SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 1344 (Cabaldon)
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Fiscal: No
Urgency: No
AM

SUBJECT

Civil actions: housing development projects

DIGEST

This bill provides a mechanism for a defendant in a civil action, including under the California Environmental Quality Act (CEQA), challenging a project that is a priority care development project, as defined, to seek an order requiring the plaintiff to furnish an undertaking as security for costs and damages that may be incurred by the defendant if the bringing of the action by the plaintiff would result in preventing or delaying the project, and raises the amount the undertaking can be to no more than $1,000,0000. This bill also creates a special motion to strike a challenge to the approval or permitting of a priority care development project modeled after California's anti-Strategic Lawsuit against Public Participation (anti-SLApP) statute.

EXECUTIVE SUMMARY

Existing law provides certain mechanisms to protect and encourage the construction of low-income housing. One mechanism is an anti-SLAPP statute for priority development housing developments, which allows a court to strike a pleading in whole or in part based on a finding by the court that the plaintiff does not have a probability of prevailing on the claim. Unlike the existing mechanism, this bill would allow an anti-SLAPP suit to be brought in an enforcement action brought in the name of the people of the State of California by the Attorney General, district attorney, or city attorney, acting as a public prosecutor. Another mechanism allows a defendant to ask the court to require a plaintiff to post an undertaking, not to exceed $500,0000, as security for costs and damages that could result in preventing or delaying the project. This bill seeks to expand these existing mechanisms to also apply to projects that are funded in whole or in part through the Community Care Expansion program, the Behavioral Health Services Act, and the Behavioral Health Infrastructure Bond Act, including Homekey+. The bill also raises the maximum amount for the undertaking under existing law to $1,000,000.

This bill is sponsored by Attorney General, Rob Bonta. The bill is supported by the California Housing Consortium and California YIMBY. There is no known opposition. Should this bill pass out of this Committee, it will be referred to the Senate Appropriations Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed discretionary project to prepare a negative declaration, mitigated declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines). (Pub. Res. Code § 21100 et seq.)

2) Sets requirements relating to the preparation, review, comment, approval and certification of environmental documents, as well as procedures relating to an action or proceeding to attack, review, set aside, void, or annul various actions of a public agency on the grounds of noncompliance with CEQA. (Pub. Res. Code § 21165 et seq.)

3) Authorizes judicial review of CEQA actions taken by public agencies, following the agency's decision to carry out or approve the project, and specifies certain time periods in which an action must be instituted depending on the type of claim alleged. (Pub. Res. Code § 21167.)

4) Requires the superior court and court of appeal to provide lawsuits related CEQA preference over all other civil actions therein, in the matter of setting the same for hearing or trial, and in hearing the same, to the end that the action or proceeding is to be quickly heard and determined. (Pub. Res. Code § 21167.1(a).)

5) Provides that in all civil actions, including those brought by any plaintiff to challenge a housing development project which is a development project which meets or exceeds the requirements for low- or moderate-income housing, a defendant may 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 if the bringing of the action has the effect of preventing or delaying the project from being carried out. (Code of Civ. Proc. § 529.9(a).)
   a) Provides that a defendant seeking a security must make a motion for that security on the grounds that the action is without merit and was brought in

bad faith, vexatiously, for the purpose of delay, or to thwart the low- or moderate-income nature of the housing development project. (*Ibid*.)

b) Authorizes the plaintiff, in response to a motion for an undertaking, to 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. (*Id* at subd. (b).)

6) Requires the court, if the court determines after a hearing that the grounds for the motion have been established, to order the plaintiff to 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 to cause the plaintiff to suffer undue economic hardship, as security for costs and damages of the defendant.
   a) The liability of the plaintiff for the costs and damages of the defendant is not to exceed $500,000.
   b) 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.
   c) If at any time after the plaintiff has filed an undertaking the housing development plan is changed by the developer in bad faith so that it fails to meet or exceed the requirements for low- or moderate-income housing, the developer is liable to the plaintiff for the cost of obtaining the undertaking. (*Ibid*.)

