
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2023 - 2024 Regular

Bill No: AB 42
Author: Ramos
Version: 6/21/23
Consultant: Rounds

Hearing Date: 7/12/23
Tax Levy: No
Fiscal: Yes

TINY HOMES: FIRE SPRINKLER REQUIREMENTS

Prohibits, under specified conditions, a local agency from requiring fire sprinklers in temporary sleeping cabins (tiny homes) of less than 250 square feet.

Background

California’s homelessness crisis. According to the most recent point in time (PIT) count, 171,521 people were experiencing homelessness in California—representing 30% of the nation’s homeless population. Two-thirds of the homeless population in California is unsheltered. Over half (51%) of all unsheltered people in the U.S. were in California.

Local Government, Planning, and Housing. Planning and approving new housing is mainly a local responsibility. The California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public.

Building Standards. State law establishes the California Building Standards Commission (CBSC) within the Department of General Services and requires CBSC to approve and adopt building standards and to codify those standards in the California Building Standards Code. The Department of Housing and Community Development (HCD) proposes the adoption, amendment, or repeal of building standards to CBSC for residential buildings, including hotels, motels, lodging houses, apartment houses, dwellings, buildings, and structures. State law requires the State Fire Marshal (SFM) to adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and accessory structures.

Building Standards and Fire Sprinklers. All newly constructed permanent housing in California is required to be built to the health and safety specifications laid out in the California Building Standards Code, and more specifically the California Residential Code. Local agencies may enact standards that go beyond the statewide codes, but may not approve rules that are less stringent. In 2011, CBSC updated the Building Standards Code to require newly constructed dwellings to have fire sprinklers installed to reduce the number of injuries and deaths caused by fires. While the standards require sprinklers in newly constructed residential buildings, they do not require sprinkler installation in existing residential buildings. The sprinkler mandate did not include a square footage threshold or contemplate situations where dwellings are not permanent

or are only intended for temporary habitation, as in the case of emergency “tiny home” temporary sleeping cabins.

Shelter Crisis and Housing Standards. State law authorizes local governments to declare a “shelter crisis” when a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety. Under these circumstances, local governments may suspend the provisions of state or local statutes, regulations, or ordinances prescribing standards of housing, health, or safety when strict compliance would prevent, hinder, or delay the mitigation of the effects of the crisis. Local governments can enact alternative municipal health and safety standards that ensure minimal public health and safety. When a jurisdiction adopts these standards, it must nevertheless comply with certain standards provided for in the California Residential Code and California Building Code, as well as any future standards adopted by HCD related to emergency housing or emergency housing facilities, unless the jurisdiction adopts findings stating why the standards cannot be met and how the standards in the ordinance protect health and safety.

Shelter Crisis and Appendix P. Following the passage of state laws to provide local governments with flexibility to adopt alternate standards for shelters, HCD proposed and CBSC adopted Appendix P – Emergency Housing regulations. These regulations offer minimum health and safety standards that may serve as a template for local governments. Appendix P specifically devolves fire sprinkler and other fire requirements to the local enforcing agency. As such, a local building official or fire marshal can require the installation of fire sprinklers in emergency sleeping cabins.

Family Assistance Program, the sponsors of the bill, seeks to preclude local building officials and fire marshals from requiring that fire sprinklers be installed in temporary sleeping cabins (“tiny homes”).

Proposed Law

Assembly Bill 42 prohibits local agencies from requiring the installation of fire sprinklers in a temporary sleeping cabin with a total floor area of less than 250 square feet that is on a site with 50 or fewer temporary sleeping cabins if all the following alternative fire and life safety standards are met:

- One smoke alarm and carbon monoxide alarm are in each unit and are installed in accordance with the California Residential Code
- One fire extinguisher must be in each unit.
- Ingress and egress must facilitate rapid exit.
- Emergency evacuation signage and emergency egress lighting must be provided.
- Every egress must be free from storage and other obstructions.
- Smoking and the use of open flames and combustibles are prohibited.
- Twenty-four-hour active fire watch shall be provided at the site.
- Temporary sleeping cabins must be separated to the side and rear by at least six feet, and be made of noncombustible material.
- Fire code inspection plans must occur in regular intervals, as determined by the local agency
- Violations of the alternative fire and life safety standards at sites with temporary sleeping cabins must be handled in accordance with the law

The bill defines a “temporary sleeping cabin” as a nonpermanent fixture that does not have plumbing and is intended to provide temporary housing to people experiencing homelessness or at risk of homelessness with a total floor area of less than 250 feet.

The bill contains a sunset provision for January 1, 2027.

State Revenue Impact

No estimate.

Comments

1. **Purpose of the bill.** According to the author, “Tiny Homes are a unique solution to tackle the housing crisis. In this case, my bill aims to help service providers on the ground who set out to build these tiny homes for those who are at-risk or currently experiencing homelessness. By amending state law, we allow various organizations to save cost on the tiny homes which in turn benefits the organizations as the cost in savings can go towards more homes or back into services. Homelessness in California is an issue that requires unique solutions to combat it and this bill is one unique step to combat this issue by helping our service providers.”
2. **Home rule.** Local elected officials rightfully guard their ability to decide when and whether to impose higher health and safety standards than what is minimally required by the state: they are often in a better position to determine what standards are needed to protect the residents in their jurisdictions and to also know the concerns from citizens about the safety of their community. For these reasons, local elected officials are often well positioned to make decisions about the building health and safety standards that are most appropriate for their communities.
3. **Costs and Benefits.** According to Family Assistance Program, the sponsors of AB 42, many “tiny homes” do not have plumbing and requiring the installation of fire sprinklers in these sleeping cabins would more than triple per-unit costs, thereby reducing the number of cabins that can be built and the amount of funds available for other homeless services. For example, a project to build 20 units on a church parking lot would typically cost approximately \$155,000. With a fire sprinkler requirement, the same project would cost approximately \$550,000. Opponents counter that fire sprinklers are more effective at preventing death and injury than are smoke alarms and fire extinguishers. Opponents further contend that tiny home villages have a history of structural fires, and when tiny homes have had fires, those villages with sprinklers proved safer than those without. Opponents also have voiced concerns about the lack of language in the bill specifying how long they can be occupied and still be considered “temporary” dwelling units. Does AB 42 adequately balance costs of building tiny homes with public safety concerns?
4. **Double referral.** The Senate Rules Committee has ordered a double-referral of AB 42 – first to the Senate Housing Committee where it passed 11-0 and second to the Governance & Finance Committee.
5. **Charter cities.** The California Constitution allows cities that adopt charters to control their own “municipal affairs.” In all other matters, charter cities must follow the general, statewide laws. Because the Constitution doesn't define “municipal affairs,” the courts determine whether

a topic is a municipal affair or an issue of statewide concern. AB 42 says that its statutory provisions apply to charter cities.

6. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because the bill requires local agencies to impose alternative fire, life, and safety standards, and because the violation of such standards would constitute a crime under the State Housing Law, Legislative Counsel says that the bill imposes a new state mandate. AB 42 disclaims the state’s responsibility for providing reimbursement for this mandate 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 the bill.

Assembly Actions

Assembly Housing and Community Development Committee:	8-0
Assembly Local Government Committee:	8-0
Assembly Appropriations Committee:	15-0
Assembly Floor:	78-0

Support and Opposition (7/7/23)

Support: California Apartment Association
California Coalition for Youth

Opposition: American Institute of Architects California
California Association of Code Enforcement Officers
California Building Officials
California Fire Chiefs Association
City of Thousand Oaks
Fire Districts Association of California

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