

Date of Hearing: April 5, 2022

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Buffy Wicks, Chair

AB 2295 (Bloom) – As Amended March 29, 2022

SUBJECT: Local educational agencies: housing development projects

SUMMARY: Provides that a housing development project must be deemed an authorized use on any real property owned by a local educational agency (LEA) if it meets specified affordability criteria and planning standards. Specifically, **this bill:**

- 1) Defines “local educational agency” to mean a school district, county office of education, or charter school.
- 2) Defines a “qualified housing development project” to mean a housing development project that meets all of the following requirements:
 - a) The units must be rented as follows:
 - i. All of the units must be rented by teachers and employees of the LEA;
 - ii. If the LEA receives an insufficient number of teachers and employees to apply for and occupy the units, the unoccupied units may be offered to lower income households that do not include a teacher or employee of the LEA; and
 - iii. When a unit becomes unoccupied and available for rent, first offer for such units must go to teachers and employees of the LEA.
 - b) It consists of at least 10 housing units;
 - c) It meets the following affordability criteria;
 - i. At least 30 percent of the units will be rented and occupied by lower income households at an affordable rent;
 - ii. At least 20 percent of units will be rented and occupied by teachers and employees of an LEA at a rent that is affordable for households with incomes that do not exceed 120 percent of the area median income; and
 - iii. The housing development proponent has committed to record, prior to the issuance of the first building permit, a land use restriction or covenant providing that any housing units required to meet its affordability criteria must remain available at affordable rent levels for no less than 55 years.
 - d) A LEA must maintain ownership of a qualified housing development project for the length of the 55 year affordability requirement.
- 3) Provides that a qualified housing development project must be deemed an authorized use on any real property owned by a LEA, even if that is inconsistent with any provision of a city’s or county’s general plan, specific plan, zoning ordinance, or regulation. Provides that a

qualified housing development must be deemed consistent, compliant, and in conformity with local development standards, zoning codes or maps, and the general plan.

- 4) Provides the following regarding the objective standards applied to a qualified housing development project:
 - a) A city or county must not impose objective standards that preclude the construction of a qualified development project of at least three stories and 30 feet in height;
 - b) A city or county may impose other objective standards that do not conflict with this section.
- 5) Provides that a qualified housing development project on real property owned by a LEA will not be subject to oversight and approval by the Department of General Services.
- 6) Specifies that funds derived from a qualified housing development project on real property owned by a LEA may be used for general operating purposes of the LEA.
- 7) States that any land used for the development of a qualified housing development project may be jointly used or jointly occupied by the LEA and any other party.
- 8) Provides that any land used for the development of a qualified housing development project is exempt from the requirements of all of the following:
 - a) The Surplus Lands Act (Government Code Section 54220 et seq);
 - b) The Disposal of Sites requirement of Education Code Section 17230 et seq; and
 - c) Provisions regarding the sale or lease of real property owned by school districts contained in Education Code Section 17455 et seq.
- 9) Provides that the Legislature finds and declares that this article addresses a matter of statewide concern rather than a municipal affair, and therefore the provisions of this bill apply to all cities, including charter cities.
- 10) Provides that no reimbursement is required by the provisions of this bill because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill.

EXISTING LAW:

- 1) Allows a city or county to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including land use authority (Section 7 of Article XI of the California Constitution).
- 2) Establishes the Teacher Housing Act of 2016 (Health and Safety Code 53570 et seq), which established that:
 - a) It is state policy to support housing for teachers and school district employees;

- b) School districts and developers in receipt of local or state funds or tax credits designated for affordable rental housing may restrict occupancy to teachers and school district employees on land owned by school districts;
- c) School districts may allow local public employees or other members of the public to occupy housing created through the Teacher Housing Act; and
- d) A majority of the units must be rented at an affordable rent to lower income or moderate-income households.

FISCAL EFFECT: Unknown

COMMENTS:

Author’s Statement: According to the author, “School districts in California own 10,900 properties with over 150,000 acres of land, half of which are potentially suitable for housing. By easing the administrative and bureaucratic hurdles, AB 2295 will help local educational agencies feasibly construct enough housing to meet the current demand and help address teaching shortages—ultimately helping keep quality teachers and staff in the classroom.”