7) Provides that in all civil actions, including actions brought pursuant to Section 21167 of the Public Resources Code, brought by any plaintiff to challenge the approval or permitting of a "priority housing development" project, a defendant may bring a special motion to strike the whole or any part of a pleading.

8) Establishes anti-SLAPP procedures, including for all civil actions brought to challenge a priority housing development project. (Code Civ. Proc. § 425.19(b).)
   a) A "priority housing development" means a development in which 100 percent of the units, exclusive of any manager's unit or units, will be reserved for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for at least 55 years. (Code Civ. Proc. § 425.19(c).)
   b) Entitles a prevailing defendant, with certain exceptions, to attorney's fees and costs; likewise for a prevailing plaintiff, provided the court finds the motion was frivolous or solely intended to cause unnecessary delay pursuant to Section 128.5 of the Code of Civil Procedure. (Code Civ. Proc. § 425.19(b)(2).)
   c) Stays discovery proceedings upon filing of notice of a SLAPP motion. (Code Civ. Proc. § 425.19(b)(5).)

d) Provides that these provisions do not apply any enforcement action brought in the name of the people of the State of California by the Attorney General, district attorney, or city attorney, acting as a public prosecutor.

This bill:

1) Defines "priority care development" to mean any projects funded, in whole or in part, pursuant to Sections 5892 (Mental Health Services Fund) or 5965.04 (Behavioral Health Infrastructure Bond Act of 2024), or subdivision (c) of Section 18999.97 (grants under the Community Care Expansion Program), of the Welfare Institutions Code. A "priority care development" does not include a "detention facility" as defined in subdivision (a) of Section 9500 of the Penal Code.

2) Establishes an anti-SLAPP motion statute similar to the one for a priority housing development, described in 5) above.

3) Authorizes a defendant in a civil action, including under CEQA, challenging a project that is a priority care development project, as defined, to seek an order requiring the plaintiff to furnish an undertaking as security for costs and damages that may be incurred by the defendant if the bringing of the action by the plaintiff would result in preventing or delaying the project

4) Raises the maximum of the undertaking to $1,000,0000. This amount is to be adjusted annually for inflation, beginning on January 1, 2028, based on the change in the annual California Consumer Price Index for All Urban Consumers, published by the Department of Industrial Relations, for the most recent one-year period ending on December 31 preceding each adjustment, with each adjusted amount rounded to the nearest $25.

COMMENTS

1. Stated need for the bill

The author writes:

> As of the most recent point-in-time count in 2025, approximately 187,000 Californians were experiencing homelessness on any given night. Local governments across the state are doing the right thing, approving permits for emergency shelters, interim housing, and supportive housing for people experiencing homelessness, as well as residential facilities for unhoused individuals seeking treatment for behavioral health issues or substance use disorder. Those efforts are regularly met with frivolous lawsuits from groups whose only goal is delay.

> The Legislature has already passed laws to protect affordable housing projects from these kinds of lawsuits, allowing courts to quickly dispose of meritless challenges and requiring plaintiffs to post financial security when their lawsuit lacks merit and is brought in bad faith or to delay or thwart construction. SB 1344 applies that policy to housing projects that are funded through the Community Care Expansion program, the Behavioral Health Services Act, and the Behavioral Health Infrastructure Bond Act, including Homekey+. This bill extends both tools to these priority care developments and doubles the liability cap on the bond requirement, which has not been updated since 1981, from $500,000 to $1,000,000, indexed to inflation going forward.
>
> SB 1344 would help protect local governments that are doing their part to address homelessness, ensure these important projects are not unnecessarily delayed or blocked through abuse of the judicial system, and protect the public's investment in infrastructure to bring every Californian inside.

