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## Summary of 2019-20 Homelessness and Housing Budget Trailer Bill (AB 101)

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**July 3, 2019**

***After weeks of negotiations, details emerged late last week on the 2019-20 budget trailer bill (AB 101) containing the negotiated agreement on housing and homelessness. As had been featured in previous proposals – the May Revision, most notably – AB 101 relies on an array of incentives and penalties to encourage development of critically needed housing units affordable to low- and moderate-income individuals, as well as supports for homeless Californians. The proposal includes considerable General Fund support for housing and homelessness programs, incentives to encourage cities and counties to adopt pro-housing policies at the local level, and long-awaited details on the “stick” to encourage compliance with housing element law that does not include a tie to SB 1 transportation funding. A summary of the main features of the measure are provided below. We will continue to update this document as more information becomes available.***

### FUNDING

The measure funds the following affordable housing focused programs at levels consistent with the May Revision:

- \$250 million for the Local Housing Planning Support Grant Program;
- \$500 million for the Infill Infrastructure Grant Program;
- \$500 million for the Low-Income Tax Credit program; and
- \$500 million for the Mixed-Income Loan Program.

AB 101 allocates – all based on proportional shares of the 2019 Point-in-Time Count – \$650 million to cities, counties, and Continuums of Care (CoCs) to address homelessness in several flexible ways:

- \$175 million for counties, with a maximum grant allocation of 40% of the allocation;
- \$190 million for CoCs, with a maximum grant of 40% of the allocation and a minimum grant of \$500,000;
- \$275 million to the largest 13 cities (population of 300,000 or more) in the state, with a maximum grant allocation of 45% of the allocation;
- \$10 million reserved for a future and as-yet-undefined use;
- Additionally, 8% of the funds (per entity across all grant categories) must be dedicated to services for homeless youth.

## BONUS POINTS

The second part of the incentives included in AB 101 provides cities and counties “bonus points” for purposes of existing grant programs, including the Affordable Housing and Sustainable Communities (HSC) and the Transformative Climate Communities programs funded via the Greenhouse Gas Reduction Fund (GGRF). In order to qualify for the additional points, the California Department of Housing and Community Development (HCD) would have to designate a city or county as “pro-housing” based on a set of criteria that will be determined by a stakeholder process. The criteria shall consider the needs of rural, suburban, and urban jurisdictions and how the criteria may differ in each type of community. The city or county will have had to voluntarily adopt ordinances that facilitate the planning, approval, or construction of housing such as streamlining, by-right zoning, capping impact fees, reducing parking criteria, etc. The bonus points will be applied to funding cycles starting after July 1, 2021.

## PENALTIES

Should a city, county, or city and county fail to comply with housing element law, the measure empowers the state to take the following actions:

- Prior to the Attorney General filing suit, AB 101 requires meetings between HCD and the local jurisdiction, including to determine a written statement of findings and a timeline for compliance;
- In any action by the Attorney General, the court shall issue and order a judgement directing the jurisdiction to bring its housing element into substantial compliance.
- If the jurisdiction hasn’t complied with the court order or judgement after 12 months, the court may call a status conference and decide to levy penalties against a city or county until that jurisdiction comes into substantial compliance:
  - Penalties start at \$10,000-\$100,000 per month;
  - After three months if the agency hasn’t complied, the penalties increase by a factor of three;
  - After six months if the agency hasn’t complied, the penalties increase by a factor of six; and
  - Penalty revenue collected from non-compliant jurisdictions will be deposited into the Building Homes and Jobs Trust Fund (SB 2).
- In the event that the jurisdiction fails to pay the penalties, the court may require the State Controller’s Office (SCO) to withhold any available state or local funds and deposit them to the SB 2 account (so long as the withholding of funds does not violate the State Constitution).
- The court, in determining the additional remedies available to bring jurisdictions into compliance, may consider whether there are any mitigating circumstances delaying the

jurisdiction from coming into compliance, whether the jurisdiction is making a good faith effort, or is facing substantial undue hardships.

- The court may appoint an agent of the court with all the powers necessary to bring the jurisdiction into substantial compliance by remedying identified deficiencies.

