
SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW

Senator Nancy Skinner, Chair

2021 - 2022 Regular

Bill No:	AB 140	Hearing Date:	July 14, 2021
Author:	Committee on Budget		
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Urgency:	No	Fiscal:	Yes
Consultant:	James Hacker		

Subject: Housing

Summary: Provides for several statutory changes necessary to implement the housing and homelessness provisions of the Budget Act of 2021.

Proposed Law: This bill makes the following statutory changes:

- 1) **California Dream for All First Time Homebuyers Program.** Requires the Treasurer, in consultation with the California Housing Finance Agency, the California Department of Housing and Community Development, and other relevant stakeholders to develop a framework for the California Dream for All First Time Homebuyers Program to reduce barriers to homeownership, and submit a report to the Legislature as soon as April 1, 2022, and no later than one year from the effective date of this chapter.
- 2) **State Excess Lands.** Makes certain changes to speed the development of housing on state excess lands. Specifically, this bill:
 - a) Removes the requirement that leasing a parcel for housing development receive the approval of the governing body of any concerned local agency if the Director of the Department of General Services (DGS), with the consent of the state agency, finds that the letting of interest in any real property or interest in real property serves a beneficial public purpose limited to the development of housing including permanent supportive or traditional housing and emergency shelters or park and recreation facilities.
 - b) Allows the DGS Director to permit commercial development on property leased for affordable housing purposes if the Director of Housing and Community Development (HCD) deems the commercial development necessary for the successful delivery of housing to lower income households and deems the commercial development necessary to provide community benefits, including community-serving retail and amenities.
 - c) Requires that a minimum of 20 percent of housing units in a development be made available for the term of the lease to, and occupied by, lower income households, of which at least 10 percent shall be available to, and occupied by very low income households. Authorizes the Director of HCD to prescribe alternative minimum percentages in each income category in specified instances.

- d) Allows, upon a written formal recommendation from the Director of HCD that it is in the best interest of the state and reasonably necessary to facilitate the development of affordable housing, the Director of DGS to permit phased development, subject to specified terms and conditions, or to sell property or portions of a property that have been leased, consistent with affordability provisions.
 - e) Provides that in leasing properties, the DGS Director shall give preference to projects that provide either the greatest number of units affordable to lower and very low income households, or that provide for more units affordable to lower and very low income households than required by the Director of HCD.
- 3) **Homeless Housing, Assistance, and Prevention Program.** Provides for the allocation of \$2 billion in funds over the next two years for flexible aid for local governments to combat homelessness through the Homeless Housing, Assistance, and Prevention Program (HHAPP). Specifically, this bill:
- a) Allocates \$1 billion for Round 3 HHAPP funding in the 2021-22 fiscal year.
 - i) Provides that 80 percent or \$800 million to applicants that are cities, counties or continuums of care (CoC) as follows:
 - (1) 32 percent or \$240 million to CoCs based on each CoCs proportionate share of the state's total homelessness population, based on homeless point-in-time count. Requires the council to award no more than 40 percent of this allocation to any one CoC.
 - (2) 42 percent or \$336 million to cities, or cities that are also a county, that have a population of 300,000 or more, as of January 1, 2020. Requires the Council to calculate the allocation to a city based on the city's proportionate share of the total homeless population of the region served by the CoC within which the city is located, based on homeless point-in-time count. Requires the Council not to award more than 45 percent of this allocation to any one city. Provides that if more than one recipient within the CoC meets the requirement of this subparagraph, the proportionate share of funds shall be equally allocated to those jurisdictions.
 - (3) 28 percent or \$224 million of the allocation to counties. Requires the council to calculate the allocation to a county based on the county's proportionate share of the total homeless population of the region served by the CoC within which the county is located based on the homeless point-in-time count. Requires the Council not to award more than 40 percent of the program allocation to any one county.
 - ii) 18 percent or \$180 million of the funding available be set aside for awarding bonus funding for jurisdictions that achieve the outcome goals specified in their applications, described below. Requires the Council to determine bonus award allocations, based on homeless population, and to report to the chairs