The Attorney General, Rob Bonta, sponsor of the bill, writes:

> […] California supports local efforts to address homelessness through funding programs and by supporting local planning efforts. Unfortunately, local governments that are following the law and attempting to do the right thing by approving permits for shelters, care facilities, and supportive housing are regularly met with meritless lawsuits from NIMBY groups endeavoring to block projects.
>
> The California State Legislature has created two procedural tools to protect local governments from meritless challenges to affordable housing projects – the motion to strike under SB 439 (Skinner, 2023) and the bond requirement strengthened by SB 393 (Glazer, 2024). Unfortunately, these provisions do not protect local governments from meritless lawsuits challenging the approval of other projects that are essential to tackling California's intertwined housing and homelessness crisis, and delay can interfere with public funding windows and jeopardize projects.
>
> SB 1344 would expand these procedural tools to also apply to projects funded by the Community Care Expansion Program (CCE), the Behavioral Health Services Act, and the Behavioral Health Infrastructure Bond Act, including Homekey+. These programs fund interim housing for people experiencing homelessness or at risk of homelessness, adult and senior care facilities that serve elderly adults and people with disabilities who are experiencing or at risk of homelessness, and other residential care facilities, including more than $1 billion in housing investments for veterans who have behavioral health challenges. […]

2. Priority care developments

This bill is intended to apply to "priority care developments," which are projects funded in whole or in part through the Community Care Expansion program, the Behavioral Health Services Act, and the Behavioral Health Infrastructure Bond Act, including Homekey+. According to the Department of Social Services, the Community Care Expansion program "funds the acquisition, construction, and/or rehabilitation of adult and senior care facilities that serve applicants and recipients of Supplemental Security Income/State Supplementary Payment (SSI/SSP) or Cash Assistance Program for Immigrants (CAPI), who are at risk of or experiencing homelessness. Funds are also available to preserve residential care settings, including through operating subsidies for existing licensed adult and senior care facilities currently serving SSI/SSP or CAPI recipients."[1] The Behavioral Health Services Act modernized the Mental Health Services Act and was passed by voters in 2004. According to the Department of Health Care Services (DHCS), "30 percent of each county's funding allocation [under the act] must be used for housing interventions for Californians with the most significant behavioral health needs who are homeless or at risk of homelessness. Half of that amount is prioritized for those experiencing chronic homelessness."[2] DHCS administers the Behavioral Health Infrastructure Bond Act (BHIBA), which is a $6.38 billion general obligation bond to develop behavioral health treatment facilities and supportive housing for individuals experiencing mental health and substance use disorders.[3] BHIBA includes funding for Homekey+, which expands access to the Homekey Program to support the development of permanent supportive housing for veterans and individuals at risk of or experiencing homelessness and with mental health or substance use challenges. "Homekey+ will be modeled on HCD's successful Homekey program, which emphasizes the acquisition and rehabilitation of existing buildings, or other project types including new construction, that can be quickly converted or constructed for permanent affordable housing, generally within 12 months of award."[4]

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[1] Cal. Dept. of Social Services, *The Community Care Expansion Program* available at https://www.cdss.ca.gov/inforesources/cdss-programs/community-care-expansion.

[2] Dept. Health Care Services, *Proposition 1 Behavioral Health Services Act: How to Use Behavioral Health Services Act/Mental Health Service Act Funds for Housing* available at https://www.dhcs.ca.gov/BHT/Pages/BHSA-Using-Funds-for-Housing.aspx#:~:text=Housing%20is%20an%20essential%20component,behavioral%20health%20services%20and%20supports).

[3] Cal. Grants Portal, *Behavioral Health Infrastructure Bond Act of 2024: Behavioral Health Continuum Infrastructure Program Round 1: Launch Ready*, available at https://www.grants.ca.gov/grants/behavioral-health-infrastructure-bond-act-of-2024-behavioral-health-continuum-infrastructure-program-round-1-launch-ready/.

[4] Cal. Dept/ of Veterans, *Homekey+ A place to live-and thrive*, available at https://www.hcd.ca.gov/sites/default/files/docs/grants-and-funding/homekey/homekey-plus-factsheet.pdf.