California’s Housing Crisis: California is in the midst of a housing crisis. The median price of a single-family home exceeds \$800,000, which only 24 percent of households can afford to purchase – 50 percent less than the national average, and 33 percent less than at the start of the pandemic.¹ Over half of renters – and 80 percent of low-income renters – are “rent burdened,” in households paying more than 30 percent of their income toward housing, which means they have less to pay for other essentials such as food, transportation, and health care.² In 2020, over 160,000 Californians experienced homelessness on a given night.³ The housing crisis substantially impacts many of the state’s 650,000 employees of local educational agencies (LEAs). Over one-third of these employees pay over 30 percent of their income towards housing, including 31 percent of teachers and nearly half of all other LEA employees that are not school administrators.⁴

A major cause of our housing crisis is the mismatch between the supply and demand for housing. While there are various estimates of the size of this mismatch, they all concur that the deficit is in the millions of units. This includes a large and growing housing affordability gap. The state has a target of over one million new homes for lower income households over the next eight years – over 120,000 units a year.⁵ Yet California has never produced more than 20,000 new affordable rental homes in any year.⁶

¹ [California Association of Realtors Housing Affordability Index](#). Data for the 3rd quarter of 2021.

² HCD, [California Statewide Housing Plan](#), February 2018, Table 1.2

³ [The 2020 Annual Homeless Assessment Report \(AHAR\) to Congress \(huduser.gov\)](#)

⁴ Education Workforce Housing in California: Developing the 21st Century Campus, cityLAB UCLA et al, December 2021: <https://www.csba.org/-/media/CSBA/Files/Advocacy/LegislativeAdvocacy/ResearchReport.ashx?la=en&rev=2d0b1e2e409f4dc6b3177338d016cbb1>

⁵ This total reflects all of the Regional Housing Needs Assessments, as summarized in the 2022 Statewide Housing Plan: <https://storymaps.arcgis.com/stories/94729ab1648d43b1811c1698a748c136>

⁶ According to communication from the California Housing Partnership Corporation.

Housing on School District Land: There are over 1,000 LEAs in California. Collectively, they own more than 150,000 acres of land.⁷ According to recent research, of land owned by LEAs, there are 7,068 properties with potentially developable land of one acre or more, totaling 75,000 acres statewide. At a modest density of 30 dwelling units per acre, such properties could contain 2.3 million units of housing – more than enough to house the state’s 300,000 teachers and 350,000 other LEA employees.

Despite the potential for development, there is very little housing on LEA property. This is understandable, given that the primary function of this land is for educational purposes. It is also because there are myriad impediments to completion of employee housing on LEA property, including:

- Lack of expertise: the core competency of LEAs is education. To the degree there is expertise in new construction or facilities management, it is focused on educational facilities, not on building and managing housing.
- Lack of funding: given exceedingly high construction costs, the price of new housing exceeds what is affordable to most LEA staff. As such, to develop employee housing, LEAs will need to identify public sources of funding.
- Lack of permission: getting housing approved in California is often a laborious and risky process, reflecting the complexity of government review, public processes, and required analysis under the California Environmental Quality Act (CEQA). LEA properties typically face the additional hurdle of not having zoning that permits housing or specified development standards for housing projects. As such, if it wanted to build housing for its employees, the LEA would need to seek permission from a local government to establish the right to build housing and identify objective standards for the project to conform with.

Despite the impediments, state and local officials are increasingly exploring ways to facilitate housing on LEA property, as a way to help LEAs recruit and retain employees. The Teacher Housing Act of 2016 (SB 1413, Leno, Chapter 732, Statutes of 2016), created a state policy to support housing for teachers and school district employees, and specified that projects can receive local or state funds or tax credits if developments are restricted to school district employees. Since June 2018, eight California LEAs have put a proposition or measure before local voters to fund education workforce housing development, with six of these measures passing.⁸ And recent research identified 46 LEAs pursuing housing projects on 83 different sites.⁹ However, to date, California is home to just four completed education workforce housing developments by Los Angeles Unified and Santa Clara Unified.

This bill seeks to address the fact that, on most LEA property, housing is not a permissible use and that these properties have no applicable development standards for housing. The bill would make housing a permissible use, and establish an allowable height of 30 feet, if the housing project met the following affordability and occupancy criteria:

- Developments would need to make 30 percent of the units affordable to lower income households and 20 percent would need to be affordable to moderate-income households;

⁷ See footnote 4

⁸ Ibid.

