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SB-5 Affordable Housing and Community Development Investment Program. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL

NO. 5

Introduced by Senators Beall, McGuire, and Portantino
(Principal coauthor: Senator Roth)
(Coauthors: Senators Bradford, Caballero, Hueso, Stern, and Wiener)
(Coauthors: Assembly Members Aguiar-Curry, Carrillo, Kalra, Mullin, Wicks, Gabriel, Gloria, and Santiago)

December 03, 2018

An act to add Section 41202.6 to the Education Code, to add Part 4 (commencing with Section 55900) to Division 2 of Title 5 of, and to add Division 6 (commencing with Section 62300) to Title 6 of, the Government Code, and to add Section 97.68.1 to the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 5, Beall. Affordable Housing and Community Development Investment Program.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, subject to certain modifications. Existing law requires an annual reallocation of property tax revenue from local agencies in each county to the Educational Revenue Augmentation Fund (ERAF) in that county for allocation to specified educational entities.

Existing law authorizes certain local agencies to form an enhanced infrastructure financing district, affordable housing authority, transit village development district, or community revitalization and investment authority for purposes of, among other things, infrastructure, affordable housing, and economic revitalization.

This bill would establish in state government the Affordable Housing and Community Development Investment Program, which would be administered by the Affordable Housing and Community Development Investment Committee. The bill would authorize a city, county, city and county, joint powers agency, enhanced infrastructure financing district, affordable housing authority, community revitalization and investment authority, transit village development district, or a combination of those entities, to apply to the Affordable Housing and Community Development Investment Committee to participate in the program and would authorize the committee to approve or deny plans for projects meeting specific criteria. The bill would also authorize certain local agencies to establish an affordable housing and community development investment agency and authorize an agency to apply for funding under the program and issue bonds, as provided, to carry out a project under the program.

The bill would require the Affordable Housing and Community Development Investment Committee to adopt guidelines for plans. Subject to the Legislature enacting a budget bill for the applicable fiscal year that specifies the amount for the committee to allocate pursuant to the program, the bill would require the committee to approve no more than \$200,000,000 per year from July 1, 2021, to June 30, 2026, and \$250,000,000 per year from July 1, 2026, to June 30, 2030, in transfers from a county's ERAF for applicants for plans approved pursuant to this program. This bill would provide that eligible projects include, among other things, the predevelopment, development, acquisition, rehabilitation, and preservation of workforce and affordable housing, certain transit-oriented development, and projects promoting strong neighborhoods.

The bill would require the Affordable Housing and Community Development Investment Committee, upon approval of a plan and subject to specified conditions, to issue an order directing the county auditor to transfer an amount of ad valorem property tax revenue that is equal to the affordable housing and community development investment amount approved by the committee, except as provided, from the county's ERAF. The bill would require the county auditor to either deposit that amount into the Affordable Housing and Community Development Investment Fund, which this bill would create in the treasury of each county, or, if the applicant is a specified type of authority or special district to transfer to the city or county that created the authority or district an amount of property tax revenue equal to the amount approved by the Affordable Housing and Community Development Investment Committee for that authority or district. The bill would require the city or county that created the district to, upon receipt, transfer those funds to the authority or district in an amount equal to the affordable housing and community development investment amount for that authority or district. By imposing additional duties on local officials, the bill would impose a state-mandated local program. The bill would authorize applicants to use approved amounts to incur debt or issue bonds or other financing to support an approved project.

The bill also would require each applicant that has received funding to submit annual reports, as specified, and would require the Affordable Housing and Community Development Investment Committee to provide a report to the Joint Legislative Budget Committee, if it approves funding under the program, that includes certain project information.

Section 8 of Article XVI of the California Constitution sets forth a formula for computing the minimum amount of revenues that the state is required to appropriate for the support of school districts and community college districts for each fiscal year.

This bill would require the Director of Finance to adjust the percentage of General Fund revenues appropriated for school districts and community college districts for these purposes in a manner that ensures that the transfers from a county's ERAF pursuant to the Affordable Housing and Community Development Investment Program have no net fiscal impact upon the total amount of the General Fund revenue and local property tax revenue allocated to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) In recent years the Legislature has created several new opportunities to use tax increment financing, which include the formation of enhanced infrastructure financing districts, affordable housing authorities, and community revitalization investment authorities. While these new tools can be useful to local agencies, they are widely viewed as lacking sufficient financial capacity compared to what existed under the former tax increment financing tool utilized by community redevelopment agencies.

