

Date of Hearing: August 3, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SCA 2 (Allen) – As Introduced December 7, 2020

Policy Committee: Housing and Community Development      Vote: 8 - 0

Urgency: No      State Mandated Local Program: No      Reimbursable: No

**SUMMARY:**

This constitutional amendment, if approved by the voters, repeals Article XXXIV of the California Constitution (Article 34), which prohibits the development, construction or acquisition of a publicly-funded affordable housing project until it is approved by a majority of the voters in a city or county in which the project is located.

**FISCAL EFFECT:**

- 1) One-time Secretary of State (SOS) costs in the range of \$546,000 to \$728,000 (General Fund), likely in 2023-24, for printing and mailing costs to place the measure on the ballot in a statewide election. Actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.

The SOS indicates printing and mailing costs associated with placing a measure on the statewide ballot are approximately \$91,000 per page, depending on the length of the ballot. The fiscal estimates noted above reflect the addition of six to eight pages in the Voter Information Guide.

- 2) To the extent repealing the voter-approval requirements in Article 34 makes it easier to develop, construct, and acquire publicly-funded low-income housing, this measure may result in increased public expenditures for those purposes. There would also be local savings from avoided election costs.

**COMMENTS:**

- 1) **Purpose.** This bill seeks to remove a barrier to affordable housing production by repealing Article 34 of the State Constitution, a local voting requirement for publically-funded affordable housing developments. According to Linc Housing Corporation:

Article 34 [adopted by the voters in 1950] has long perpetuated the racial wealth gap and stymied the development of affordable housing to the detriment of low-income populations statewide. In repealing this archaic law, [this measure] will reduce discriminatory housing policies, eliminate unnecessary expenses for taxpayers, and make it easier and more cost-effective for communities to build much needed affordable housing during the state's ongoing housing crisis.

The California Association of Realtors, whose predecessor was instrumental in the passage of the proposition adopting Article 34, is now a co-sponsor of this measure to repeal it.

- 2) **Background.** In 1950, as a result of backlash to post-war federal investment in public housing and failed attempts to block federally funded, low-income housing projects in local communities, California voters adopted Article 34 requiring local voter approval for publically-funded affordable housing projects. Today, over 70 years later, the federal government no longer focuses on funding new public housing construction. However, some state agencies, including the California Housing Financing Agency (CalHFA) and the Department of Housing and Community Development (HCD), still must place conditions on accessing state funds for affordable rental housing due to Article 34.

California is the only state with a constitutional voting requirement for affordable housing. Notably, this voter-approval requirement applies only to publically-funded affordable housing, which is disproportionately used by people of color. A coalition of supporters describes Article 34 as a “racist relic of the 1950s.”

This measure repeals Article 34 of the California Constitution, upon approval of the voters in a statewide election. If this measure passes both houses of the Legislature with a two-thirds vote it will likely appear on the November 2024 statewide ballot.

- 3) **Article 34.** Article 34 of the California Constitution, approved by the voters in 1950 as Proposition 10, an initiative measure, states the following:

No low rent housing project shall hereafter be developed, constructed, or acquired in any manner by any state public body until, a majority of the qualified electors of the city, town or county, as the case may be, in which it is proposed to develop, construct, or acquire the same, voting upon such issue, approve such project by voting in favor thereof at an election to be held for that purpose, or at any general or special election.

Article 34 defines “low rent housing project” as any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the federal government or a state public body, including supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise. Article 34 additionally defines “state public body” as the state, or any city, county, city and county, district, authority, agency or any other subdivision or public body of the state.

Existing state law specifies “low rent housing,” as defined in Article 34, does not apply to developments that meet specified conditions, including certain privately owned housing developments receiving no property tax exemption in which not more than 49% of the dwellings, apartments, or other living accommodations of the development may be occupied by persons of low income, developments intended for owner occupancy, and certain rehabilitation projects intended for low-income households.

- 4) **Prior Attempts to Repeal or Modify Article 34.** In 1974, the Legislature passed ACA 40 (W. Brown), which placed the repeal of Article 34 on the 1974 General Election ballot as Proposition 15. That measure was defeated. In 1977, the Legislature passed ACA 47 (W. Brown), placing Proposition 4 on the 1980 Primary election ballot, which would have

modified the voter approval requirements for publicly-funded affordable housing. Proposition 4 also failed passage. In 1992, the Legislature passed SCA 17 (Calderon), placing Proposition 168 on the 1993 Special Election ballot. That measure would have modified the election requirements and changed the definition of “low-rent housing” in Article 34. Proposition 168 also failed passage with just under 60% of voters opposing.

Most recently, SCA 1 (Allen), of the 2019-20 Legislative Session, nearly identical to this measure, was held at the Assembly Desk without a referral.

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