16% fewer incidents of recidivism compared to those not enrolled at the time of release.

This bill

SB 222, sponsored by the County Welfare Directors Association and the Californians for Safety and Justice, will provide individuals who were previously enrolled in Medi-Cal with immediate access to Medi-Cal benefits after their release from jail or prison. Specifically, this bill requires the Department of Health Care Services (DHCS) to extend the suspension of Medi-Cal benefits of justice involved persons until they are released, regardless of the length of the incarceration. This extension of the suspended status allows for prompt return of Medi-Cal benefits after individuals are released, without the need to reapply for coverage. Additionally, to aid in the annual reassessment process of justice involved individuals with suspended Medi-Cal benefits, DHCS is required to develop and implement a simplified renewal procedure.

Contact

Bao Nguyen / (916) 651-4022 / bao.nguyen@sen.ca.gov.

SENATE BILL No. 222

Introduced by Senator Hernandez

February 2, 2017

An act to amend Section 14011.10 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 222, as introduced, Hernandez. Inmates: health care enrollment.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law requires Medi-Cal benefits to an individual who is an inmate of a public institution to be suspended effective the date he or she becomes an inmate of a public institution. Existing law requires the suspension to end on the date that he or she is no longer an inmate of a public institution or one year from the date he or she becomes an inmate of a public institution, whichever is sooner.

This bill instead would require the suspension of Medi-Cal benefits to end on the date he or she is no longer an inmate of a public institution or is no longer otherwise eligible for benefits under the Medi-Cal program. The bill would require the department, in consultation with specified stakeholders, to develop and implement a simplified annual renewal process for individuals in a suspended eligibility status, and would require the department to seek any necessary federal approvals or waivers to implement this provision.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 14011.10 of the Welfare and Institutions Code is amended to read:

14011.10. (a) Except as provided in Sections 14053.7 and 14053.8, benefits provided under this chapter to an individual who is an inmate of a public institution shall be suspended in accordance with Section 1396d(a)(29)(A) of Title 42 of the United States Code as provided in subdivision (c).

(b) County welfare departments shall notify the department within 10 days of receiving information that an individual on Medi-Cal in the county is or will be an inmate of a public institution.

(c) If an individual is a Medi-Cal beneficiary on the date he or she becomes an inmate of a public institution, his or her benefits under this chapter and under Chapter 8 (commencing with Section 14200) shall be suspended effective the date he or she becomes an inmate of a public institution. The suspension shall end on the date he or she is no longer an inmate of a public institution or ~~one year from the date he or she becomes an inmate of a public institution,~~ *is no longer otherwise eligible for benefits under the Medi-Cal program,* whichever is sooner.

(d) The department, in consultation with stakeholders, including the County Welfare Directors Association and advocates, shall develop and implement a simplified annual renewal process for individuals who are in a suspended eligibility status under this section. The department shall seek any necessary federal approvals or waivers to implement this subdivision.

~~(d)~~

(e) This section does not create a state-funded benefit or program. Health care services under this chapter and Chapter 8 (commencing with Section 14200) shall not be available to inmates of public institutions whose Medi-Cal benefits have been suspended under this section.

~~(e)~~

(f) This section shall be implemented only if and to the extent allowed by federal law. This section shall be implemented only to the extent that any necessary federal approval of state plan amendments or other federal approvals are obtained.

~~(f)~~

(g) If any part of this section is in conflict with or does not comply with federal law, this entire section shall ~~be~~ *become* inoperative.

~~(g)~~

(h) This section shall be implemented on January 1, 2010, or the date when all necessary federal approvals are obtained, whichever is later.

~~(h)~~

(i) By January 1, 2010, or the date when all necessary federal approvals are obtained, whichever is later, the department, in consultation with the Chief Probation Officers of California and the County Welfare Directors Association, shall establish the protocols and procedures necessary to implement this section, including any needed changes to the protocols and procedures previously established to implement Section 14029.5.

~~(i)~~

(j) The department shall determine whether federal financial participation will be jeopardized by implementing this section and shall implement this section only if and to the extent that federal financial participation is not jeopardized.

~~(j)~~

(k) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions without taking regulatory action. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

O

Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE **12.**

Meeting Date: 03/13/2017

Subject: County Comments on the State's Efforts to Reform Title 5 School Siting and Design Practices

Submitted For: John Kopchik, Director, Conservation & Development Department

Department: Conservation & Development

Referral No.: 1

Referral Name: 1: Review legislative matters on transportation, water, and infrastructure. 12: Monitor the implementation of the County Complete Streets Policy.

Presenter: John Cunningham, 674-7833 **Contact:** John Cunningham (925) 674-7833

Referral History:

The issue of school siting is a longstanding issue with the County. This item is typically discussed at the Transportation, Water, and Infrastructure Committee and the full Board of Supervisors. However, the issue has a legislative component and is being brought to the Legislative Committee in March.

Referral Update:

History

The reform of State school siting policies is a longstanding item of the Board of Supervisors (BOS) largely due to our experience with problematic sites in East Contra Costa County. In short, the County has found that school siting practices are in conflict with community development/growth management goals, student safety, agricultural preservation, safe routes to school, and complete streets policies. In addition, the State is internally conflicted in that school siting practices undermine state level policies similar to our own, including greenhouse gas reduction, safe routes to school, public health, vehicle miles traveled, etc.

Update

The County's efforts in advocating for the reform of school siting is being bolstered by three efforts now taking place at the state:

1. **The California Department of Education (CDE) has initiated a long anticipated update to Title 5 which contains school siting and design guidance.** County staff has attended a webinar held by CDE on the update and met with CDE staff at the County Office of Education's regular school facilities coordination meeting.
2. **The State Assembly Committee on Education initiated an effort to streamline the Title 5 school approval process.** In contrast to CDE's well publicized update to Title 5, very little is known about this "streamlining" effort. As alluded to in the Board of Supervisor's February 8, 2017 letter to the Assembly Committee on Education, it does not appear that the

streamlining effort is being coordinated with CDE's Title 5 update.

3. **The Governor's Office of Planning and Research (OPR) and the Strategic Growth Council have been conducting research and outreach regarding State school siting practices**. OPR staff has interviewed County staff regarding our experience with school siting issues. In addition OPR staff attended California County Planning Directors Association 2017 Annual Conference and gave a presentation on their efforts relative to Title 5 and school siting. At the Conference Contra Costa County staff communicated our concerns about the school siting practices. In addition, many other Counties voiced their concerns to OPR staff as well.

In the past, the County has been advocating for school siting reform absent any formal process at the state to accommodate or respond to our concerns. That said, staff intends on making the most of the opportunity represented by the three efforts listed above. The attached draft letter communicates the County's recommendations for consideration by the State on school siting practices.

Draft Letter

Given the general input being provided the approach we are taking at this time is to have staff, through the Planning Integration Team for Community Health (PITCH), provide comments to the State. At this early point in the Title 5 update process we are asking that our concepts be further explored by the State. As the process moves ahead, staff will return to the BOS with more explicit recommendations. Those recommendations are likely to include legislation to grant the necessary authority to CDE to appropriately manage the school siting program.

Having the PITCH Departments approach the state on this topic is a new strategy. This letter can also be used by staff representing each discipline, engineering, planning, and public health, to approach their respective professional organizations and related advocacy groups for support on this effort.

Staff from the PITCH Departments have been asked to review and comment on the letter and attend the March 13 meeting of the Legislative Committee. As seen in the draft letter, staff is requesting that the State examine the involvement of the Local Agency Formation Commission in school siting decisions. That said, staff from LAFCO was also requested to review the letter and attend the upcoming meeting of the Legislative Committee.

Recommendation(s)/Next Step(s):

DISCUSS the attached letter to the State regarding school siting practices, REVISE as appropriate, and CONSIDER recommending to the Board of Supervisors that staff be AUTHORIZED to send the attached letter on behalf of the County.

Fiscal Impact (if any):

None.

Attachments

DRAFT Letter: CC County to CA CDE Re Title 5

CC County: Title 5 Mark Up

Contra Costa County

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JULIA R. BUEREN, DIRECTOR

D R A F T

March 28, 2017

Tom Torlakson, Superintendent of Public Instruction
California Department of Education
1430 N St, Sacramento, CA 95814

DRAFT Subject: Title 5 School Siting and Design Standards Review

Dear Superintendent Torlakson:

This letter responds to the California Department of Education's (Department) School Facilities & Transportation Services Division request for input on its review of Title 5 which was initiated in late 2016. Contra Costa County (County) welcomes this review as we have experienced negative outcomes resulting from gaps in state school siting practices relative to contemporary land use and transportation planning statutes and principles. Specifically, the County urges the Department to conform school siting practices with State and local policies to ensure that the siting of new schools does not violate goals related to student safety, growth management, greenhouse gas reduction, agricultural preservation, and general public health.

The County recognizes the significant link between the built environment and public health. This recognition led the Board of Supervisors to create a staff level committee in 2007, the Planning Integration Team for Community Health (PITCH). PITCH is comprised of staff from three Departments, Conservation and Development, Health Services, and Public Works. Respectively, these Departments are responsible for land use/transportation planning, public health, and engineering. PITCH advises the Board of Supervisors on policies and strategy related to land development, grant applications, policy changes, infrastructure investment, etc.

Given the significant and enduring effect that schools have on the character and safety of the community surrounding school sites, the Board of Supervisors directed PITCH to develop this response to the Title 5 revision effort. We are providing comments as follows:

1. Immediately below we provide background information, the policy context in which the PITCH Departments developed the comments.
2. Further below, in the body of this letter, we include broad concepts for your consideration in revising the school siting and development process.
3. Attached we have provided specific revisions directly in the existing Title 5 text.

Background
There are substantial policies that guide land development and transportation infrastructure investment at both the local and state levels. School sites, which have a substantial impact on the safety and character of the surrounding community, and serve a vulnerable population, are not subject to the policies below.

Stated another way, the very projects that should *most* adhere to these policies, are immune from them. In fact, current school siting practices often directly violate and actively undermine the policies below.

Local

Urban Limit Line: Contra Costa County voters approved an Urban Limit Line (ULL) in 1990. In 2006 voters passed a new Measure which affirmed and extended the ULL protection to 2026. The ULL limits urban development to certain areas of the County and helps to preserve farmland and open space.

Locating schools outside the ULL directly undermines the will of the voters by driving development assumptions and patterns. Specifically, when a school is sited in a rural or agricultural area, infrastructure for roads, utilities, homes, and businesses develop around it. This defeats the purpose of an urban limit line.

Complete Streets: Contra Costa County's Complete Streets policy was adopted by General Plan revision in 2008 and pre-dates the State Complete Streets Act. The policy was reaffirmed and expanded in 2016 with the Board of Supervisors Adoption of an updated Complete Streets Policy. Complete Streets recognizes that streets serve many users and should accommodate users of all ages, abilities, and modes including cyclists, pedestrians, transit users and the mobility impaired.

When schools are located as infrastructure islands in rural or agricultural areas it is not financially possible to provide adequate transportation infrastructure throughout the school attendance boundaries to accommodate student cyclists and pedestrians.