(1) Under redevelopment, all of the growth in property tax (tax increment) within a project area over a base year, net of mandatory pass-through payments, that would otherwise be allocated to cities, counties, special districts, and school districts, was dedicated to redevelopment purposes. Under the new tax increment tools, however, property tax increment from affected taxing agencies other than the initiating city or county can only be dedicated with the approval of the affected local agencies.

(2) While potential local partnerships between cities, counties, and special districts involving new economic development tools continue to be explored by the state and local governments, a reality is that the state and local governments often have other policy and budget priorities, and lack incentives to participate.

(3) The language in the new tax increment laws currently prohibits school districts from participating, largely reflecting state concerns over potential backfill requirements for school funding under the requirements of Proposition 98 of 1988.

(b) The state shares many policy priorities with local governments, including affordable housing and economic development, that can be advanced by creating a new infrastructure financing tool that would focus on the following:

(1) Increasing the production of affordable housing available to very low, low-, and moderate-income families.

(2) Expanding transit-oriented development at higher densities.

(3) Reducing jobs-housing imbalances in areas with high job growth.

(4) Increasing the availability of high-quality jobs through the rehabilitation, construction, and maintenance of housing and infrastructure.

(5) Improving the quality of life in neighborhoods and disadvantaged communities.

(6) Incentivizing growth in urban areas, thereby reducing sprawl and ensuring that open space is preserved throughout the state.

(7) Reducing poverty and caseloads of state and county safety net support programs by incentivizing the training and hiring of affected individuals to jobs where they can be self-supporting.

(8) Protecting communities dealing with the effects of sea level rise, which is one of the most significant threats of climate change.

(c) The Legislature has declared that the policy priorities listed in subdivision (b) are matters of statewide concern. It is therefore appropriate that the state and local governments contribute financially to the realization of these priorities.

(d) By allowing local agencies to reduce their contributions to their county's Educational Revenue Augmentation Fund (ERAF) to fund affordable housing projects and related infrastructure, the state can advance its policy priorities while also protecting funding for schools and limiting effects on the state budget. The state's interests can be ensured and protected in the following manner:

(1) Requiring approval of the newly created Affordable Housing and Community Development Investment Committee, to ensure that the investment of property taxes otherwise allocated to schools through a county's

ERAF are used only for projects that maximize state policy benefits while ensuring that an economic analysis projects increased property tax revenues for schools in the affected territory upon project completion.

(2) Offering additional incentives to participating counties and special districts.

(3) Establishing an annual cap on the total affordable housing and community development investment amount that may be approved to be allocated by the Affordable Housing and Community Development Investment Committee, as follows:

(A) Not to exceed two hundred million dollars (\$200,000,000) annually between July 1, 2021, and June 30, 2026.

(B) Not to exceed two hundred fifty million dollars (\$250,000,000) annually between July 1, 2026, and June 30, 2030.

(4) Requiring annual reports to the Legislature on the status of all projects funded through this program.

(e) It is the intent of the Legislature that schools and community colleges receive no less total funding from General Fund and local property tax revenue as a result of the bill.

(f) It is the intent of the Legislature to have the state provide increased funding in an amount that equals reductions in local ERAF funds to the point necessary for schools to meet their minimum funding guarantee pursuant to existing law.

(g) It is the intent of the Legislature that local agencies receive the same amount of excess ERAF as they would have if the program established by this bill were not in effect.

SEC. 2. Section 41202.6 is added to the Education Code, to read:

41202.6. (a) It is the intent of the Legislature to ensure that the program authorized by the Affordable Housing and Community Development Investment Program established by Part 4 (commencing with Section 55900) of Division 2 of Title 5 of the Government Code does not affect the amount of funding required to be applied for the support of school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution.