### **LOW BARRIER NAVIGATION CENTERS**

AB 101 makes statutory changes to streamline approval of low-barrier navigation centers, which are defined as high-quality, low-barrier, service-enriched shelters focused on moving people into permanent housing while connecting them with services. AB 101, until January 1, 2027, requires low barrier navigation center developments to be a use by-right in areas zoned for mixed uses and nonresidential zones permitting multifamily uses if the development meets certain requirements.

### **HOMELESS HOUSING, ASSOCIATION, AND PREVENTION PROGRAM**

AB 101 will allocate the city, county, and city and county shares to each jurisdiction based on their share of the 2019 Point-in-Time count of homeless individuals unless a jurisdiction can demonstrate that a significant change in methodology occurred since the last Point in Time count. Eligible uses include activities that prevent homelessness, provide support to homeless individuals, and help move homeless individuals to permanent housing. The trailer bill requires applicants for funds to demonstrate efforts at regional coordination in their application, and to demonstrate how the requested funds will close existing gaps in addressing homelessness. The first round of applications is due no later than February 15, 2020 and by April 1 of the same year; the Business, Consumer Services, and Housing Agency is required to make award determinations. Any remaining funds not allocated shall be reserved for a second round in the future.

### **LOCAL GOVERNMENT PLANNING SUPPORT GRANTS**

AB 101 provides for the division of \$250 million in planning grants between regional governing entities and local jurisdictions. Specifically, the measure provides \$125 million to regional entities and \$125 million to local jurisdictions for technical assistance, preparation and adoption of planning documents, and process improvements to accelerate housing production and facilitate compliance to implement the sixth cycle of the Regional Housing Need Assessment process.

### **REVAMPING REGIONAL HOUSING NEEDS ALLOCATION (RHNA) PROCESS**

The trailer bill also preserves the requirement that HCD, in collaboration with Office of Planning and Research (OPR) and after engaging stakeholders, develop recommendations for the Legislature's consideration by December 31, 2022, to improve the RHNA process in a manner

that promotes and streamlines housing development and substantially addresses California's housing shortage.

## INFILL INFRASTRUCTURE GRANT PROGRAM OF 2019

AB 101 also invests \$500 million in one-time support for an Infill Infrastructure (IIG) Grant Program. Like the existing IIG program that has been funded since 2006 from Proposition 1C, the 2019 program is intended to fund capital improvement projects that are "an integral part of, or necessary to facilitate the development of" infill projects. The measure allocates \$410 million for projects in larger jurisdictions, while \$90 million is dedicated for projects in smaller jurisdictions. Small jurisdictions are defined as a county with a population of less than 250,000 as of January 1, 2019 or any city within that county. A larger jurisdiction includes all those counties and cities within those counties with a population of 250,000 or more. Regardless of the size of jurisdiction, the city, county, or city and county must have an adopted housing element that has been found in compliance by HCD and that has submitted its annual progress report (APR) for 2017 through the most recently required APR. AB 101 requires HCD to release a notice of funding available (NOFA) for a competitive grant program for larger jurisdictions no later than November 30, 2019. By the same date, HCD must release a NOFA for smaller jurisdictions for an over-the-counter application process.

## TAX CREDITS FOR AFFORDABLE HOUSING

AB 101 provides for the allocation of \$500 million in new state low-income housing tax credits for new construction projects that receive the federal 4% tax credit. For these new credits, this bill increases the eligible basis for these projects from 13% to 30%. It requires at least \$300 million of this amount to be available to new construction projects receiving the federal 4% tax credit and allows up to \$200 million to be available to projects receiving assistance from the California Housing Finance Agency (CalHFA) Mixed Income Program. Additionally, it provides that in calendar year 2020, projects will follow the project volume cap and 4% federal tax credit allocation criteria required under current law, and requires the California Tax Credit Allocation Committee to develop a new methodology to award allocations for the 2021 calendar year and each year thereafter.

## QUESTIONS?

If you have questions on the housing aspects of AB 101, please contact [Kiana Valentine](#); for questions regarding the homelessness-related provisions, please contact [Jean Hurst](#).