Climate Action Plan: In December 2015, Contra Costa County adopted a Climate Action Plan that outlines how we will reduce greenhouse gas emissions in our County. The Climate Action Plan has goals and requirements regarding green buildings; the State should ensure that the Title 5 update recognizes local sustainability and green building policies, as well as comply with State policies. The Climate Action Plan sets goals for increasing active transportation in our County with specific targets around number of weekday bike trips, implementing the Safe Routes to School program, and reducing the number of vehicle miles traveled.

State

Complete Streets Act of 2008: Similar to Contra Costa County's local policy, the state complete streets act directs that transportation facilities be planned, designed, operated, and maintained to provide safe mobility for all users, including bicyclists, pedestrians, transit vehicles, etc. appropriate to the function and context of the facility.

Again, when the State facilitates the development of schools in disconnected areas it compromises the ability for local jurisdictions to adhere to complete streets policies.

Greenhouse Gas (GHG) Reduction Legislation (AB32 – 2006, SB375 – 2008, SB743 – 2013): This State legislation, through various mechanisms, dictate how GHG's are to be reduced. Given that land development is most often a local activity, the ultimate dictates of these initiatives fall to the locals to implement through changes to land development and infrastructure investment practices.

While local jurisdictions are implementing these state policies at the local level, the State school siting program is actively undermining the very same legislation by facilitating the development of school sites in remote areas.

Recognizing this issue, in the California Air Resources Board's original draft implementation guidance for AB 32, the reform of school siting practices was included. In the final version, the guidance was removed without explanation.

Health In All Policies: The State has adopted a Health in All Policies (HIAP) approach to improving the health of all people by incorporating health considerations into collaborative decision-making across sectors and policy areas. The HIAP effort includes 22 State agencies and departments that falls under the Health In All Policies Task Force which is in turn overseen by the Strategic Growth Council.

Similar to GHG reduction efforts there is a serious internal conflict at the State. While efforts are made through the HIAP effort to improve health through policy changes, the State school siting program is actively undermining this effort by facilitating the development of school sites in remote areas. This practice limits the ability for students to use active transportation to make the school/home/school trip. Concurrently, State school siting practices compromise safety for those that do walk/bike to school because it is not financially possible to construct adequate non-motorized transportation infrastructure connecting remote schools to the communities they serve.

Again, similar to the GHG reduction effort this issue was acknowledged by the State early during HIAP implementation. The original, draft strategies for implementing HIAP included addressing school siting practices. With no explanation, subsequent revisions to the HIAP removed school siting reform activities.

General Comments

Funding: In Contra Costa, and we assume other rural areas, one significant reason schools are developed in rural or agricultural areas is because of cost, the land is cheaper. Unless this fundamental issue is addressed, it is unlikely that any policy changes will be effective or meaningful. The State should consider financial incentives and disincentives in reforming the school siting program.

Ineffective Existing Guidance: There is substantial existing guidance and statutes related to school siting. Site selection, safety considerations, access, consultation with local land use agencies are all in this guidance. Unless a compulsory component is included in any policy changes, the policies will continue to be ignored.

Urban Limit Line (ULL)/Urban Growth Boundary (UGB): At a minimum, the state should respect the will of voters and should prohibit school districts from acquiring and developing school sites outside of adopted ULLs/UGBs. Absent an outright prohibition and building on the "Funding" comment above, the state could adopt incentives and/or disincentives that would help protect the ULL/UGB. This concept would reflect the subsidiarity, a concept which some favor.

Expand Authority of Local Agency Formation Commissions (LAFCO): The two main purposes of LAFCOs per the Cortese-Knox-Hertzberg Act are **1)** discourage sprawl, and **2)** encourage planned, orderly, coordinated, logical development. This authority directly addresses the problems experienced by Contra Costa County.

Complete Streets Consistency: The following approach would help to bring school siting practices into consistency with State and local policies relative to complete streets, active transportation, safe routes to school, greenhouse gas reduction, and health in all policies.

1) The school board may only <u>approve the purchase</u> of a school site if the board also:

- *Makes findings with substantial evidence in the record that the proposed site complies with, or will ultimately comply with, all applicable guidance in Title 5, Guide to School Site Analysis and Development, and School Site Selection and Approval Guide. These findings should provide enough relevant information or data and reasonable inferences to support the conclusion that the proposed site complies with the aforementioned policy documents,(as they may be amended or superseded from time to time), and*

- *Approves a preliminary multimodal (bus, automobile, pedestrian, bicycle, active) circulation and safety plan (spanning both immediate site access and attendance boundaries) approved by a licensed traffic engineer.*
- *Must establish that it is reasonable to project that all necessary, multi-modal transportation infrastructure will be in place concurrent with the opening of the school (secured bond, projects on local capital improvement plan for instance)*

2) The school board may only approve a final school design if the board also:

- *Makes findings with substantial evidence in the record that the proposed site will comply with all applicable guidance in Title 5, Guide to School Site Analysis and Development, and School Site Selection and Approval Guide upon opening of the school. These findings should provide enough relevant information or data and reasonable inferences to support the conclusion that the proposed site complies with the aforementioned policy documents, as they may be amended or superseded from time to time,*
- *Approves a final multimodal (bus, automobile, pedestrian, bicycle, active) circulation and safety plan (spanning both immediate site access and attendance boundaries) approved by a licensed traffic engineer.*
- *Establish that all necessary, multi-modal transportation infrastructure will be in place concurrent with the opening of the school.*

These comments do not necessarily reflect adopted policy positions of the Board of Supervisors at this time. These concepts are being provided for further examination by the state. We understand the Title 5 process will continue to include review opportunities.

We look forward to your response and working with the State in addressing this serious issue.

Sincerely,

John Kopchik, Director
Department of Conservation and Development

Dr. William Walker, Director
Health Services Department

Julia R. Bueren, Director
Public Works Department

C:
Members, Board of Supervisors
Contra Costa County Legislative Delegation
Kathryn Lyddan, CA Department of Conservation
Siddharth Nag, CA Gov Office of Planning and Research
Kiana Buss, California State Association of Counties
Nick Schweizer, CA Department of Education
Juan Mireles, CA Department of Education
Jahmal Miller, CA Department of Public Health
Ken Alex, CA Strategic Growth Council
Bob Glover, Building Industry Association of the Bay Area
Members, California County Planning Directors Association

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Contra Costa County Comments on Title 5 Revision Process. Revisions are in redline/strikeout format. Annotations on the revisions are in [brackets in typewriter font].

Title 5. Education
Division 1. California Department of Education
Chapter 13. School Facilities and Equipment
Subchapter 1. School Housing
Article 1. General Standards

§ 14001. Minimum Standards.

Educational facilities planned by school districts shall be:

(a) Evolved from a statement of educational program requirements which reflects the school district's educational goals and objectives.

(b) Master-planned to provide for maximum site enrollment..

(c) Located on a site which meets California Department of Education standards as specified in Section 14010.

(d) Designed for the environmental comfort and work efficiency of the occupants.

(e) Designed to require a practical minimum of maintenance.

(f) Designed to meet federal, state, and local statutory requirements for structure, fire, and public safety.

(g) Designed and engineered with flexibility to accommodate future needs.

(h) Located and designed to support greenhouse gas and vehicle miles traveled reduction goals as set forth in AB 32, SB 375, and SB743 with access infrastructure consistent with the AB 1358 (2008- Complete Streets Act).

(i) Located on a site which will have transportation infrastructure supporting non-motorized travel by K-12 population throughout the attendance boundary of the school. [reflects authority established with the "safety" references in EDC § 17251 (c) and (f)].

Note: Authority cited: Sections 17251(b) and 33031, Education Code. Reference: Sections 17017.5 and 17251(b), Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

2. Amendment of text and adoption of Note filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

3. Amendment of Note filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

5 CCR § 14001, 5 CA ADC § 14001

Title 5. Education
Division 1. California Department of Education
Chapter 13. School Facilities and Equipment
Subchapter 1. School Housing
Article 2. School Sites

§ 14010. Standards for School Site Selection.

All districts shall select a school site that provides safety and that supports learning. The following standards shall apply:

(a) The net usable acreage and enrollment for a new school site shall be consistent with the numbers of acres and enrollment established in the 2000 Edition, "School Site Analysis and Development" published by the California Department of Education and incorporated into this section by reference, in toto, unless sufficient land is not available or circumstances exist due to any of the following:

(1) Urban or suburban development results in insufficient available land even after considering the option of eminent domain.

(2) Sufficient acreage is available but it would not be economically feasible to mitigate geological or environmental hazards or other site complications which pose a threat to the health and/or safety of students and staff.

(3) Sufficient acreage is available but not within the attendance area of the unhoused students or there is an extreme density of population within a given attendance area requiring a school to serve more students on a single site. Choosing an alternate site would result in extensive long-term bussing of students that would cause extreme financial hardship to the district to transport students to the proposed school site.

(4) Geographic barriers, traffic congestion, inadequate transportation infrastructure for K-12 cyclists and/or pedestrians, high vehicle speeds/driver behavior[JC1], or other constraints ~~would~~ cause extreme school access issues for the school district and the community at large. ~~financial hardship for the district to transport students to the proposed school site~~[JC2]. [a: Regarding the struck out text, excepting special needs students, school districts are not obligated to provide transportation. Regardless, the listed issues **DO** create a hardship for parents, students, and local jurisdictions who are left to provide transportation infrastructure b: ıThis is not a random comment grousing about speeding cars. Surveys/study/data **consistently** show that the largest reason children don't walk to school is "driver behavior or speeding". This should not be ignored. The assumption should be that kids WILL walk to school, even if it is unsafe or there are no facilities. In our rural areas kids are forced to walk to school because there are no parents to drive. Please see attached, **CCCounty-CTCDC_school zones-speedingSB632.pdf.]**

(b) If a school site is less than the recommended acreage required in subsection (a) of this section, the district shall demonstrate how the students will be provided an adequate educational program including physical education as described in the district's adopted course of study.

(c) The property line of the site even if it is a joint use agreement as described in subsection (o) of this section shall be at least the following distance from the edge of respective power line easements:

(1) 100 feet for 50-133 kV line.

(2) 150 feet for 220-230 kV line.

(3) 350 feet for 500-550 kV line.

(d) If the proposed site is within 1,500 feet of a railroad track easement, a safety study shall be done by a competent professional trained in assessing cargo manifests, frequency, speed, and schedule of railroad traffic, grade, curves, type and condition of track need for sound or safety barriers, need for pedestrian and vehicle safeguards at railroad crossings, presence of high pressure gas lines near the tracks that could rupture in the event of a derailment, preparation of an evacuation plan. In addition to the analysis, possible and reasonable mitigation measures must be identified.

(e) The site shall not be adjacent to a road or freeway that any site-related traffic and sound level studies have determined will have safety problems or sound levels which adversely affect the educational program.

(f) Pursuant to Education Code sections 17212 and 17212.5, the site shall not contain an active earthquake fault or fault trace.

(g) Pursuant to Education Code sections 17212 and 17212.5, the site is not within an area of flood or dam flood inundation unless the cost of mitigating the flood or inundation impact is reasonable.

(h) The site shall not be located near an above-ground water or fuel storage tank or within 1500 feet of the easement of an above ground or underground pipeline that can pose a safety hazard as determined by a risk analysis study, conducted by a competent professional, which may include certification from a local public utility commission.

(i) The site is not subject to moderate to high liquefaction or landslides.