3. Undertaking in actions challenging a priority care development

   a. *SB 393 (Glazer, Ch. 285, Stats. 2024*

SB 393 (Glazer, Ch. 285, Stats. 2024) amended an existing provision of law (Code of Civ. Proc. § 529.2) that provided a mechanism for a defendant in a civil action challenging a housing project which is a development project that meets or exceeds the requirements for low- or moderate-income housing to seek an order requiring the plaintiff to furnish an undertaking as security for costs and damages that may be incurred by the defendant if the bringing of the action by the plaintiff would result in preventing or delaying the project. Prior to the enactment of SB 393, the defendant had the burden of making a showing that the posting of the undertaking would not place an undue hardship on the plaintiff. SB 393 shifted the burden to the plaintiff to demonstrate that posting a bond would place an undue economic hardship on the plaintiff, arguing that the plaintiff is the one who has the information to make such a showing and therefore it was more appropriate to place that burden on the plaintiff. The liability for the plaintiff cannot exceed $500,000.

This bill seeks to enact a similar mechanism for a defendant in a civil action, including an action under CEQA, challenging a priority care development. This bill allows such a defendant to seek an order requiring the plaintiff to furnish an undertaking as security for costs and damages that may be incurred by the defendant if the bringing of the action by the plaintiff would result in preventing or delaying the project.

The bill also raises the amount of liability that the court can set for the undertaking to not exceed $1,000,0000 from the existing maximum of $500,000. The bill provides that this amount is to be adjusted annually for inflation, beginning on January 1, 2028, based on the change in the annual California Consumer Price Index for All Urban Consumers, published by the Department of Industrial Relations, for the most recent one-year period ending on December 31 preceding each adjustment, with each adjusted amount rounded to the nearest $25. Lastly, the bill provides that a “plaintiff” includes a ”petitioner,” “cross-petitioner,” and “cross-plaintiff,” and “defendant” includes “respondent,” “cross-respondent,” “cross-defendant,” and “real party in interest.”

   b. *First Amendment considerations*

In a recent U.S. Supreme Court Case, *Americans for Prosperity Foundation v. Bonta* ((2021) 141 S.Ct. 2373.), the Court held that the California Attorney General (AG) requirement that charities disclose their Schedule B to Form 990 when registering with the state facially violated the First Amendment. Schedule B requires non-profit organizations to disclose the names and addresses of donors who have contributed more than $5,000 in a particular tax year or, in certain cases, more than 2% of an organization’s total contributions and is filed with the federal government. The Court held that the standard of review to be applied in compelled disclosure situations is an exacting scrutiny standard, and wrote that under this standard there must be a "'substantial relation between the disclosure requirement and a sufficiently important governmental interest,' and that the disclosure requirement be narrowly tailored to the interest it promotes." (Id. at 2383-85; internal quotation marks omitted.) The court also stated that a law may be facially challenged and invalidated "as overbroad if a substantial number of its applications are unconstitutional." (*Id*. at 2387.)

The Court found that preventing fraud by charities was a substantial governmental interest, stating that there was "no doubt that California has an important interest in preventing wrongdoing by charitable organizations."(*Id*. at 2387.) However, the court found that the disclosure requirement was not narrowly tailored, pointing to the fact that the District Court found no concrete example of pre-investigation collection advancing the AG's enforcement efforts. (*Id*. at 2386.) The Court noted that there were other methods available to the AG to collect such information, such as a subpoena or audit letter. (Ibid.) The AG argued to the Court that the disclosure requirement did not result in any widespread chilling of association rights, that the disclosures were confidential, and that there were no burdens placed on the donors because tax-exempt charities already provide their Schedule B form to the Internal Revenue Service. (Id. at 2387-88.) The Court found these arguments unpersuasive. The Court concluded that the protections of the First Amendment as it relates to freedom of association "are triggered not only by actual restrictions" on a person's ability to join with other people to further a shared goal but also when there is a risk of a chilling effect on association. (*Id*. at 2389.)