⁹ Ibid.

- LEAs would have to rent the units to their employees. However, should there not be enough LEA employees to fill the units, they could fill the units with lower income households.

While housing would become a permissible use, the project would still need to go through the local government's entitlement process, including CEQA. The local government would be able to apply its own zoning and design review standards, as long as they do not preclude the project from being three stories or thirty feet in height.

Arguments in Support: Supporters of the bill argue that it will help unlock the potential for new housing for LEA staff, which will help facilitate teacher recruitment and retention, particularly in high cost areas. According to the Los Angeles Unified School District, "this bill will enhance certainty, increase flexibility, and streamline the process of developing educator workforce housing on school land, which will help districts recruit and retain teachers and classified staff."

Arguments in Opposition: The opponent of the bill, the State Building and Construction Trades Council, argue that the bill should include requirements for utilization of a skilled and trained workforce, pay prevailing wages, and require use of apprentices. They also argue that the bill would "significantly limit the opportunity for public review by making housing by right on any property owned by a local educational agency." It should be noted that the bill does not propose to make such housing by right.

Committee Amendments: The committee may wish to consider the following amendments to help improve the functionality of this bill in serving to facilitate housing for teachers and other employees of LEAs:

- Move the contents of the bill from the Education Code to the Government Code, as the Government Code is the location of planning and zoning law;
- Align with Teacher Housing Act by:
 - Specifying that a majority of the units must be affordable to lower income or moderate-income households, instead of 50 percent; and
 - Requiring that units that are not occupied by local educational agency employees be offered first to local public employees, and then to general members of the public.
- Specifying that, on school district property, qualifying housing projects must be an "allowable use" instead of an "authorized use," so as to ensure that it is clear that projects are still subject to local discretionary processes and review under CEQA;
- Specifying the objective standards that the project must meet, including:
 - Defining the "development footprint" as the portion of the property that is developed for the housing development, inclusive of parking and roadways developed internal to the site to serve the housing development, and other above-ground improvements developed to serve the housing development. This definition is necessary to account for the fact that the housing would only be developed on a portion of a larger school district site.
 - Establishing a minimum residential density for the development footprint that is the greater of either:
 - The residential density already permitted by the local government; or

- The density deemed appropriate in Housing Element law to facilitate the development of multi-family housing (generally 30 units per acre in urban areas, 20 in suburban areas, and 10 in rural areas);
 - Clarifying that the allowed height must be what is allowed by the local government if the local government's allowed height exceeds 30 feet; and
 - Requiring that the site be adjacent to a site that permits residential use, to minimize instances where a school district proposes housing on a potentially inappropriate site, such as on a bus yard surrounded by industrial uses.
- Revise the definition of a local education agency to exclude charter schools, as they often function outside the purview of or with limited oversight by the school district.
- Remove the ability for the funds derived from the housing development project to be used for general operating purposes of the LEA, in recognition that current law limits the use of similar revenues to development and maintenance of facilities.
- Remove the provision that a qualified housing development project on real property owned by an LEA shall not be subject to oversight and approval by the Department of General Services.

Related Legislation:

SB 1413 (Leno), Chapter 732, Statutes of 2016: This bill established the Teacher Housing Act of 2016 to facilitate the acquisition, construction, rehabilitation, and preservation of affordable housing restricted to teachers or school district employees.

AB 3308 (Gabriel), Chapter 199, Statutes of 2020: This bill expanded allowed occupancy under the Teacher Housing Act of 2016 to local public employees and other members of the public, while maintaining the right for school districts to prioritize their own employees.

SB 6 (Caballero), 2021: This bill would allow residential uses to be an allowable use on commercially-zoned land, as specified. This bill is pending hearing in this committee.

Double referred: This bill was also referred to the Assembly Committee on Local Government, where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

CityLab - UCLA (Sponsor)

Landed

Los Angeles Unified School District

SPUR

Turner Center for Housing Innovation at the University of California, Berkeley

Support If Amended

California School Boards Association

Opposition

Oppose Unless Amended

State Building & Construction Trades Council of California

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