(j) The shape of the site shall have a proportionate length to width ratio to accommodate the building layout, parking and playfields that can be safely supervised and does not exceed the allowed passing time to classes for the district.

(k) The site shall be easily accessible from arterial roads and shall allow minimum peripheral visibility from the planned driveways in accordance with the Sight Distance Standards established in the “Highway Design Manual,” Table 201.1, published by the Department of Transportation, July 1, 1990 edition, and incorporated into this section by reference, in toto.

(l) The site shall not be on major arterial streets with a heavy traffic pattern as determined by site-related traffic studies including those that require student crossings unless mitigation of traffic hazards and a plan for the safe arrival and departure of students appropriate to the grade level has been provided by city, county or other public agency in accordance with the “School Area Pedestrian Safety” manual published by the California Department of Transportation, 1987 edition, incorporated into this section by reference, in toto. [Considering the wealth of new policies that the state has developed over the past 10 years this language needs to be rewritten. Current practices are in direct conflict with the complete streets act, health in all policies, AB32/SB375 concepts, Caltrans Smart Mobility Framework, and the many revisions to the Highway Design Manual. Considering how the underlying transportation policy framework has shifted the current state and LEA policies and practices should be considered archaic.]

(m) Existing or proposed zoning of the surrounding properties shall be compatible with schools in that it would not pose a potential health or safety risk to students or staff in accordance withEducation Code Section 17213 and Government Code Section 65402 and available studies of traffic surrounding the site.

(n) The site shall be located within the proposed attendance area to encourage student walking and avoid extensive bussing unless bussing is used to promote ethnic diversity.

(o) The site shall be selected to promote joint use of parks, libraries, museums and other public services, the acreage of which may be included as part of the recommended acreage as stated in subsection (a) of this section.

(p) The site shall be conveniently located for public services including but not limited to fire protection, police protection, public transit and trash disposal whenever feasible.

(q) The district shall consider environmental factors of light, wind, noise, aesthetics, and air pollution in its site selection process.

(r) Easements on or adjacent to the site shall not restrict access or building placement.

(s) The cost and complications of the following shall be considered in the site selection process and should not result in undue delays or unreasonable costs consistent with State Allocation Board standards:

(1) Distance of utilities to the site, availability and affordability of bringing utilities to the site.

(2) Site preparation including grading, drainage, demolition, hazardous cleanup, including cleanup of indigenous material such as serpentine rock, and off-site development of streets, curbs, gutters and lights.

(3) Eminent domain, relocation costs, severance damage, title clearance and legal fees.

(4) Long-term high landscaping or maintenance costs.

(5) Existence of any wildlife habitat that is on a protected or endangered species list maintained by any state or federal agency, existence of any wetlands, natural waterways, or areas that may support migratory species, or evidence of any environmentally sensitive vegetation.

(t) If the proposed site is on or within 2,000 feet of a significant disposal of hazardous waste, the school district shall contact the Department of Toxic Substances Control for a determination of whether the property should be considered a Hazardous Waste Property or Border Zone Property.

(u) At the request of the governing board of a school district, the State Superintendent of Public Instruction may grant exemptions to any of the standards in this section if the district can demonstrate that mitigation of specific circumstances overrides a standard without compromising a safe and supportive school environment.

Note: Authority cited: Sections 17251(b) and 33031, Education Code. Reference: Sections 17212, 17212.5, 17213, 17251(b) and 17251(f), Education Code.

HISTORY

1. Renumbering of former section 14010 to section 14011 and new section filed 11-12-93; operative 12-13-93 (Register 93, No. 46). For prior history, see Register 77, No. 39.

2. Amendment of section and Note filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

5 CCR § 14010, 5 CA ADC § 14010

§ 14011. Procedures for Site Acquisition - State-Funded School Districts.

A state-funded school district is defined as a school district having a project funded under Chapter 12.5 (commencing with Section 17070.10) of the Education Code. A state-funded school district, before acquiring title to real property for school use, shall obtain written approval from the California Department of Education using the following procedures:

(a) Request a preliminary conference with a consultant from the School Facilities Planning Division and in consultation review and evaluate sites under final consideration.

(b) Contact the School Facilities Planning Division of the California Department of Education to obtain a “School Facilities Planning Division Field Site Review,” form SFPD 4.0, published by the California Department of Education, as last amended in December 1999 and incorporated into this section by reference, in toto, which lists the site options in order of merit according to the site selection standards delineated in Section 14010.

(c) Prepare a statement of policies as delineated on the “School Facilities Planning Division School Site Report,” form SFPD 4.02, as last amended in December 1999 and incorporated into this section by reference, in toto, covering the range and organization of grades to be served, the transportation of pupils, and the ultimate maximum pupil enrollment to be housed on the site. Prepare a statement showing how the site is appropriate in size as justified by the school district's Facilities Master Plan, including acreage increases above the California Department of Education recommendation made to compensate for off-site mitigation. A school district may choose, in place of a master plan, a developer fee justification document or a five-year plan if it addresses enrollment projections, needed schools, and site sizes.

(d) Prepare maps showing present and proposed school sites, significant roads or highways, unsanitary or hazardous installations, such as airports or industries and the indicated boundary of the pupil attendance area to be served as delineated on form SFPD 4.02.

(e) Meet with appropriate local government, recreation, and park authorities to consider possible joint use of the grounds and buildings and to coordinate the design to benefit the intended users as required by Education Code Section 35275.

(f) Give written notice to the local planning agency having jurisdiction to review the proposed school site or addition to an existing school site and request a written report from the local planning agency of the investigations and recommendations for each proposed site with respect to conformity with the adopted general plan as required by Public Resources Code Section 21151.2 andGovernment Code Section 65402.

(g) Comply with Education Code Sections 17212 and 17212.5, with particular emphasis upon an engineering investigation made of the site to preclude locating the school on terrain that may be potentially hazardous:

(1) The geological and soils engineering study shall address all of the following:

(A) Nature of the site including a discussion of liquefaction, subsidence or expansive soils, slope, stability, dam or flood inundation and street flooding.

(B) Whether the site is located within a special study zone as defined in Education Code Section 17212.

(C) Potential for earthquake or other geological hazard damage.

(D) Whether the site is situated on or near a pressure ridge, geological fault or fault trace that may rupture during the life of the school building and the student risk factor.

(E) Economic feasibility of the construction effort to make the school building safe for occupancy.

(2) Other studies shall include the following:

(A) Population trends

(B) Transportation

(C) Water supply

(D) Waste disposal facilities

(E) Utilities

(F) Traffic hazards

(G) Surface drainage conditions

(H) Other factors affecting initial and operating costs.

(h) Prepare an environmental impact report, or negative declaration in compliance with the Environmental Quality Act, Public Resources Code, Division 13, (commencing with Section 21000 with particular attention to Section 21151.8). As required by Education Code Section 17213, the written findings of the environmental impact report or negative declaration must include a statement verifying that the site to be acquired for school purposes is not currently or formerly a hazardous, acutely hazardous substance release, or solid waste disposal site or, if so, that the wastes have been removed. Also, the written findings must state that the site does not contain pipelines which carry hazardous wastes or substances other than a natural gas supply line to that school or neighborhood. If hazardous air emissions are identified, the written findings must state that the health risks do not and will not constitute an actual or potential danger of public health of students or staff. If corrective measures of chronic or accidental hazardous air emissions are required under an existing order by another jurisdiction, the governing board shall make a finding that the emissions have been mitigated prior to occupancy of the school.

(i) Consult with, or demonstrate that the lead agency, if other than the district preparing the environmental impact report or negative declaration, has consulted with the appropriate city/county agency and with any air pollution control district or air quality management district having jurisdiction, concerning any facilities having hazardous or acutely hazardous air emissions within one-fourth of a mile of the proposed school site as required by Education Code Section 17213.

(j) For purposes of Environmental Site Assessment, school districts shall comply with Education Code sections 17210.1, 17213.1, and 17213.2.

(k) Follow the recommendations of the State Superintendent of Public Instruction report based upon the Department of Transportation, Division of Aeronautics, findings, if the proposed site is within two miles of the center line of an airport runway or proposed runway as required by Education Code Section 17215.

(l) Follow the standards for school site selection in Section 14010 of this article.

(m) Conduct a public hearing by the governing board of the school district as required in Education Code Section 17211 to evaluate the property using the standards described in Section 14010 of this article. The school district's facility advisory committee may provide an evaluation of the proposed site to the governing board.

(n) Submit the request for exemption from a standard in Section 14010 of this article, with a description of the mitigation that overrides the standard, to the California Department of Education.

(o) Certify there are no available alternative school district-owned sites for the project deemed usable for school purposes by the California Department of Education or certify that the school district intends to sell an available alternative school district-owned site and use the proceeds from the sale for the purchase of the new school site.

Note: Authority cited: Sections 17251(b) and 33031, Education Code. Reference: Sections 17070.50, 17072.12, 17210.1, 17211, 17212, 17213 and 17251(b), Education Code.

HISTORY

1. Renumbering and amendment of section 14010 to section 14011 and adoption of Note filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

2. Amendment of section heading, section and Note filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

5 CCR § 14011, 5 CA ADC § 14011

§ 14012. Procedures for Site Acquisition - Locally-Funded School Districts.

A locally-funded school district is defined as a school district with a project not applying for funding from any state program administered by the State Allocation Board as defined in Chapter 12.0 (commencing with Section 17000) or Chapter 12.5 (commencing with Section 17070.10) of the Education Code. A locally-funded school district, before acquiring title to real property for school use, shall:

(a) Evaluate the property using the standards established in Section 14010 and items (e) through (l) in Section 14011;

(b) Comply with terms of the complaint investigation described in Section 14012(d); and

(c) May request advice from the California Department of Education as described in Education Code Section 17211(a).

(d) Prepare documentation of and retain for purposes of a complaint investigation the exemption from the standard in Section 14010 of this article with a description of the mitigation that overrides the standard. Locally-funded school districts may request from the California Department of Education a review of the adequacy of the mitigation measure.

(e) Comply with Education Code section 17268 regarding potential safety or health risks to students and staff.

Note: Authority cited: Sections 17251(b) and 33031, Education Code. Reference: Sections 17251(a) and (b) and 17268, Education Code.

HISTORY

1. New section filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

2. Repealer of former section 14012 and renumbering of former section 14013 to new section 14012, including amendment of section heading, section and Note, filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

5 CCR § 14012, 5 CA ADC § 14012

§ 14013. Procedures for Site Acquisition - Locally-Funded Districts. [Renumbered]

Note: Authority cited: Section 39001(b), Education Code. Reference: Sections 17700 et. seq., 39101(a), and 39101(b), Education Code.

HISTORY

1. New section filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

2. Renumbering of former section 14013 to section 14012 filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

5 CCR § 14013, 5 CA ADC § 14013

§ 14030. Standards for Development of Plans for the Design and Construction of School Facilities.

The following standards for new schools are for the use of all school districts for the purposes of educational appropriateness and promotion of school safety:

(a) Educational Specifications.

Prior to submitting preliminary plans for the design and construction of school facilities, and as a condition of final plan approval by CDE, school board-approved educational specifications for school design shall be prepared and submitted to the California Department of Education based on the school district's goals, objectives, policies and community input that determine the educational program and define the following:

(1) Enrollment of the school and the grade level configuration.