- of the relevant fiscal and policy committees within 30 days of making the funding allocation determinations.
- iii) Provides not more than 2 percent or \$20 million of the funding to tribal applicants, as follows:
 - (1) Allows tribes to request funds, and to be allocated funds up to their requested amount, or up to a total of \$20 million collectively among all tribal applicants.
 - (2) Allows the Council to make allocations to tribes on the basis of a tribal applicant's proportionate share of need relative to all tribes that submit an application for funding.
 - (3) Provides that a tribal applicant may partner with a local CoC or coordinated entry system.
 - (4) Provides that any funds available to tribal applicants that are unallocated by July 1, 2025, shall be allocated as bonus awards.
 - b) Provides for the allocation of Round 3 funds to eligible jurisdictions via the following process:
 - i) Requires the council to issue a standard agreement for applicants to apply for Round 3 program funds no later than September 15, 2021, which specifies requirements for applicants to submit an application that includes a local homelessness action plan and specific outcome goals.
 - (1) Requires a signed standard agreement to be returned to the council no later than 30 days from the date the council issues the agreement.
 - (2) Requires the council to allocate 20 percent of an eligible city's, county's, or CoC's total allocation upon receipt of a signed standard agreement.
 - (3) Allows a city, city and county, single CoC, or county to apply jointly with a counterpart entity or entities. Provides that an applicant that applies jointly shall be allocated 25 percent of the jointly applying jurisdictions' total allocation instead of 20 percent upon receipt of a signed standard agreement.
 - (a) Requires a joint application to include, at a minimum, evidence of collaboration between the jointly applying applicants and an explanation of how the jointly applying applicants will administer the funds allocated to them.
 - (4) A recipient is permitted to use the initial funds awarded to complete the local homeless action plan, including paying for any technical assistance or contracted entities to support the completion of the homeless action plan.

- ii) Requires an applicant to submit an application to the council by June 30, 2022, that includes a local homelessness action plan, a narrative, and specific outcome goals to receive the remaining balance of its Round 3 program allocation, as follows:
 - (1) Requires that a complete application include the following:
 - (a) A local homelessness action plan.
 - (b) Outcome goals aimed at preventing and reducing homelessness over a three-year period, informed by the findings from the local landscape analysis and the jurisdiction's base system performance measure from 2020 calendar year data in the Homeless Data Integration System. The outcome goals shall set definite metrics, based on the United States Department of Housing and Urban Development's system performance measures.
 - (c) A narrative describing the uses of the requested funds and how they will help the jurisdiction achieve their outcome goals.
 - (2) Requires an applicant to engage with the council on its local plan and outcome goals before submitting a complete application.
 - (3) Requires an applicant to agendize the application at a regular meeting of its governing body, including receiving public comment, before being submitted to the council.
 - (4) Requires the council to either approve the application, and issue the notice of award to allocate the remaining percent of an applicant's funding, or return it to the applicant with written comments and specific requested amendments.
- c) Requires Round 3 funds to be used in the following manner:
 - i) Prohibits a program recipient from using funding from the program to supplant existing local funds for homelessness services under penalty of disallowance or reduction, or both, of future program funds, as determined by the council.
 - ii) Provides that no more than 5 percent or \$50 million of the funds available shall be used to cover the council's costs of administration. The council may expend administrative funds until December 31, 2026, to complete grant close-out activities.
 - iii) Provides that a program recipient use at least 10 percent of the funds allocated for homeless youth populations.
 - iv) Requires all funds to be expended on evidence-based homeless interventions and in compliance with Housing First.

- v) Provides that all Round 3 program funds, including bonus funds, shall be expended by June 30, 2026.
- vi) Requires that no later than June 30, 2024, recipients shall demonstrate whether they have successfully met their outcome goals.
 - (1) Jurisdictions that meet their outcome goals shall be eligible for bonus funds. The council shall allocate bonus awards in a reasonable and equitable manner, based on homeless population, to all jurisdictions who have qualified for bonus funds no later than November 1, 2024.
 - (2) Jurisdictions that have not met their outcome goals shall not be eligible for bonus funding and shall accept technical assistance from council staff and may also be required to limit the allowable uses of these program funds, as determined by the council.
- d) Allocates \$1 billion for Round 4 HHAPP funding in the 2022-23 fiscal year, as follows:
 - i) Provides that 80 percent or \$800 million to applicants that are cities, counties or continuums of care (CoC) as follows:
 - (1) 32 percent or \$240 million to CoCs based on each CoCs proportionate share of the state's total homelessness population, based on homeless point-in-time count. Requires the council to not award more than 40 percent of the allocation to any one CoC.
 - (2) 42 percent or \$336 million to city, or cities that are also a county that have a population of 300,000 or more, as of January 1, 2021. Requires the Council to calculate the allocation to a city based on the city's proportionate share of the total homeless population of the region served by the COC within which the city is located, based on homeless point-in-time count. Requires the Council not to award more than 45 percent of the program allocation made pursuant to this subparagraph to any one city. Provides that if more than one recipient within the CoC meets the requirement of this subparagraph, the proportionate share of funds shall be equally allocated to those jurisdictions.
 - (3) 28 percent or \$224 million of the allocation to counties. Requires the council to calculate the allocation to a county based on the county's proportionate share of the total homeless population of the region served by the COC within which the county is located based on the homeless point-in-time count. Requires the Council not to award more than 40 percent of the program allocation to any one county.
 - ii) Provides that 18 percent or \$180 million of the funding available be set aside for awarding bonus. Requires the Council to determine bonus award allocations and to report to the chairs of the relevant fiscal and policy committees within 30 days of making the funding allocation determinations.