A California appellate court recently applied the holding in Americans for Prosperity Foundation to a discovery request by the Public Utility Commission's (PUC) Public Advocate's Office (PAO) on Southern California Gas Company (SCG) related to whether the political activities of SCG are funded by SCG's shareholders, which is permissible, or ratepayers, which is not permissible under existing law. The court held that the discovery request violated the First Amendment as applied to SCG because it infringed upon their freedom of association rights. (*Southern California Gas Company v. Public Utilities Commission* (2023) 87 Cal.App5th 324.) The court applied the exacting scrutiny standard as laid out under American for Prosperity Foundation and stated that a party objecting to a discovery request based on First Amendment rights has to make a prima facie showing that the enforcement of the request will result in harassment, membership withdrawal, or discouragement of new members or other consequences that objectively indicate an impact on or "chilling" of the members' association rights. (*Id*. at 342-43.) If the petitioner can make the prima facie showing the burden shifts to the government to demonstrate that the disclosure serves a compelling government interest and is the least restrictive means of obtaining the requested information. (*Id*. at 343.)

The court stated that "a governmental entity seeking discovery must show that the information sought is highly relevant to the claims or defenses in the proceeding at hand" and that the information is essential to perform its duties. (*Id*. at 344-45.) Here, much like in the American for Prosperity Foundation case, the information to be disclosed would remain confidential but this was found unpersuasive by the court. They noted confidentiality was irrelevant to the matter because the evidence provided by SCG "demonstrates that the disclosure to the PAO itself would chill third parties from associating with the utility." (*Id*. at 344.) SCG made this demonstration by providing evidence that disclosure would have a chilling effect on the ability of SCG to engage in activities that are lawful, and submitted declarations from organizations stating that the disclosure required by PAO would dissuade them from communicating or contracting with SCG.

As this Committee also noted in its analysis of SB 393, it is unclear if this bill implicates the First Amendment as addressed in the cases above. It could be argued that this statute is not a compelled disclosure situation as a plaintiff is not required to provide evidence of their financials, but is merely authorized to provide that information to challenge a motion seeking an undertaking. Additionally, it could be argued that preventing frivolous litigation and stopping undue delay in the construction of priority care developments is an important state interest and that the provision is narrowly tailored. However, requiring the financials of members of an unincorporated association to be disclosed in order to challenge an undertaking may pose a risk of having a chilling effect on associations in a way that the cases above find violate the First Amendment.

4. Anti-SLAPP motions

California's anti-SLAPP statute provides that a cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike. (Civ. Proc. Code § 425.16.) The Legislature asserted that the law was justified because "it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process."

The seminal article entitled *Strategic Lawsuits Against Public Participation* defined SLAPP suits as "civil lawsuits … that are aimed at preventing citizens from exercising their political rights or punishing those who have done so." While SLAPP suits "masquerade as ordinary lawsuits" such as defamation and interference with a prospective economic advantage, they are generally meritless suits brought primarily to chill the exercise of free speech or petition rights by the threat of severe economic consequences for the defendant, and not to vindicate a legally cognizable right.

In 1992, Code of Civil Procedure section 425.16 was added by SB 1264 (Lockyer, Ch. 726, Stats. 1992) to provide a "special motion to strike" for use by defendants in SLAPP suits to obtain an early judicial ruling and termination of a meritless claim arising from a person's exercise of their constitutional rights of petition and free speech in connection with a public issue. In passing the anti-SLAPP law, the Legislature found "that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances." (Code Civ. Proc. § 425.16(a).)

The special motion to strike must be brought within 60 days of service of complaint; it can result in an award of attorney's fees and costs, stays discovery proceedings, and must be heard within 30 days if the court's docket permits. (Code Civ. Proc. § 425.16(c), (f), (g).) The motion involves two steps. First, the moving party must show that the claim at issue arises from a protected activity, which includes any "statement or writing made in connection with an issue under consideration or review by a … judicial body." (Id. at (e).) If so, under the second step the burden shifts to the opposing party to demonstrate a reasonable probability of prevailing on the merits. (*See id*. at (b).) If the opposing party meets this burden, the special motion to strike is denied.