(2) Emphasis in curriculum content or teaching methodology that influences school design.

(3) Type, number, size, function, special characteristics of each space, and spatial relationships of the instructional area that are consistent with the educational program.

(4) Community functions that may affect the school design. [this is ambiguous, substantial detail and examples should be added for this to be useful]

(b) Site Layout.

Parent drop off, bus loading areas, ~~and~~ parking, and non-motorized access ~~-~~shall be separated or otherwise designed to allow students to enter and exit the school grounds safely unless these features are unavailable due to limited acreage in urban areas or restrictive locations, specifically:

(1) Buses do not pass through parking areas to enter or exit school site unless a barrier is provided that prevents vehicles from backing directly into the bus loading area.

(2) Parent drop off area is adjacent to school entrance and separate from bus area and staff parking.

(3) Vehicle traffic pattern does not interfere with foot traffic patterns. Foot traffic does not have to pass through entrance driveways to enter school. Crosswalks are clearly marked to define desired foot path to school entrance.

(4) Parking stalls are not located so vehicles must back into bus or loading areas used by parents. Island fencing or curbs are used to separate parking areas from loading/unloading areas.

(5) To provide equal access to insure the purposes of the least restrictive environment, bus drop off for handicapped students is in the same location as for regular education students.

(6) To ensure safe, efficient access an active transportation plan for the entire attendance boundary shall be developed.

(7) Bicyclist and pedestrian access to school sites shall be encouraged through prioritized access and bicycle parking.

(c) Playground and Field Areas.

Adequate physical education teaching stations shall be available to accommodate course requirements for the planned enrollment, specifically:

(1) A variety of physical education teaching stations are available to provide a comprehensive physical education program in accordance with the district's adopted course of study (including hardcourt, field area and indoor spaces).

(2) The physical education teaching stations are adequate for the planned student enrollment to complete the minimum instruction and course work defined in Education Code Sections 51210(g), 51220(d) and 51225.3(a)(1)(F).

(3) Supervision of playfields is not obstructed by buildings or objects that impair observation.

(4) Joint use for educational purposes with other public agencies is explored. Joint use layout with parks is not duplicative and fulfills both agencies' needs.

(d) Delivery and Utility Areas.

Delivery and service areas shall be located to provide vehicular access that does not jeopardize the safety of students and staff:

(1) Delivery/utility vehicles have direct access from the street to the delivery area without crossing over playground or field areas or interfering with bus or parent loading unless a fence or other barrier protects students from large vehicle traffic on playgrounds.

(2) Trash pickup is fenced or otherwise isolated and away from foot traffic areas.

(e) Future Expansion.

Site layouts shall have capability for expansion without substantial alterations to existing structures or playgrounds:

(1) Site layout designates area(s) for future permanent or temporary additions that are compatible with the existing site plans for playground layout and supervision.

(2) Utilities to the expansion area are included in the plans and have the capacity to accommodate anticipated growth.

(3) Exits, corridors, stairs, and elevators are located to accommodate capacity of additions, particularly in such buildings added as the multi-purpose/cafeteria, administration, gymnasium/or auditorium.

(f) Placement of Buildings.

Building placement shall consider compatibility of the various functions on campus and provide optimum patterns of foot traffic flow around and within buildings. Site layout of buildings, parking, driveways, and physical education areas shall be adequate to meet the instructional, security and service needs of the educational program:

(1) Building placement is compatible with other functions on campus; e.g., band room is not next to library.

(2) Physical relationship of classrooms, auxiliary, and support areas allows unobstructed movement of staff and students around the campus.

(3) Building placement has favorable orientation to wind, sun, rain, and natural light.

(4) Restrooms are conveniently located, require minimum supervision, and, to the extent possible, are easily accessible from playground and classrooms.

(5) Parking spaces are sufficient for staff, visitors, and students (where applicable).

(6) The campus is secured by fencing and electronic devices such as code entries, electronic monitoring or motion sensors when needed.

(g) Classrooms.

Classrooms at new school sites shall have adequate space to perform the curriculum functions for the planned enrollment as described in the school district's facility master plan, specifically:

(1) Classroom size standards:

(A) General classrooms, grades one through twelve are not less than 960 square feet. Classrooms proposed of less than 960 square feet require written justification to be submitted to and approved by the State Superintendent of Public Instruction. Adjacent instructional space shall be included in the calculation of square feet for purposes of approving classroom design.

(B) Proposed classrooms of less than 960 square feet have written justification consistent with the educational program and curriculum indicating that the district's education program can be delivered in the proposed size classrooms.

(2) Total classroom space meets or exceeds the capacity planned for the school using the district's classroom loading standards in accordance with State Allocation Board policy.

(3) Consideration is given to some classrooms which are easily alterable in size and shape at a reasonable cost.

(4) Conduit/cabling and outlets are available for technology in each classroom to provide network and stand alone equipment related to the planned and future potential educational functions.

(h) Specialized Classrooms and Areas.

Specialized classrooms shall be designed to reflect the function planned for that portion of the educational program. If any of the following classrooms are needed, these standards apply:

(1) Small-Group Areas.

(A) Small-group instruction areas are not included in the computation of classroom size unless the area is an integral part of the classroom and can be visibly supervised by a teacher from the classroom.

(B) Small-group instruction areas are designed to allow for collaborative learning opportunities where appropriate to support the regular education program and are located in the vicinity of classrooms.

(2) Kindergarten Classrooms.

(A) Kindergarten classroom size for permanent structures is not less than 1350 square feet, including restrooms, storage, teacher preparation, wet and dry areas.

(B) Kindergarten classrooms are designed to allow supervision of play yards (unless prevented by site shape or size) and all areas of the classroom.

(C) Play yard design provides a variety of activities for development of large motor skills.

(D) Classrooms are located close to parent drop-off and bus loading areas.

(E) Storage, casework, and learning stations are functionally designed for use in free play and structured activities; e.g., shelves are deep and open for frequent use of manipulative materials.

(F) Windows, marking boards, sinks, drinking fountains, and furniture are appropriate heights for kindergarten-age students.

(G) Restrooms are self-contained within the classroom or within the kindergarten complex.

(3) Special Education Classrooms and Areas.

(A) A new school designates at least 240 square feet for the resource specialist program and provides additional space in accordance with the allocations in Education Code Section 17747(a)as larger enrollments are being planned.

(B) A new school designates at least 200 square feet for the speech and language program which is close to classrooms when an individualized instruction program is necessary.

(C) A new school designates office area for the psychologist/counseling program which provides for confidentiality and may be shared with other support service programs.

(D) Special day classrooms are at least the same size as regular education classrooms at that site and are properly equipped for the students who will occupy the space, for their age and type of disabling condition.

(E) The square footage allowance in Education Code Section 17747(a) for special day class programs is used for the design of classroom space and other space on the campus to support the special education program. The support space includes but is not limited to speech specialist area, psychologist, counseling offices and conference area.

(F) Special day classrooms are distributed throughout the campus with age appropriate regular education classrooms.

(G) A cluster of two special day classrooms may be considered if support or auxiliary services (e.g., bathrooming, feeding, physical or occupational therapy) are needed to serve the students throughout the school day.

(H) A conference area is available to conduct annual individualized education program meetings for each special education student.

(I) Medical therapy units, if planned for the site, are close to visitor parking areas and accessible after school hours.

(i) Laboratories shall be designed in accordance with the planned curriculum.

(1) Science laboratory:

(A) Size is at least 1300 square feet including storage and teacher preparation area.

(B) Science laboratory design is consistent with the requirements for proper hazardous materials management specified in both the “Science Facilities Design for California Public Schools,” published by the California Department of Education, 1993, and the “Science Safety Handbook for California Public Schools,” published by the California State Department of Education, 1999.

(C) Accommodations are made for necessary safety equipment and storage of supplies; e.g., fire extinguisher, first aid kit, master disconnect valve for gas.

(D) Secured storage areas are provided for volatile, flammable, and corrosive chemicals and cleaning agents.

(E) Properly designated areas are provided with appropriate ventilation for hazardous materials that emit noxious fumes, including a high volume purge system in the event of accidental release of toxic substances which may become airborne.

(F) Exhaust fume hoods, eye washes, deluge showers are provided.

(G) Floor and ceiling ventilation is provided in areas where chemicals are stored.

(H) Room is provided for movement of students around fixed-learning stations.

(I) There is the capability for technology which complements the curriculum.

(J) Classrooms are flexibly designed to insure full student access to laboratory stations and lecture areas.

(2) Consumer Home Economics laboratory:

(A) There is room for movement of students around fixed learning stations.

(B) Cooking equipment reflects current home food preparation practices and/or commercial food preparation simulation.

(C) There is the capability for technology which complements portions of the curriculum, such as fashion design, consumer economics, and nutritional analysis of foods.

(D) There is space for industrial or home sewing equipment consistent with the planned curriculum.

(E) There is storage for student projects and supplies.

(F) Space for work tables is provided for such activities as cutting fabric or completing interior design projects.

(G) Lecture area is provided.

(H) At least 1300 square feet is allocated for each laboratory.

(I) If part of the planned program, space for a child care area or for a laboratory to teach child growth and development is provided.

(3) Industrial and Technology/Education Laboratory:

(A) Room is provided for movement of students around fixed learning stations.

(B) Flexible stations with sufficient outlets and power source for industrial type equipment is provided.

(C) Space is provided for various simulations of job-related experiences and laboratory work stations.

(D) There is capability to utilize technology which complements the curriculum, such as computer-aided graphics, electronics and specialized tools.

(E) There is lecture area within each laboratory or near the laboratory area where appropriate.

(F) There are accommodations for necessary health and safety equipment, such as fire extinguisher and first aid kit.

(G) Secured storage areas for volatile, flammable and corrosive chemicals and cleaning agents are provided where appropriate.

(H) There are properly designated areas with appropriate ventilation for the use of hazardous material that emit noxious fumes or excessive dust particles.

(I) Proper storage and removal access for hazardous waste materials is provided in each laboratory using such materials.

(4) Computer Instructional Support Area:

(A) If a standard classroom is being designated as a computer laboratory, size is at least 960 square feet.

(B) Room is provided for movement of students around learning stations.

(C) Sufficient outlets, power sources, and network links for the amount of equipment are provided.

(D) Proper ventilation is provided.

(E) Room provides for security of equipment.

(F) Lighting minimizes screen glare and eye strain.

(j) Gymnasium, Shower/Locker shall be designed to accommodate multiple use activities in accordance with the planned enrollment:

(1) The gymnasium is secured from other parts of the campus for evening and weekend events or for public use purposes.

(2) The shower/locker area is of sufficient size to allow students enrolled in the physical education program to shower and dress each period.

(3) Toilets are available for the public in facilities intended for shared community use other than in shower/locker areas.

(4) Office space is provided for physical education teachers.

(5) Space is available for specialized age-appropriate physical education activities such as weight lifting, exercise equipment usage, aerobics.

(k) Auxiliary Areas.

(1) Multipurpose/cafeteria area (indoor or outdoor) shall be adequately sized and flexibly designed to protect students from the elements and to allow all students adequate eating time during each lunch period and to accommodate such uses as physical education activities, assemblies, and extracurricular activities:

(A) Tables and benches or seats are designed to maximize space and allow flexibility in the use of the space.