- iii) Provides not more than 2 percent or \$20 million of the funding available to tribal applicants, as follows:
 - (1) Allows tribes to request funds, and to be allocated funds up to their requested amount, or up to a total of \$20 million collectively among all tribal applicants.
 - (2) Allows the Council to make allocations to tribes on the basis of a tribal applicant's proportionate share of need relative to all tribes that submit an application for funding.
 - (3) Provides that a tribal applicant may partner with a local CoC or coordinated entry system.
 - (4) Provides that any funds available to tribal applicants that are unallocated by July 1, 2025, shall be allocated as bonus awards.
- e) Provides for the allocation of Round 4 funding via the following process:
 - i) Requires the council to make an application for Round 4 program allocations available no later than September 30, 2022. Applications shall be due to the council no later than 60 days from the date the council makes those applications available.
 - ii) Requires an applicant to submit an application with the following information to receive a Round 4 allocation:
 - (1) A local homelessness action plan that provides an update on the local homelessness action plan included in an application for a Round 3 program allocation.
 - (2) New outcome goals that build upon prior years outcome goals.
 - (a) Requires that each applicant determine its outcome goals that build upon prior year goals in consultation with the council, and requires consultation with the council before submitting final outcome goals..
 - (3) A narrative describing how the requested funding will be used and how it will support the specified outcome goals.
 - iii) Requires a city, county, and CoC application to be agendaized at a regular meeting by the applicant's governing body, including receiving public comment, before submitting to the council.
 - iv) Requires the council to approve the application and issue the notice to award to disburse 50 percent of an applicant's funding within 30 days, or return it to the applicant with written, detailed comments and request one or more amendments.
- f) Requires funding allocated in Round 4 of the program to be spent in the following manner:

- i) Prohibits a program recipient from using funding from the program to supplant existing local funds for homelessness services under penalty of disallowance or reduction, or both, of future program funds, as determined by the council.
- ii) Provides that no more than 5 percent or \$50 million of the funds shall be used to cover the council's costs of administration of this section. The council may expend administrative funds until December 31, 2027, to complete grant close-out activities.
- iii) Provides that a program recipient use at least 10 percent of the funds allocated for homeless youth populations.
- iv) Requires all funds to be expended on evidence-based interventions and in compliance with Housing First.
- v) Requires a recipient to contractually obligate not less than 75 percent and expend not less than 50 percent of the initial Round 4 program allocations no later than May 31, 2025. If the jurisdiction has met this requirement, and can demonstrate that they are on track to meet their outcome goals, the council shall distribute the balance of the jurisdiction's allocated funding.
 - (1) If a jurisdiction cannot meet this requirement, they must submit an alternative disbursement plan that includes an explanation for the delay on or before June 30, 2025. Requires the Council to approve the alternative disbursement plan prior to distributing additional funding.
- vi) Provides that the council shall determine whether a recipient has met its outcome goals through July 1, 2025, and shall award bonus funding as soon as data becomes available, but no later than November 1, 2025.
 - (1) Allows the council to provide exceptions to meeting outcome goals if the recipient demonstrates hardship by a disaster for which a state of emergency is proclaimed by the Governor.
- vii) Requires that all Round 4 program funds, including bonus funds, shall be expended by June 30, 2027.
- g) Requires applicants to report specific information for all rounds of program allocations through a data collection, reporting, performance monitoring and accountability framework established by the council. This includes:
 - i) Data on the applicant's progress towards meeting their outcome goals submitted annually on December 31 of each year through the duration of the program.
 - ii) If an applicant has not made significant progress toward meeting outcome goals, they must submit a description of barriers and possible solutions and accept technical assistance from the council.