(b) The Director of Finance shall adjust "the percentage of General Fund revenues appropriated for school districts and community college districts" for the purpose of applying paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution in a manner that ensures that transfers from a county's Educational Revenue Augmentation Fund authorized by Section 97.68.1 of the Revenue and Taxation Code shall have no net fiscal impact upon the total amount of General Fund revenue and local property tax revenue allocated to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution. The Director of Finance shall make this adjustment effective with the 2021–22 fiscal year, consistent with the start of the grant program pursuant to paragraph (1) of subdivision (a) of Section 55906 of the Government Code. The Director of Finance shall update the adjustment for subsequent increases or decreases in the amount of transfers authorized by the Affordable Housing and Community Development Investment Program.

SEC. 3. Part 4 (commencing with Section 55900) is added to Division 2 of Title 5 of the Government Code, to read:

PART 4. Affordable Housing and Community Development Investment Program

55900. This part is known and may be cited as the Affordable Housing and Community Development Investment Program.

55901. The Affordable Housing and Community Development Investment Program is hereby established to create a local-state partnership to reduce poverty and advance other state priorities financed, in part, by property tax increment.

55902. As used in this part, the following terms have the following meanings:

(a) "Affordable housing and community development investment amount" is the amount of property tax revenue allocated pursuant to Section 97.68.1 of the Revenue and Taxation Code.

(b) "Applicant" means any entity identified in subdivision (a) of Section 55905 that has submitted a plan to the committee pursuant to that section.

(c) "Committee" means the Affordable Housing and Community Development Investment Committee established by Section 55904.

(d) "Plan" means an application for one or more projects that is submitted to the committee.

(e) "Program" means the Affordable Housing and Community Development Investment Program established by this part.

(f) "Project" shall include:

(1) A project undertaken by a city, county, city or county, joint powers authority, enhanced infrastructure financing district, affordable housing authority, community revitalization and investment authority, affordable housing and community development investment agency, or a transit village development district.

(2) A transit priority project that meets the requirements of subdivision (d) of Section 65470.

(g) "Skilled and trained workforce" has the same meaning as set forth in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(h) "Transit Priority Project Program" has the same meaning as contained in Section 65470.

55903. (a) (1) Funding allocated to the program shall be used to support a plan that includes affordable housing. Subject to paragraph (2), eligible uses of this funding include:

(A) Predevelopment, development, acquisition, rehabilitation, and preservation of affordable housing, as provided in subdivision (b). For purposes of this section, the term "affordable housing" means housing affordable to households earning under 120 percent of area median income.

(B) Transit-oriented development for the purpose of developing or facilitating the development of higher density uses within close proximity to transit stations that will increase public transit ridership and contribute to the reduction of vehicle miles traveled and greenhouse gas emissions. Fiscal incentives shall be offered to offset local community impacts associated with greater densities.

(C) Infill development to assist in the new construction and rehabilitation of infrastructure that supports high-density, affordable, and mixed-income housing in locations designated as infill, including, but not limited to, any of the following:

(i) Park creation, development, or rehabilitation to encourage infill development.

(ii) Water, sewer, or other public infrastructure costs associated with infill development.

(iii) Transportation improvements related to infill development projects.

(iv) Traffic mitigation.

(D) Promoting strong neighborhoods through support of local community planning and engagement efforts to revitalize and restore neighborhoods, including repairing infrastructure and parks, rehabilitating and building housing and public facilities, promoting public-private partnerships, and supporting small businesses and job growth for affected residents.

(E) Protecting communities dealing with the effects of climate change, including, but not limited to, sea level rise, wildfires, seismic safety, and flood protection. Eligible projects include the construction, repair, replacement, and maintenance of infrastructure, including natural infrastructure, related to protecting communities from climate change.

(F) The acquisition, construction, or rehabilitation of land or property pursuant to eligible uses of funding specified in subparagraphs (A) to (E), inclusive.

(2) Eligible uses allocated to an applicant under the program shall be limited to those uses described in subparagraphs (A) to (C), inclusive, of paragraph (1) if the applicant has taken any action, whether by the legislative body of the applicant or the electorate exercising its local initiative or referendum power, that has any of the following effects:

(A) Established or implemented any provision that:

(i) Limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the applicant.

(ii) Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period.

(iii) Limits the population of the applicant.

(B) Imposes a moratorium or enforces an existing moratorium on housing development, including mixed-use development, within all or a portion of the jurisdiction of the applicant, except pursuant to a zoning ordinance that complies with the requirements of Section 65858.