(B) The location is easily accessible for student and community use, but is close to street for delivery truck access.

(C) Stage/platform may have a dividing wall to be used for instructional purposes but is not intended as a classroom.

(D) Area for the cafeteria line is designed for the flow of traffic for each lunch period.

(E) Design of kitchen reflects its planned function; e.g., whether for food preparation or warming only.

(F) Space is available for refrigeration and preparation of foods to accommodate maximum number of students planned for the school.

(G) Office, changing, and restroom area for food preparation staff is available and shall comply with local department of health requirements.

(H) Ceiling height allows for clearance of light fixtures for physical education activities.

(2) Administrative Office.

The administrative office shall have sufficient square footage to accommodate the number of staff for the maximum enrollment planned for the school consistent with the master plan for the school district and shall be designed to efficiently conduct the administrative functions, specifically:

(A) Students have direct confidential access to pupil personnel area.

(B) Counter tops are accessible for an age-appropriate population both at a standing and wheelchair level.

(C) Clerical staff have a clear view of nurse's office.

(D) The nurse's office has a bathroom separate from staff bathroom(s) in administration area.

(E) Space for private conference and waiting area is available.

(F) Capability for such computer networking functions as attendance accounting and communicating to each classroom is considered.

(G) A faculty workroom is available for a staff size proportionate to the student population.

(3) Library/Media Center and Technology.

Library space shall be proportional to the maximum planned school enrollment. The size shall be no less than 960 square feet. However, to allow adaptation for changing technology and communication systems, the following is recommended:

-two square feet per unit of a.d.a. (average daily attendance) for elementary;

-three square feet per unit of a.d.a. for middle or junior high (grades 6-8);

-four square feet per unit of a.d.a. for high school. In addition:

(A) Provide security for technology and media equipment.

(B) Space and capability for computer terminals is considered for student use, research and report writing.

(C) Visual supervision from circulation desk is available to study areas, stack space, and student work centers.

(D) Design for open and closed-circuit television, dedicated phone line, electrical outlets for stand-alone computers, and conduit connecting all instructional areas is considered.

(l) Lighting.

Light design shall generate an illumination level that provides comfortable and adequate visual conditions in each educational space, specifically:

(1) Ceilings and walls are white or light colored for high reflectance unless function of space dictates otherwise.

(2) Lights do not produce glare or block the line of sight.

(3) Window treatment allows entrance of daylight but does not cause excessive glare or heat gain.

(4) Fixtures provide an even light distribution throughout the learning area.

(5) Light design follows the California Electrical Code found in Part 3 of Title 24 of the California Code of Regulations.

(m) Acoustical.

Hearing conditions shall complement the educational function by good sound control in school buildings, specifically:

(1) The sound-conditioning in a given space is acoustically comfortable to permit instructional activities to take place in this classroom.

(2) Sound is transmitted without interfering with adjoining instructional spaces; e.g., room partitions are acoustically designed to minimize noise.

(3) The ventilation system does not transmit an inordinate sound level to the instructional program.

(n) Plumbing.

Restroom stalls shall be sufficient to accommodate the maximum planned enrollment and shall be located on campus to allow for supervision.

(1) Refer to Part 5, Title 24, of the California Code of Regulations.

(2) Outdoor restrooms having direct outside access are located in areas that are visible from playground and are easily supervised.

(o) Year-Round Education.

If a school is being planned for multitrack year-round operation, additional space shall be provided for associated needs:

(1) Additional space is available for storage of records for staff for all tracks. Additional storage space for the supplies and projects of off-track students is considered.

(2) Storage and planning space is available for off-track teachers or teachers not assigned to a classroom.

(p) American Disabilities Act.

Schools shall comply with standards established by the American Disabilities Act (Public Law 101-336, Title II).

(q) Child Care Programs.

Schools shall comply with the requirements set forth in Education Code Section 39113.5 regarding plans and specifications for new schools being designed to provide appropriate space to accommodate before-school and after-school child care programs.

(r) Exemptions.

At the request of the governing board of a school district, the State Superintendent of Public Instruction may grant exemptions to any of the standards in this section if the district can demonstrate that the educational appropriateness and safety of a school design would not be compromised by an alternative to that standard.

Note: Authority cited: Sections 17251(c) and 33031, Education Code. Reference: Sections 17047(a), 17251(c), 17310, 51210(g), 51220(d) and 51225.3, Education Code.

HISTORY

1. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

2. Amendment of article heading, repealer and adoption of section heading and text, and amendment of Note filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

3. Amendment of subsections (a), (b)-(b)(1), (g)(1)(A), (i)(1)(B), (n)-(n)(1) and (p)-(r), new subsection (i)(4)-(i)(4)(F), and amendment of Note filed 10-30-2000; operative 10-30-2000 pursuant toGovernment Code section 11343.4(d) (Register 2000, No. 44).

5 CCR § 14030, 5 CA ADC § 14030

§ 14031. Plan Approval Procedures for State-Funded School Districts.

(a) Each state-funded school district shall submit preliminary plans following the standards in Section 14030 including site utilization, elevations and floor plan drawings that describe the spaces and give the square footage and educational specifications to the California Department of Education for approval. Prior to preparation of final plans, the school district shall obtain approval of the preliminary plans from the California Department of Education.

(b) Each state-funded school district shall submit final plans including grading, site utilization, elevation, floor, lighting, and mechanical working drawings and any alterations to the educational specifications to the California Department of Education for approval.

(c) Each state-funded school district shall submit the request for exemption from a standard in Section 14030 of this article, with a description of how the educational appropriateness and safety of a school design would not be compromised by deviation from the standard, to the California Department of Education.

(e) Each state-funded school district shall submit final plans including a multi-modal/active transportation plan spanning the entire attendance boundary approved by a traffic engineer representing the Department of Transportation.

Note: Authority cited: Sections 17251(c) and 33031, Education Code. Reference: Sections 17017.5(c) and 17251(c), Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

2. Repealer and adoption of section heading and text, and adoption of Note filed 11-2-93; operative 12-13-93 (Register 93, No. 46).

3. Amendment of section heading, section and Note filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

5 CCR § 14031, 5 CA ADC § 14031

§ 14032. Plan Approval for State-Funded School Districts.

The California Department of Education shall notify the district, the district's architect and the Department of General Services that the preliminary and final plans comply with the standards set forth in Section 14030. Approvals for either preliminary or final plans are in effect for a maximum of two years from the date of signed approval. School districts may request an extension of preliminary or final plan approvals if the time line exceeds one year.

Note: Authority cited: Sections 17251(c) and 33031, Education Code. Reference: Sections 17024, 17070.50 and 17251(c), Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

2. Amendment of section heading and text, and adoption of Note filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

3. Amendment of section heading, section and Note filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

5 CCR § 14032, 5 CA ADC § 14032

§ 14033. Applicability of Plan Standards to Locally-Funded School Districts.

(a) Locally-funded districts shall use the plan standards set forth in Section 14030.

(b) Locally-funded districts may request assistance from the California Department of Education to review plans and specifications for any new school construction or rehabilitation project.

(c) Locally-funded districts need not submit preliminary and final plans to the California Department of Education.

(d) Locally-funded districts shall prepare documentation of and retain for purposes of a complaint investigation the exemption from the standard in Section 14030 of this article, with a description of how the educational appropriateness and safety of a school design would not be compromised by deviation from the standard. Locally-funded districts may request from the California Department of Education a review of the adequacy of the mitigation measure.

(e) Locally-funded districts shall continue to comply fully with the requirements of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 2, Part 23 of the Education Code (The Field Act) and submit all plans and specifications to the Department of General Services, Office of the State Architect for review and approval prior to executing a contract for the construction or alteration of a public school building or expending any public funds for such a project.

Note: Authority cited: Sections 17251(c) and (d) and 33031, Education Code. Reference: Sections 17251(d), 17280 and 17365, Education Code.

HISTORY

1. Renumbering of former section 10433 to section 14035 and new section filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

2. Repealer of former section 14033 and renumbering of former section 14034 to new section 14033, including amendment of section heading, section and Note, filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

5 CCR § 14033, 5 CA ADC § 14033

Appendix A
Site Selection Process

When a school district is planning to acquire a site for a school, it must take various factors into consideration. The School Facilities Planning Division has developed three work sheets to assist the district in assessing potential sites and making preliminary selections. The work sheets, which are included in this appendix, outline a set of 12 primary criteria governing school site selection and consists of three components: Site Selection Criteria, Site Selection Evaluation, and a Comparative Evaluation of Candidate Sites. These components allow for a comprehensive examination of sites to determine strengths and weaknesses (Site Selection Criteria); a ranking of each site (Site Selection Evaluation); and finally, a comparison of sites by the rating factors and total scoring (Comparative Evaluation of Candidate Sites). The criteria are consistent with the California *Education Code*, *California Code of Regulations*, *Title 5*, California *Public Resources Code*, and the California Department of Education policies and guidelines.

Although these standards are not the sole criteria to be considered by a school district's site selection committee, the committee may find them useful in evaluating various sites, identifying at least three acceptable sites from which a final choice can be made, and, eventually, explaining the site selection process to interested entities.

Each primary element listed on the Site Selection Criteria work sheet contains secondary measures that provide the committee the opportunity to apply a specific set of guidelines to each potential site and aid in the analysis of a site. The secondary criteria may also be used by the committee to understand better the types of data needed in identifications, selection, and final acquisition of a school site. After considering both primary and secondary standards on the work sheet, the committee should rank the sites in order of acceptability by completing the second and third work sheets.

June 1998

California Department of Education
Site Selection Criteria

Part 1

Site Identification		**Grade Level**
Location	**Gross Acres**	**Estimated Value**

Safety *(These factors must be avoided.)*	**OK**	**Potential Problem**
Adjacent to or near roadways with a high speed or volume of traffic with no separated non-motorized facilities.		
Within 1,500 feet of railroad tracks		
Within two miles of an airport runway		
Close to high-voltage power lines		
Close to high-pressure lines, for example natural gas, gasoline sewer or water lines		
Contaminants/toxics in the soil or groundwater, such as from landfills, dumps, chemical plants, refineries, fuel tanks, nuclear plants, or agricultural use of pesticides or fertilizer, etc.*		
Close to high decibel noise sources		
Close to open-pit mining		
On or near a fault zone or active fault		
In a dam inundation area or 100- year flood plain		
Social hazards in the neighborhood, such as high incidence of crime and drug or alcohol abuse		
***Note:** A Phase I Environmental Site Assessment must be conducted for the selected site.*		

Location ~~Safe walking areas~~areas Adequate infrastructure ensuring safe non-motorized access throughout the attendance boundary. Centrally located to avoid extensive transporting and to minimize student travel distance Compatible with current and probable future zoning regulations Close to libraries, parks, museums, and other community services Favorable orientation to wind and natural light		
Environment Located so as to make active transportation/school access attractive and possible. Free from sources of noise that may impede the instructional process Free from air, water and soil pollution Free from smoke, dust, odors, and pesticide spray Provides aesthetic view from and of the site Compatible with the educational program		
Soils Proximity to faults or fault traces Stable subsurface and bearing capacity Danger of slides or liquefaction Percolation for septic system and drainage Adequate water table level Existing land fill is reasonably well compacted ***Note:*** *A geological hazard report must be conducted to determine soil and seismic conditions.*		