- iii) Requires applicants to provide quarterly fiscal reports to the council. If applicants are not on-track to meet their performance goals, these quarterly reports shall include an update on meeting those goals.
 - iv) Applicants must provide a final report on Round 3 funding by October 1, 2026, and on Round 4 funding by October 1, 2027.
- 4) **Encampment Resolution Grants.** Establishes the Encampment Resolution Funding Program to assist cities, counties, and CoCs in ensuring the safety and wellness of people experiencing homelessness in encampments to do the following:
- a) Provide competitive encampment resolution grants to resolve critical encampment concerns.
 - b) Transition individuals into safe and stable housing.
 - c) Encourage a data-informed, coordinated approach to address encampment concerns.
 - d) Requires the council to award initial grants by March 1, 2022.
- 5) **Family Homelessness Challenge Grants.** Establishes the Family Homelessness Challenge Grants and Technical Assistance to provide one-time grants and technical assistance to local jurisdictions in order to address and end family homelessness.
- a) 75 percent of funding appropriated for this purpose would be available for competitive grants, to be allocated in two competitive solicitations.
 - b) 20 percent of funding would be available for technical assistance for local jurisdictions.
 - c) Five percent of available funding would be available for administration of the program.
 - d) Requires that funding be made available no later than March 1, 2022, and that funds be expended by June 30, 2026.
- 6) **Regional Early Action Planning Grant Program.** Establishes the Regional Early Action Planning Grants Program of 2021. Specifically, this bill:
- a) Requires that the program be developed and administered by the Department of Housing and Community Development (HCD) in collaboration with the Office of Planning and Research (OPR), the Strategic Growth Council (SGC) and the State Air Resources Board (ARB) to provide regions with funding for transformative planning and implementation activities.
 - b) Allocates funding as follows:
 - i) 85 percent to Metropolitan Planning Organizations based on projected population.

- ii) Five percent to rural jurisdictions.
 - iii) Five percent for “exemplary” projects that exceed the requirements of the program.
 - iv) Five percent for program administration.
- c) Requires that funds be spent on planning and implementation projects that improve housing and reduce per capita vehicle miles travel in furtherance of applicants’ Sustainable Community Strategies.
- 7) **Affordable Housing Preservation.** Provides for the allocation of funds for the preservation of state-funded affordable housing properties that are in danger of losing their affordability protections. Specifically, this bill:
- a) Authorizes the department, upon appropriation, to make loans or grants, or both loans and grants, to rehabilitate, capitalize operating subsidy reserves for, and extend the long-term affordability of department-funded housing projects that have affordability restrictions that have expired, that have an affordability restriction with a remaining term of less than 5 years, or are otherwise at risk for conversion from affordable to market rate.
 - b) Requires the department to establish loan processing or transaction fees for loans or grants authorized under these provisions and requires that funds received by the department in repayment of loans under these provisions be deposited in the Housing Rehabilitation Loan Fund, to be used for the Multifamily Housing Program.
 - c) Authorizes the department to adopt guidelines to implement this program and exempt those guidelines from the rulemaking provisions of the Administrative Procedure Act.
- 8) **Affordable Housing Backlog.** Provides for the allocation of funding to a qualified rental housing development to replace federal and state low-income housing tax credits and private activity bonds. Specifically, this bill:
- a) Defines “qualified rental housing development” for these purposes to mean a qualified low income housing project that received an award letter from specified multifamily housing programs administered by the department.
 - b) Requires that a loan awarded under these provisions be provided with an interest rate of zero and authorizes HCD to determine the terms under which a loan or grant awarded under these provisions is subject to repayment.
 - c) Requires a rental housing development that receives a grant or loan under these provisions to commence construction within 180 days of issuance of an award letter, and would authorize HCD to issue a 90-day extension.
- 9) **Project Homekey.** Provides for the use of additional state and federal funds for the acquisition, rehabilitation, and conversion of hotels, motels, commercial properties,

and other non-housing properties for noncongregate housing for homeless individuals.