(C) Requires voter approval of any updates to the applicant's housing element to comply with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7, or any rezoning of sites or general plan amendment to comply with an updated housing element or Section 65863.

(D) Changes the zoning of a parcel or parcels of property to a less intensive use or reduces the intensity of land use within an existing zoning district below what was allowed under the general plan land use designation and zoning ordinances of the applicant in effect on January 1, 2018. For purposes of this subparagraph, "less intensive use" includes, but is not limited to, reductions to height, density, floor area ratio, or new or increased open space or lot size requirements, for property zoned for residential use in the applicant's general plan or other planning document.

(b) At least 50 percent of the funding provided pursuant to the program and at least 50 percent of the funding of each plan shall be allocated according to subparagraph (A) of paragraph (1) of subdivision (a), to be used as follows:

(1) At least 80 percent of the funds subject to this subdivision shall be used to provide rental and owner-occupied housing for low-income households with an annual income equal to or less than 80 percent of the area median income, subject to the following:

(A) Funds used for rental housing shall have average property-level affordability at or below the maximum level established by the California Tax Credit Allocation Committee to be eligible for low-income housing tax credits at the percentage prescribed in accordance with Section 42(b)(1)(B)(ii) of Title 26 of the United States Code, relating to the method of prescribing percentages.

(B) Funds used for owner-occupied housing shall not exceed 20 percent of the funds used for purposes of this paragraph.

(2) No more than 20 percent of the funds subject to this subdivision may be used for the production of moderate-income housing for households with an annual income greater than 80 percent, but no more than 120 percent, of the area median income.

(3) The rent or sales price of any housing assisted with funds subject to this subdivision shall be in the following amounts:

(A) For housing for low-income households with an annual income equal to or less than 80 percent of the area median income, an amount that is at least 10 percent below the prevailing rent or sales price for the region.

(B) For housing for moderate-income households with greater than 80 percent, but no more than 120 percent, of the area median income, an amount that is at least 20 percent below the prevailing rent or sales price for the region.

(4) (A) Except as otherwise provided in subparagraph (B), housing assisted with funds subject to this subdivision shall be subject to a recorded affordability restriction for the following time periods:

(i) For rental housing, at least 55 years, except as otherwise provided.

(ii) For owner-occupied housing, at least 45 years.

(B) Notwithstanding subparagraph (A), self-help housing assisted with funds subject to this subdivision shall be subject to a recorded affordability restriction for at least 15 years.

- (c) (1) Except as provided in paragraph (2), any plan approved pursuant to the program shall be subject to a recorded affordability restriction that requires the project or projects to include a minimum of 30 percent of the total number of housing units to be available at an affordable rent or affordable housing cost to, and occupied by, households earning below 120 percent of the area median income for at least 55 years.
- (2) If the local agency has adopted a local ordinance that requires that greater than 30 percent of the units in a project be dedicated to housing affordable to households making below 120 percent of the area median income, that ordinance shall apply.
- (d) The affordable housing and community development investment amount shall not be used to subsidize the construction of market rate units. It is the intent of the Legislature to preserve the incentives for affordable housing provided by existing density bonus law.
- (e) (1) At least 12 percent of the overall funding for the program shall be set aside for counties with populations of less than 200,000. Of this amount, 2 percent shall be set aside to provide technical assistance for counties with populations of less than 200,000, which shall not be considered administrative costs for purposes of a plan.
- (2) Notwithstanding subdivision (a) of Section 55906, to the extent that all funds set aside in one year for counties with populations of less than 200,000 are not dedicated to plans approved by the committee, the amount of funds not dedicated shall be available to counties with populations of less than 200,000 residents in the following year pursuant to this program.
- (f) (1) Except as provided in paragraph (2), a project approved pursuant to the program shall be considered a public work and subject to the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, regardless of whether an exemption under Section 1720 of the Labor Code applies to the project.
- (2) Notwithstanding paragraph (1), the approval pursuant to the program of the following privately owned residential projects shall not make the projects public works and subject to the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code if the project would not otherwise be considered a public work and subject to those requirements:
- (A) Construction or rehabilitation of a self-help housing project of 10 or fewer units in which no fewer than 500 hours of construction work associated with the homes are to be performed by the home buyers.
- (B) A rehabilitation project for which the only financial support provided by the program is financial assistance to the household.
- 55904.** (a) The Affordable Housing and Community Development Investment Committee is hereby established and shall be comprised of the following:
- (1) The Chair of the Strategic Growth Council, or the chair's designee.
 - (2) The Chair of the California Housing Finance Agency, or the chair's designee.
 - (3) The Chair of California Workforce Investment Board, or the chair's designee.
 - (4) The Director of Housing and Community Development, or the director's designee.
 - (5) Two people appointed by the Speaker of the Assembly who have knowledge and experience in finance, housing finance, housing planning or development, or land use and planning.
 - (6) Two people appointed by the Senate Committee on Rules who have knowledge and experience in finance, housing finance, housing planning or development, or land use and planning.
 - (7) One public member appointed by the Joint Legislative Budget Committee who has expertise in education finance.
- (b) The committee shall review and approve or deny plans received pursuant to Section 55905.
- (c) The Department of Housing and Community Development shall provide the technical assistance and administrative support necessary for the committee to consider plans.
- (d) Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in connection with the performance of their duties.