Topography	**OK**	**Potential Problem**
Feasibility of mitigating steep grades		
Rock ledges or outcroppings		
Surface and subsurface drainage		
Level area for playfields		
Size and Shape		
Net acreage consistent with standards of California Department of Education as noted in "School Site Analysis and Development"		
Length-to-width ratio does not exceed 2:1		
Sufficient open play area and open space		
Potential for expansion for future needs		
Area for adequate and separate bus loading and parking		
Safe, adequate, bicycle parking proximate/convenient to classrooms.		
Accessibility		
Obstacles such as crossings on major streets and intersections, narrow or winding streets, heavy traffic patterns		
Access and dispersal roads		
Natural obstacles such as grades or gullies		
Freeway access for bus transportation		
Routing patterns for ~~foot~~ non-motorized traffic		
Remote areas (with no sidewalks) where students walk to and from school		
Easily reachable by emergency response vehicles		
Adequate non-motorized infrastructure throughout the attendance boundary.		
Public Services		
Fire and police protection, including firelines		
Available public transportation		
Trash and garbage disposal		
Utilities		
Availability of water, electricity, gas, sewer		
Feasibility of bringing utilities to site at reasonable cost		
Restrictions on right of way		
Cost		
Full-cost accounting identifies capital, operating/maintenance costs for outside agencies.		
Reasonable costs for purchase of property, severance damages, relocation of residents and businesses, and legal fees		
Reasonable costs for site preparation including, but not limited to, drainage, parking, driveways, removal of existing buildings, and grading		
Toxic cleanup beyond the owner's obligation		
Environmental mitigation		

Availability	**OK**	**Potential**
On the market for sale		
Title clearance		
Condemnation of buildings and relocation of residents		
Public Acceptance		
Public acceptance of the proposed site		
Receptivity of city or county planning commission Zoned for prime agriculture or industrial use Negative environmental impact report		
Comments:		

Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE **13.**

Meeting Date:	03/13/2017
Subject:	State Bills of Interest to Contra Costa County
Submitted For:	LEGISLATION COMMITTEE,
Department:	County Administrator
Referral No.:	2017-05
Referral Name:	State Bills of Interest
Presenter:	L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

The Legislation Committee regularly reviews and makes recommendations to the Board of Supervisors on state bills of interest that may impact or affect County operations and programs. *Attac Attachment A* is the Master List of state bills that County staff is reviewing and monitoring. State bills of interest to Contra Costa County are identified by staff, our state advocates, UCC and CSAC staff, and other county-related associations.

The Legislation Committee may provide direction to staff on pursuing additional information and input about the potential impacts of bills on County operations and programs, or may make recommendations on advocacy positions to the Board of Supervisors.

Referral Update:

February 17 marked the legislative deadline for bill introductions, which now totals over 2,400 for the current 2017-18 session. Nearly 25% of those are “spot bills” or place holders for policy proposals that are still being developed. Committee hearings will pick up in earnest in mid-March until the Legislative Spring Recess on April 7.

Recommendation(s)/Next Step(s):

REVIEW the Master List of State Bills of Interest to Contra Costa County and provide direction to staff, as needed.

Attachments

Attachment A: Master List of Bills

CA AB 1

AUTHOR: Frazier [D]
TITLE: **Transportation Funding**
INTRODUCED: 12/05/2016
DISPOSITION: Pending
LOCATION: Assembly Transportation Committee
SUMMARY:

Creates the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway and local street and road systems. Provides for certain funds, creation of the Office of the Transportation Inspector General, certain loan repayments, diesel fuel excise tax revenues, the appropriations to the Low Carbon Transit Operations Program, gasoline excise taxes, a certain CEQA exemption, an Advance Mitigation Program, and a certain surface transportation project delivery program.

STATUS:

01/19/2017 To ASSEMBLY Committees on TRANSPORTATION and NATURAL RESOURCES.

BOS: Support

CA AB 3

AUTHOR: Bonta [D]
TITLE: **Public Defenders: Legal Counsel: Immigration**
INTRODUCED: 12/05/2016
LAST AMEND: 02/17/2017
DISPOSITION: Pending
LOCATION: Assembly Appropriations Committee
SUMMARY:

Requires the Department of Social Services or a nonprofit organization contracting with the department to issue requests for proposal and issue grants to qualified legal services projects, qualified support centers, or county offices of the public defender that meet specified requirements, to expand programs on issues relating to the immigration consequences of criminal convictions.

STATUS:

02/17/2017 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

requested by Ali Saidi of Public Defender's Office

CA AB 42

AUTHOR: Bonta [D]
TITLE: **Bail Reform**
INTRODUCED: 12/05/2016
LAST AMEND: 02/14/2017
DISPOSITION: Pending
LOCATION: Assembly Public Safety Committee
SUMMARY:

States the intent of the Legislature to enact legislation to safely reduce the number of people detained pretrial, and to ensure that people are not held in pretrial detention simply because of their inability to afford money bail. Requires the court to release a defendant being held for a misdemeanor offense on his or

own recognizance unless a certain finding is made.

STATUS:

02/14/2017	From ASSEMBLY Committee on PUBLIC SAFETY with author's amendments.
02/14/2017	In ASSEMBLY. Read second time and amended. Re-referred to Committee on PUBLIC SAFETY.

Commentary:

Consistent with Platform Policy #189.

Commentary001:

Leg Com recommends support to BOS

CA AB 52

AUTHOR:	Cooper [D]
TITLE:	**Public Employee: Orientation And Informational Programs**
INTRODUCED:	12/05/2016
DISPOSITION:	Pending
LOCATION:	Assembly Public Employees, Retirement and Social Security Committee

SUMMARY:

Requires the public employers regulated by specified acts to provide all employees an orientation and to permit an exclusive representative to participate.

STATUS:

01/19/2017	To ASSEMBLY Committee on PUBLIC EMPLOYEES, RETIREMENT AND SOCIAL SECURITY.

Commentary:

HR/labor is monitoring

CA AB 71

AUTHOR:	Chiu [D]
TITLE:	**Taxes: Credits: Low-Income Housing**
INTRODUCED:	12/16/2016
LAST AMEND:	03/02/2017
DISPOSITION:	Pending
COMMITTEE:	Assembly Housing and Community Development Committee
HEARING:	03/08/2017 9:00 am

SUMMARY:

Increases, under the Insurance Taxation Law, the Personal Income Tax Law, and the Corporation Tax Law, the aggregate housing credit dollar amount that may be allocated among low-income housing projects and farmworker housing projects. Disallows a specified mortgage-related deduction under the Personal Income Tax Law. Provides for allowable credit amounts.

STATUS:

03/08/2017	From ASSEMBLY Committee on HOUSING AND COMMUNITY DEVELOPMENT: Do pass to Committee on REVENUE AND TAXATION.

Commentary:

Send to Leg Com for March

CA AB 73

AUTHOR:	Chiu [D]
TITLE:	**Planning and Zoning: Housing Sustainability Districts**
INTRODUCED:	12/16/2016

	DISPOSITION:	Pending
	LOCATION:	Assembly Local Government Committee
	SUMMARY:	

Authorizes a city, county, or city and county to establish by ordinance a housing sustainability district and to apply to the Office of Planning and Research for approval for a zoning incentive payment. Provides for permits for residential development, design review standards, and certain application fees. Requires that prevailing wages be paid in connection with all projects within the district. Requires a lead agency, when designating districts, to prepare an EIR for the designation.

STATUS:

02/09/2017 In ASSEMBLY. Coauthors revised.

Commentary:

send to KD for review

CA AB 74	**AUTHOR:**	Chiu [D]
	TITLE:	**Housing**
	INTRODUCED:	12/16/2016
	DISPOSITION:	Pending
	COMMITTEE:	Assembly Housing and Community Development Committee
	HEARING:	03/08/2017 9:00 am
	SUMMARY:	

Requires the Department of Housing and Community Development to establish a Housing for a Healthy California Program, and to award grants to certain grant applicants. Provides for interim and long-term rental assistance. Authorizes the department to enter into contracts on a bid or negotiated basis, exempt from specified small business procurement, personal service, and public contracting provisions.

STATUS:

03/08/2017 From ASSEMBLY Committee on HOUSING AND COMMUNITY DEVELOPMENT: Do pass to Committee on HEALTH.

Commentary:

send to KD to review

CA AB 85	**AUTHOR:**	Rodriguez [D]
	TITLE:	**General Assistance: Employable Veterans**
	INTRODUCED:	01/05/2017
	LAST AMEND:	03/01/2017
	DISPOSITION:	Pending
	LOCATION:	Assembly Veterans Affairs Committee
	SUMMARY:	

Amends an existing law which permits a county to prohibit an employable individual from receiving general assistance benefits to exempt from that prohibition an employable veteran who was honorably discharged from the Armed Forces.

STATUS:

03/07/2017 From ASSEMBLY Committee on HUMAN SERVICES: Do pass to Committee on VETERANS AFFAIRS. (7-0)

BOS: Watch

CA AB 152	**AUTHOR:**	Gallagher [R]

	TITLE:	**Board of State and Community Corrections: Recidivism**
	INTRODUCED:	01/11/2017
	DISPOSITION:	Pending
	LOCATION:	Assembly Appropriations Committee
	SUMMARY:	

Requires the Board of State and Community Corrections to collect and analyze data regarding recidivism rates of all persons who receive a felony sentence punishable by imprisonment in county jail or who are placed on post-release community supervision. Requires the board to make this data available on the board's Internet Web site.

STATUS:

02/28/2017	From ASSEMBLY Committee on PUBLIC SAFETY: Do pass to Committee on APPROPRIATIONS. (7-0)

Commentary:

Send to Leg Com

CA AB 154

AUTHOR:	Levine [D]
TITLE:	**Prisoners: Mental Health Treatment**
INTRODUCED:	01/11/2017
DISPOSITION:	Pending
LOCATION:	Assembly Appropriations Committee
SUMMARY:	

Authorizes a defendant who is or has been eligible for public mental health services or who is eligible for certain Social Security Disability Insurance benefits to petition the court for a sentence that includes mental health treatment. Authorizes a court to order the Department of Corrections and Rehabilitation or a county authority to provide specified mental health service, including placement in a residential mental health treatment facility instead of prison or county jail.

STATUS:

02/28/2017	From ASSEMBLY Committee on PUBLIC SAFETY: Do pass to Committee on APPROPRIATIONS. (5-2)
BOS:	Watch

CA AB 210

AUTHOR:	Santiago [D]
TITLE:	**Homeless Multidisciplinary Personnel Team**
INTRODUCED:	01/23/2017
DISPOSITION:	Pending
COMMITTEE:	Assembly Human Services Committee
HEARING:	03/21/2017 1:30 pm
SUMMARY:	

Authorizes counties to also establish a homeless adult, child, and family multidisciplinary personnel team with the goal of facilitating the expedited identification, assessment, and linkage of homeless individuals to housing and supportive services and to allow provider agencies to share confidential information for the purpose of coordinating such services.

