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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair  
2025 - 2026 Regular Session

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### AB 1162 (Bonta) - Challenges to housing and community-serving projects

**Version:** April 28, 2025

**Urgency:** No

**Hearing Date:** July 7, 2025

**Policy Vote:** JUD. 12 - 0

**Mandate:** No

**Consultant:** Liah Burnley

**Bill Summary:** AB 1162 allows a defendant in actions brought to challenge a community-serving project to bring a motion for an order requiring the plaintiff to furnish an undertaking as security.

**Fiscal Impact:** Unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate the motions authorized by this bill. Allowing a defendant to bring a motion for requiring the plaintiff to furnish security in cases challenging community service projects could lead to lengthier and more complex court proceedings with attendant workload and resource costs to the court. The fiscal impact of this bill to the courts will depend on many unknowns, including the number of cases filed and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations.

**Background:** California law allows defendants in lawsuits challenging an affordable housing project under CEQA, or any other civil action brought to challenge a housing project, to request that the plaintiff be required to provide a bond to cover the costs and damages of the delay to the project caused by the lawsuit, when the defendant can show that the lawsuit is without merit and was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the affordable nature of the housing development project. This bill expands these provisions to include lawsuits challenging community-serving projects that have a direct connection or benefit to an affordable housing development, as specified, and permits real parties in interest, in addition to the defendant, to seek the imposition of the bond requirement.

#### Proposed Law:

- Allows a defendant or real party in interest, in all civil actions brought to challenge a community-serving project, to, apply to the court by noticed motion for an order requiring the plaintiff to furnish an undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in carrying out the development project, as follows:
  - The motion may be brought if the action or has the effect of preventing or delaying the project from being carried out.

- The motion must be made on the grounds that the action is without merit and that the action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the other community-serving project.
  - In responding to a motion for undertaking, the plaintiff may seek to limit the amount of the undertaking by presenting admissible evidence that filing an undertaking will cause it, and in cases where the plaintiff is an unincorporated association, its members, to suffer undue economic hardship.
  - If the court, after hearing, determines that the grounds for the motion have been established, the court must order that the plaintiff file the undertaking in an amount specified in the court's order, taking into consideration any admitted evidence of plaintiff's economic hardship and avoiding causing the plaintiff to suffer undue economic hardship, as security for costs and damages of the defendant.
  - The liability of the plaintiff for the costs and damages of the defendant shall not exceed \$500,000.
  - If the court concludes, based on all of the admissible evidence presented, that a bond in any amount would cause the plaintiff undue economic hardship, the court is authorized in its discretion to decline to impose a bond.
- Defines "Community-serving project," as a project primarily designed to provide public infrastructure, goods, or direct or auxiliary services essential to community well-being, including, but not limited to, housing, shelter, food, health care, hygiene, and safety. These projects must be undertaken by a nonprofit organization, a governmental entity, or an entity contracted with a nonprofit association or government entity, and in conjunction with an affordable housing project. Community-serving projects include:
    - Community health care services;
    - Food banks or food distribution programs;
    - Recovery support services for victims of crime or domestic violence;
    - Streets, parks, and libraries;
    - Animal shelters;
    - Homeless services;
    - Educational facilities, community centers, and arts and cultural programs; and,
    - Social services.

- Provides that, to qualify as a community-serving project, the project must have a direct and substantial connection and benefit to an affordable housing project by satisfying at least one of the following criteria:
  - The project is physically located on the same site as, or within reasonable proximity of, the affordable housing development or it provides on-site services that directly support the well-being of affordable housing residents. Such projects include health care clinics, childcare facilities, food distribution centers, and legal assistance for tenants;
  - The project constructs, improves, or maintains public infrastructure, including public transit enhancements, pedestrian pathways, community centers, parks, and libraries, that enhance the livability, safety, or accessibility of the affordable housing project;
  - The project is operated by a nonprofit organization, governmental entity, or a contracted entity that provides direct services primarily for the residents of the affordable housing project, such as job training, health care, domestic violence recovery support, educational programs, senior services, and mental health counseling; or,
  - The project is undertaken in conjunction with an affordable housing development that meets or exceeds the requirements set forth in Section 65915 of the Government Code and continues to maintain affordability commitments, funding agreements, or regulatory covenants that ensure services remain accessible to low- or moderate-income individuals.

**-- END --**