- a) Provides that the deferred payment loan requirement under the program would not apply to assistance provided pursuant to these provisions.
- b) Authorizes HCD to adopt guidelines for the expenditure of funds appropriated to the department under these provisions and requires HCD to report to the Legislature on the use of the funds in the department's annual report, including, among other things, an explanation of how funding decisions were made and the number of individuals housed, or likely to be housed, using the funds.
- c) Exempts from CEQA, until July 1, 2024, a project described above and funded pursuant to these provisions if certain requirements are met, including that the project proponent submits to the lead agency a letter of support from a county, city, or other local public entity for any proposed rehabilitation, construction, or major alteration work. If the lead agency determines that a project is not subject to CEQA and the lead agency determines it will approve or carry out the project, the bill would require the lead agency to file a notice of exemption.

10) **Excess Sites.** Establishes the Excess Site Local Government Matching Grant Program administered by HCD to provide selected developers with one-time grants for development activities to enable development on excess state-owned property.

- a) Requires the department to allocate grants of up to \$10 million to development partners selected under Executive Order No. N-06-19 program to enter a ground lease with the state to create affordable housing on excess state-owned property and that will receive contributions from a local government in support of that affordable housing.
- b) Requires HCD to award grant funds based on several factors, including value of the local government contribution and the creation of new permanent housing options.
- c) Authorizes a selected developer and a local government to submit a joint application that includes, among other things, a budget demonstrating the amount of the local government's contribution and a commitment and strategy from the local government to support the selected developer.
- d) Limits the total amount of funding awarded under the program to \$30 million and requires the department to set aside up to 5% of appropriated funding for program administration.

11) **Foreclosure Intervention and Housing Preservation Program.** Establishes the Foreclosure Intervention Housing Preservation Program. Specifically, this bill:

- a) Allows HCD to contract with program administrators to offer grants or loans to qualifying nonprofits, community land trusts, or qualifying LLCs to purchase housing properties (one to 25 units) either out of foreclosure or after the property has defaulted on its loans but before it enters foreclosure.

- b) Requires HCD to consider geographic equity in allocating funds, among other guideline requirements.
- c) Requires grantees / borrowers to keep the units affordable for 55 years. Allows a temporary exemption if some of the units are market rate when acquired, but requires them to convert to affordable once existing tenants move out.
- d) Allows HCD to contract with fund administrators through June 30, 2026, or longer if funding is available. Funds not committed to an administrator by December 31, 2025 would be reallocated to the Housing Preservation Program for state or local funded projects.
- e) Requires HCD to report to the legislature by May 2023 on the status of the program.

12) **Infill Infrastructure Grant Program of 2019.** Makes provisions for the allocation of additional state funds through the Infill Infrastructure Grant Program of 2019. Specifically, this bill:

- a) Extends the operation of the 2019 Infill Infrastructure Grant Program from January 1, 2023, to January 1, 2026.
- b) Authorizes HCD to expend \$250 million pursuant to the Infill Infrastructure Grant Program of 2019 as follows:
 - i) \$160 million for selected capital improvements for large jurisdictions under the program.
 - ii) \$90 million for over-the-counter grants for capital improvements for projects for small jurisdictions under the program.
- c) Authorizes up to 5 percent of the funds to be set aside for program administration

13) **Public Works Enforcement Program.** Requires the Director of the Department of Industrial Relations to establish and maintain a strategic enforcement unit focused on construction, alteration, and repair projects. Requires the unit to enhance the department's enforcement of the Labor Code in construction, alteration, and repair projects related to Project Homekey.

14) **State Homelessness Landscape Assessment.** Requires the Homeless Coordinating and Financing Council to conduct a statewide assessment. Specifically, this bill:

- a) Requires the council, among other things, to identify state programs that provide housing or services to persons experiencing homelessness or at risk of homelessness, and collect and analyze data from those programs necessary to provide a comprehensive view of the homelessness response system.

- b) Authorizes local governments to collaborate with the coordinating council or other entity conducting the assessment to share existing data from existing local analyses of system needs or gaps to complement other data requested.
- c) Requires the council to submit an interim report by July 1, 2022, and a final report by December 31, 2022, on the assessment to specified legislative committees.

15) **Other Provisions.** Expands existing exclusions from the definition of “low-rent housing project” to include:

- a) Developments that consist of new construction and developments using funding received the Coronavirus State Fiscal Recovery Fund established by the federal American Rescue Plan Act of 2021 (ARPA).
- b) Projects funded by funding appropriated and disbursed through the Affordable Housing Preservation Program, Affordable Housing Backlog Program, and Project Homekey.

Fiscal Effect: The statutory changes of this bill are necessary to implement the Budget Act of 2021, which contains the appropriations for the programs outlined in this bill.

Support: None on file.

Opposed: None on file.

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