STATUS:

02/06/2017	To ASSEMBLY Committees on HUMAN SERVICES and PRIVACY AND CONSUMER PROTECTION.
BOS:	To Leg Com for support

CA AB 211

AUTHOR: Bigelow [R]
TITLE: **State Responsibility Area Fire Prevention Fees**
INTRODUCED: 01/23/2017
DISPOSITION: Pending
LOCATION: Assembly Natural Resources Committee
SUMMARY:

Amends an existing law which requires the State Board of Forestry and Fire Protection to establish a fire prevention fee and to submit an annual written report to the Legislature on the status of the uses of fee moneys. Requires the report to include an itemized accounting of all expenditures from a certain fund and to occur annually for an indefinite period of time.

STATUS:

02/06/2017 To ASSEMBLY Committee on NATURAL RESOURCES.

Commentary:

No policy in Platform, but the BOS has acted on related bills in the past. Sending to Leg. Com.

CA AB 216

AUTHOR: Gonzalez [D]
TITLE: **Vote by Mail Ballots: Identification Envelopes**
INTRODUCED: 01/24/2017
DISPOSITION: Pending
COMMITTEE: Assembly Elections and Redistricting Committee
HEARING: 03/22/2017 9:00 am
SUMMARY:

Clarifies that the elections official is required to deliver to each qualified vote by mail applicant an identification envelope for the return of the vote by mail ballot and requires the identification envelope to have prepaid postage.

STATUS:

02/06/2017 To ASSEMBLY Committee on ELECTIONS AND REDISTRICTING.

Commentary:

Sent to JC

CA AB 236

AUTHOR: Maienschein [R]
TITLE: **CalWORKs: Housing Assistance**
INTRODUCED: 01/30/2017
DISPOSITION: Pending
LOCATION: Assembly Appropriations Committee
SUMMARY:

Provides that homeless assistance is available to homeless families that would be eligible for aid under the CalWORK's program but for the fact that the only child or children in the family are in out-of-home placement pursuant to an order of the dependency court, if the family is receiving reunification services and the county determines that homeless assistance is necessary for reunification to occur.

STATUS:

03/07/2017 From ASSEMBLY Committee on HUMAN SERVICES: Do pass to Committee on APPROPRIATIONS. (7-0)

BOS: Watch

CA AB 285

AUTHOR: Melendez [R]
TITLE: **Drug and Alcohol Free Residences**
INTRODUCED: 02/02/2017
DISPOSITION: Pending
COMMITTEE: Assembly Health Committee
HEARING: 03/21/2017 1:30 pm
SUMMARY:

Defines a drug and alcohol free residence as a residential property that is operated as a cooperative living arrangement to provide an alcohol and drug free environment for persons recovering from alcoholism or drug abuse, or both, who seek a living environment that supports personal recovery. Authorizes one of these residences to demonstrate its commitment to providing a supportive recovery environment by applying and becoming certified by an approved certifying organization, as specified.

STATUS:

02/13/2017 To ASSEMBLY Committee on HEALTH.

Commentary:

Sent to Fatima and Donte for input.

CA AB 313

AUTHOR: Gray [D]
TITLE: **Water**
INTRODUCED: 02/06/2017
DISPOSITION: Pending
LOCATION: Assembly Water, Parks and Wildlife Committee
SUMMARY:

Revises the qualifications for the membership to the State Water Resources Control Board by eliminating specified requirements for qualification in the field of water rights. Transfers authority over water rights matters from the board to the Department of Water Resources.

STATUS:

02/21/2017 To ASSEMBLY Committee on WATER, PARKS AND WILDLIFE.

BOS: Watch

CA AB 358

AUTHOR: Grayson [D]
TITLE: **Regional Economic Development Areas**
INTRODUCED: 02/08/2017
DISPOSITION: Pending
LOCATION: ASSEMBLY
SUMMARY:

States the intent of the Legislature to enact legislation that would develop regional economic development areas.

STATUS:

02/08/2017 INTRODUCED.

Commentary:

send to Rich Seithel

CA AB 432

AUTHOR: Thurmond [D]
TITLE: **Personal Care Services**
INTRODUCED: 02/13/2017
DISPOSITION: Pending
COMMITTEE: Assembly Human Services Committee

HEARING: 03/21/2017 1:30 pm

SUMMARY:

Authorizes the California In-Home Supportive Services Authority and certain other entities to meet and confer in good faith regarding wages, benefits, and other terms and conditions of employment with representatives of recognized employee organizations for an individual who is employed by a recipient of waiver personal care services.

STATUS:

02/27/2017 To ASSEMBLY Committee on HUMAN SERVICES.

Commentary:

send to EHSD to review

CA AB 435

AUTHOR: Thurmond [D]

TITLE: **Child Care Subsidy Plans: County of Contra Costa**

INTRODUCED: 02/13/2017

DISPOSITION: Pending

LOCATION: Assembly Human Services Committee

SUMMARY:

Authorizes the County of Contra Costa to develop and submit an individualized county child care subsidy plan.

STATUS:

02/27/2017 To ASSEMBLY Committee on HUMAN SERVICES.

Commentary:

First 5 and CCCOE sponsored.

CA AB 467

AUTHOR: Mullin [D]

TITLE: **Local Transportation Authorities: Transactions and Tax**

INTRODUCED: 02/13/2017

DISPOSITION: Pending

LOCATION: Assembly Local Government Committee

SUMMARY:

Amends the Local Transportation Authority and Improvement Act, which provides for a local transportation authority to adopt a transportation expenditure plan for the proceeds of a specified tax, and requires the plan to be included in a voter information handbook sent to voters.

STATUS:

02/27/2017 To ASSEMBLY Committees on LOCAL GOVERNMENT and ELECTIONS AND REDISTRICTING.

Commentary:

CSAC sponsored bill. They are requesting support letters.

CA AB 898

AUTHOR: Frazier [D]

TITLE: **Property Taxation: Revenue Allocation**

INTRODUCED: 02/16/2017

DISPOSITION: Pending

LOCATION: ASSEMBLY

SUMMARY:

Reallocates property tax revenue to fire protection services.

STATUS:

02/16/2017 INTRODUCED.

Commentary:

Companion to AB 899.

CA AB 899

AUTHOR: Frazier [D]
TITLE: **Local Government Finance: Property Tax Revenue**
INTRODUCED: 02/16/2017
DISPOSITION: Pending
LOCATION: ASSEMBLY
SUMMARY:

Provides for an election in the County of Contra Costa for the purpose of reallocating property tax revenues for fire protection services in that county.

STATUS:

02/16/2017 INTRODUCED.

Commentary:

Watch

CA AB 943

AUTHOR: Santiago [D]
TITLE: **Local Ballot Initiatives**
INTRODUCED: 02/16/2017
DISPOSITION: Pending
LOCATION: Assembly Local Government Committee
SUMMARY:

Increases the vote threshold for approval of local initiatives intended to curb, delay, or deter growth and development throughout California.

STATUS:

03/02/2017 To ASSEMBLY Committees on LOCAL GOVERNMENT and ELECTIONS AND REDISTRICTING.

Commentary:

Opposed by League of Cities. Sponsored by California Apartment Assn. http://californiacountynews.org/news/2017/02/proposed-bill-would-stymie-local-slow-growth-measures?utm_source=CaliforniaCountyNews&utm_campaign=7ebce878ee-County_27_Feb_2017&utm_medium=email&utm_term=0_45da57311d-7ebce878ee-123340345&mc_cid=7ebce878ee&mc_eid=00ef35d608

CA AB 1404

AUTHOR: Berman [D]
TITLE: **Environmental Quality Act: Categorical Exemption**
INTRODUCED: 02/17/2017
DISPOSITION: Pending
LOCATION: ASSEMBLY
SUMMARY:

Expands exemptions from the California Environmental Quality Act to include proposed developments occurring within the unincorporated areas of a county.

STATUS:

02/17/2017 INTRODUCED.

Commentary:

May be consistent with #167

CA AB 1406

AUTHOR: Gloria [D]
TITLE: **Homeless Youth Advocacy and Housing Program**
INTRODUCED: 02/17/2017
DISPOSITION: Pending

LOCATION: ASSEMBLY

SUMMARY:

Establishes the Homeless Youth Advocacy and Housing Program to award grants to up to 10 local continuums of care that demonstrate the ability to contract with service provider capable of providing housing assistance and supportive services to homeless youth with the goal of transitioning youth towards self-sufficiency.

STATUS:

02/17/2017 INTRODUCED.

Commentary:

Sent to Lavonna for review

CA AB 1520

AUTHOR: Burke [D]

TITLE: **Lifting Children and Families Out of Poverty**

INTRODUCED: 02/17/2017

DISPOSITION: Pending

LOCATION: ASSEMBLY

SUMMARY:

Amends existing law which establishes various programs that provide cash assistance and other benefits relating to health care, food, and housing to qualified low-income families and individuals. States the intent of the Legislature to move toward reducing child poverty by a 50% over a 20-year period. Uses a specified framework as guiding and nonbinding recommendations for purposes of enacting fund programs or services that reduce child poverty.

STATUS:

02/17/2017 INTRODUCED.

Commentary:

Sending to EHSD for review. Baker and Thurmond co-sponsoring.

CA ACA 4

AUTHOR: Aguiar-Curry [D]

TITLE: **Local Government Financing: Affordable Housing**

INTRODUCED: 02/17/2017

DISPOSITION: Pending

LOCATION: ASSEMBLY

SUMMARY:

Authorizes a local government to impose, extend, or increase a special tax for the purposes of funding the construction, rehabilitation or replacement of public infrastructure or affordable housing, if the proposition proposing that tax is approved by a certain percent of voters. Lowers the voter-approval threshold for the incurrence of bonded indebtedness in certain cases.

STATUS:

02/17/2017 INTRODUCED.

Commentary:

a two-thirds supermajority would no longer be required for bond or special tax measures. Instead, tax hikes or bond measures for transit, water, parks and low-income housing projects could pass with just 55%.

CA SB 2

AUTHOR: Atkins [D]

TITLE: **Building Homes and Jobs Act**

INTRODUCED: 12/05/2016

LAST AMEND: 03/07/2017

	DISPOSITION:	Pending
	COMMITTEE:	Senate Governance and Finance Committee
	HEARING:	03/15/2017 9:30 am
	SUMMARY:	

Enacts the Building Homes and Jobs Act. Imposes a fee to be paid at the time of the recording of every real estate instrument, paper, or notice. Provides for expenditures for affordable owner-occupied workforce housing, housing for purposes related to agricultural workers and their families, affordable housing, and other housing-related programs.

STATUS:

03/07/2017	From SENATE Committee on GOVERNANCE AND FINANCE with author's amendments.
03/07/2017	In SENATE. Read second time and amended. Re-referred to Committee on GOVERNANCE AND FINANCE.

Commentary:

TO LEG COM

BOS:	Watch

CA SB 3

AUTHOR:	Beall [D]
TITLE:	**Affordable Housing Bond Act of 2018**
INTRODUCED:	12/05/2016
DISPOSITION:	Pending
COMMITTEE:	Senate Governance and Finance Committee
HEARING:	03/22/2017 9:30 am
SUMMARY:	

Enacts the Affordable Housing Bond Act of 2018 which would authorize the issuance of bonds to be used to finance various existing housing programs, as well as infill infrastructure financing and affordable housing matching grant programs.

STATUS:

02/28/2017	From SENATE Committee on TRANSPORTATION AND HOUSING: Do pass to Committee on GOVERNANCE AND FINANCE. (10-2)

Commentary:

Legislation Committee voted to send to BOS on 2/13 with a recommendation to support.