In 2023, the Legislature enacted SB 439 (Skinner, Ch. 779, Stats. 2023) and created a special motion to strike that is nearly identical to the anti-SLAPP statute with regard to challenges to certain housing developments. SB 439 allows for this motion to strike to be filed in a case that challenges the approval or permitting of a "priority housing development" project, explicitly including actions brought pursuant to CEQA. The procedures and guidelines mirror those in Section 425.16. As such, the court is required to deny the motion if it determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim. This bill applies only to developments in which 100 percent of the units, excluding manager's units, are reserved for lower income households for at least 55 years. "Lower income households" means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. This includes very low income households and extremely low income households. (Health & Saf. Code § 50079.5.)

This bill seeks to establish a motion to strike that is nearly identical to SB 439 with regard to challenges to of a priority care development project. The biggest deviation under this bill from SB 439, is that SB 439 does not apply in an enforcement action brought in the name of the people of the State of California by the Attorney General, district attorney, or city attorney, acting as a public prosecutor. This bill would apply in such an action.

5. Statements in support

California YIMBY writes in support stating:

> […] California is facing a severe homelessness crisis, with roughly 170,000 people currently unhoused. The state's initiatives support local efforts to combat homelessness through funding programs and providing planning assistance. Yet

> local governments that are following the law and doing the right thing by approving permits for shelters, care facilities, and supportive housing are too often met with frivolous lawsuits seeking to block projects and residential care facilities that would serve some of the most vulnerable populations.
>
> The Legislature has taken important steps to deter and quickly dispose of meritless legal challenges that delay or block affordable housing projects. Unfortunately, these protections do not extend to other essential projects needed to address California's intertwined housing and homelessness crises. As a result, local governments remain vulnerable to frivolous lawsuits that can delay or derail these badly needed projects, often rendering them infeasible through delay alone.
>
> SB 1344 would expand the scope of these protections to include Community Care Expansion (CCE), Behavioral Health Services Act, and Behavioral Health Infrastructure Bond Act-funded projects, including Homekey+. These programs fund interim housing for people experiencing homelessness or at risk of homelessness, adult and senior care facilities that serve elderly adults and people with disabilities who are experiencing or at risk of homelessness, and other residential care facilities. […]

SUPPORT

Attorney General, Rob Bonta (sponsor)
California Housing Consortium
California YIMBY

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation:

SB 916 (Ashby, 2026) provides a mechanism for a defendant in a civil action, including under CEQA, challenging a project that is a student housing project, as defined, to seek an order requiring the plaintiff to furnish an undertaking as security for costs and damages that may be incurred by the defendant if the bringing of the action by the plaintiff would result in preventing or delaying the project. SB 916 is currently pending in this Committee and is set to be heard on the same day as this bill.

Prior Legislation:

SB 678 (Niello, 2025) would have provided a mechanism for a defendant in a civil action, including under CEQA, challenging a project that engages in fire prevention activities, as defined, to seek an order requiring the plaintiff to furnish an undertaking as security for costs and damages that may be incurred by the defendant if the bringing of the action by the plaintiff would result in preventing or delaying the project. SB 678 died in the Senate Appropriations Committee.

SB 393 (Glazer, Ch. 285, Stats. 2024) shifted the burden from the defendant to the plaintiff to demonstrate that posting a bond would place an undue economic hardship on the plaintiff in certain actions challenging certain low- or moderate-income housing projects. (*See* Comment 2.)

SB 439 (Skinner, Ch. 779, Stats. 2023) created a special motion to strike that is nearly identical to the anti-SLAPP statute with regard to challenges to certain housing developments. (*See* Comment 4, above.)

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