CA SB 6

AUTHOR:	Hueso [D]
TITLE:	Immigrants: Removal Proceedings: Legal Services
INTRODUCED:	12/05/2016
LAST AMEND:	03/01/2017
DISPOSITION:	Pending
COMMITTEE:	Senate Appropriations Committee
HEARING:	03/13/2017 10:00 am
SUMMARY:	

Requires the Department of Social Services to contract with qualified nonprofit legal services to provide legal services to individuals in removal proceedings who are not otherwise entitled to legal representation under an existing local, state, or federal program. Authorizes the department to prioritize the award of contracts and to prioritize the award of contracts to qualified nonprofit legal services organizations that receive certain county or city funding.

STATUS:

03/01/2017	From SENATE Committee on APPROPRIATIONS with author's amendments.
03/01/2017	In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

Requested by Ali Saidi of Public Defender's Office

CA SB 8

AUTHOR:	Beall [D]
TITLE:	**Diversion: Mental Disorders**
INTRODUCED:	12/05/2016
LAST AMEND:	02/21/2017
DISPOSITION:	Pending
COMMITTEE:	Senate Public Safety Committee
HEARING:	03/21/2017 9:30 am

SUMMARY:

Authorizes a court to postpone prosecution of a misdemeanor or a felony punishable in a county jail, and place a defendant in a pretrial diversion program, if the court is satisfied the defendant suffers from a mental disorder and meets certain other requirements. Allows the defense to arrange for a program of mental health treatment utilizing existing inpatient or outpatient mental health resources.

STATUS:

02/21/2017	From SENATE Committee on PUBLIC SAFETY with author's amendments.
02/21/2017	In SENATE. Read second time and amended. Re-referred to Committee on PUBLIC SAFETY.
BOS:	Watch

CA SB 10

AUTHOR:	Hertzberg [D]
TITLE:	**Bail: Pretrial Release**
INTRODUCED:	12/05/2016
LAST AMEND:	01/17/2017
DISPOSITION:	Pending
LOCATION:	Senate Public Safety Committee

SUMMARY:

Relates to bail and pretrial release. Requires the court to release a defendant being held for a misdemeanor offense on his or her own recognizance unless the court makes an additional finding on the record that there is no condition or combination of conditions that would reasonably ensure public safety and the appearance of the defendant if the defendant is released on his or her own recognizance.

STATUS:

01/26/2017	Re-referred to SENATE Committee on PUBLIC SAFETY.

Commentary:

Leg Com recommends Support to BOS

CA SB 54

AUTHOR:	de Leon [D]
TITLE:	**Law Enforcement: Sharing Data**
INTRODUCED:	12/05/2016
LAST AMEND:	03/06/2017

DISPOSITION: Pending
COMMITTEE: Senate Appropriations Committee
HEARING: 03/13/2017 10:00 am
SUMMARY:

Repeals provisions requiring that when there is reason to believe that a person arrested for a violation of controlled substance provisions may not be a United States citizen, the arresting agency shall notify an agency having charge of deportation matters. Prohibits certain agencies and school police and security departments from using resources for specified activities concerning immigration enforcement. Sets forth requirements for schools, health facilities, courthouses and shelters.

STATUS:

03/06/2017	From SENATE Committee on APPROPRIATIONS with author's amendments.
03/06/2017	In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

Referred to PPC by BOS on 2/7/17

CA SB 148

AUTHOR: Wiener [D]
TITLE: **State Board of Equalization: Counties: State Agencies**
INTRODUCED: 01/17/2017
DISPOSITION: Pending
COMMITTEE: Senate Governance and Finance Committee
HEARING: 03/29/2017 9:30 am
SUMMARY:

Enacts the Cannabis State Payment Collection Law and authorizes the State Board of Equalization or a county to collect cash payments from cannabis-related businesses for a state agency that administers any fee, fine, penalty, or other charge payable by a cannabis-related business.

STATUS:

01/26/2017 To SENATE Committee on GOVERNANCE AND FINANCE.
BOS: Watch

CA SB 166

AUTHOR: Skinner [D]
TITLE: R**esidential Density and Affordability**
INTRODUCED: 01/23/2017
LAST AMEND: 03/01/2017
DISPOSITION: Pending
LOCATION: Senate Governance and Finance Committee
SUMMARY:

Amends the Planning and Zoning Law. Prohibits a city, county, or city and county from permitting or causing an inventory of sites identified in a housing element to be insufficient to meet its remaining unmet share of the regional housing need for lower and moderate-income households. Conditions the approval of a development containing fewer housing units at each income level than its identified capacity upon identifying sufficient sites or rezones.

STATUS:

03/07/2017 From SENATE Committee on TRANSPORTATION AND HOUSING: Do pass to Committee on GOVERNANCE AND FINANCE.

Commentary:

Kara Douglas has reviewed: It is another effort to put teeth in the housing element without providing any funds for affordable housing.
Would require significant staff time tracking and re-designating RHNA sites on a continuous basis. (We currently update our sites inventory at the beginning of a new housing element cycle.) It would burden jurisdictions and would likely not achieve desired results of additional units.

CA SB 167

AUTHOR: Skinner [D]
TITLE: **Supplemental Security Income & CalFresh: Preenrollment**
INTRODUCED: 01/23/2017
DISPOSITION: Pending
COMMITTEE: Senate Human Services Committee
HEARING: 03/28/2017 1:30 pm
SUMMARY:

Requires the Secretary of the Department of Corrections and Rehabilitation to establish memoranda of understanding with the federal Social Security Administration to allow a person incarcerated in a correctional institution to apply for a replacement social security card and to allow the administration to process SSI claims under a prerelease program.
STATUS:

02/02/2017 To SENATE Committees on HUMAN SERVICES and PUBLIC SAFETY.

Commentary:

Leg Com recommends sending to BOS on Consent

CA SB 184

AUTHOR: Morrell [R]
TITLE: **Social Security Number Truncation Program**
INTRODUCED: 01/25/2017
DISPOSITION: Pending
COMMITTEE: Senate Governance and Finance Committee
HEARING: 03/22/2017 9:30 am
SUMMARY:

Provides that, for each official record recorded before a certain date, a county recorder may create a copy of that record in an electronic format and truncate any social security number contained in that record.
STATUS:

02/02/2017 To SENATE Committees on GOVERNANCE AND FINANCE and JUDICIARY.
BOS: Watch

CA SB 190

AUTHOR: Mitchell [D]
TITLE: **Juveniles**
INTRODUCED: 01/26/2017
DISPOSITION: Pending
COMMITTEE: Senate Public Safety Committee
HEARING: 03/21/2017 9:30 am
SUMMARY:

Amends an existing law which provides that inmates committed to a county jail or other county correctional facility or granted probation, or inmates

participating in a work furlough program, may participate in a home detention program, and which provides for certain fees. Makes those fees payable only by adult participants of a home detention program.

STATUS:

02/09/2017 To SENATE Committees on PUBLIC SAFETY and HUMAN SERVICES.

BOS: Watch

CA SB 192

AUTHOR: Beall [D]
TITLE: **Mental Health**
INTRODUCED: 01/30/2017
DISPOSITION: Pending
LOCATION: Senate Health Committee
SUMMARY:

Relates to the Mental Health Services Act, which imposes a tax on incomes above a specified sum for the purpose of financing new or expanded mental health services.

STATUS:

02/09/2017 To SENATE Committee on HEALTH.

BOS: Watch

CA SB 222

AUTHOR: Hernandez [D]
TITLE: **Inmates: Health Care Enrollment**
INTRODUCED: 02/02/2017
DISPOSITION: Pending
LOCATION: Senate Health Committee
SUMMARY:

Requires the suspension of Medi-Cal benefits to end on the date he or she is no longer an inmate of a public institution or is no longer otherwise eligible for benefits under the Medi-Cal program. Requires the State Department of Health Care Services, in consultation with specified stakeholders, to develop and implement a simplified annual renewal process for individuals in a suspended eligibility status.

STATUS:

02/16/2017 To SENATE Committees on HEALTH and PUBLIC SAFETY.

Commentary:

Send to Leg Com for support

CA SB 224

AUTHOR: Jackson [D]
TITLE: **Environmental Quality Act: Baseline Conditions**
INTRODUCED: 02/02/2017
DISPOSITION: Pending
LOCATION: Senate Environmental Quality Committee
SUMMARY:

Relates to the California Environmental Quality Act. Prohibits a lead agency, in determining the baseline physical conditions by which a lead agency determines whether a project has a significant effect on the environment, from considering the effects of certain actions on the environment.

STATUS:

02/16/2017 To SENATE Committee on ENVIRONMENTAL QUALITY.

BOS: Watch

CA SB 231

AUTHOR: Hertzberg [D]
TITLE: **Local Government: Fees and Charges**
INTRODUCED: 02/02/2017
DISPOSITION: Pending
COMMITTEE: Senate Governance and Finance Committee
HEARING: 04/05/2017 9:30 am
SUMMARY:

Relates to a provision of the California Constitution that requires that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Defines the term sewer for these purposes. Makes findings and declarations relating to the definition of the term sewer for these purposes.
STATUS:

02/16/2017 To SENATE Committee on GOVERNANCE AND FINANCE.
Commentary:

Mitch writing support letter. Consistent with Platform Policy #34
BOS: Support

CA SB 371

AUTHOR: Moorlach [R]
TITLE: **Local Public Employee Organizations**
INTRODUCED: 02/14/2017
DISPOSITION: Pending
LOCATION: Senate Public Employment and Retirement Committee
SUMMARY:

Prohibits an individual who will be covered by a memorandum of understanding between a local public agency and a recognized public employee organization from representing the public agency in negotiations with the recognized employee organization.
STATUS:

02/23/2017 To SENATE Committee on PUBLIC EMPLOYMENT AND RETIREMENT.
Commentary:

Brought to attention by Dianne Dinsmore

CA SB 450

AUTHOR: Hertzberg [D]
TITLE: **Public Bodies: Bonds: Public Notice**
INTRODUCED: 02/15/2017
DISPOSITION: Pending
COMMITTEE: Senate Governance and Finance Committee
HEARING: 03/29/2017 9:30 am
SUMMARY:

Requires the governing body of a public body to obtain and disclose specified information regarding the issuance of bonds, in a meeting open to the public.
STATUS:

02/23/2017 To SENATE Committee on GOVERNANCE AND FINANCE.
Commentary:

Sent to Tim Ewell for review

CA SCA 3

AUTHOR: Dodd [D]
TITLE: **Local Government Finance: Libraries: Voter Approval**

INTRODUCED:	01/30/2017
LAST AMEND:	03/06/2017
DISPOSITION:	Pending
COMMITTEE:	Senate Governance and Finance Committee
HEARING:	03/29/2017 9:30 am

SUMMARY:

Creates an additional exception to the 1% real property tax limit for a rate imposed by a city, county, or special district to service bonded indebtedness incurred to fund public library facilities, that is approved by a certain percentage of the voters of the city, county, or special district.

STATUS:

03/06/2017	From SENATE Committee on GOVERNANCE AND FINANCE with author's amendments.
03/06/2017	In SENATE. Read second time and amended. Re-referred to Committee on GOVERNANCE AND FINANCE.

Commentary:

Consistent with policy #197. Library Commission to draft letter.