55905. (a) A plan for the affordable housing and community development investment amount may be submitted by any of the following:

- (1) A city, county, or city and county.
- (2) A joint powers authority formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 that is composed of entities that may submit a plan pursuant to this subdivision.
- (3) An enhanced infrastructure financing district established pursuant to Chapter 2.99 (commencing with Section 53398.50) of Part 1 of Division 2 of Title 5.
- (4) An affordable housing authority established pursuant to Division 5 (commencing with Section 62250) of Title 6.
- (5) A community revitalization and investment authority established pursuant to Division 4 (commencing with Section 62000) of Title 6.
- (6) An affordable housing and community development investment agency established pursuant to Division 6 (commencing with Section 62300) of Title 6.
- (7) A transit village development district established pursuant to Article 8.5 (commencing with Section 65460) of Chapter 3 of Division 1 of Title 7.

(b) A plan to participate in the program may be submitted to the committee and shall include all of the following information:

- (1) A description of the proposed project or projects to be completed by the applicant pursuant to the plan and the funding amount necessary for each year the applicant requests funding pursuant to the program. The applicant may request funding for no more than 30 years for each project included in the plan.
- (2) Information necessary to demonstrate that each project proposed by the plan complies with all of the statutory requirements of any statutory authorization pursuant to which the project is proposed.
- (3) Certification that any low- and moderate-income housing or other projects or portions of other projects that receive funding from the program will comply with paragraph (8) of subdivision (a) of Section 65913.4.
- (4) A strategy for outreach to, and retention of, women, minority, disadvantaged youth, formerly incarcerated, and other underrepresented subgroups in coordination with the California Workforce Investment Board and local boards, to increase their representation and employment opportunities in the building and construction trades.
- (5) For each project identified in the plan, a requirement that no eviction has been made on any project site within the last 10 years, and protections to avoid displacement of individuals affected by the project.
- (6) A requirement that any project included in the plan would not require the demolition of any of the following types of housing:
 - (A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - (B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - (C) Housing that has been occupied by tenants within the past 10 years.
- (7) A requirement that the site was not previously used for housing that was occupied by tenants that was demolished within 10 years before the applicant submits a plan pursuant to this section.
- (8) A requirement that the development of the project or projects included in the plan would not require the demolition of a historic structure that was placed on a national, state, or local historic register.
- (9) A requirement that the project or projects included in the plan would not contain present or former tenant-occupied housing units that will be, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.
- (10) An economic and fiscal analysis, paid for by the applicant and prepared by the applicant or an individual or entity approved by the committee that includes the following information as it pertains to the plan:

- (A) The estimated cost of providing services or facilities for each project included in the plan.
 - (B) The estimated revenue available to provide services or facilities for each project included in the plan.
 - (C) Identification of the taxing entities that are participating in the financing of each project included in the plan through the pledge of an amount equal to the entity's incremental share of the property tax or other means.
 - (D) Identification of the property tax, sales tax, and other public funding available to invest in each project included in the plan or the services or facilities needed by each project included in the plan, as proposed, including, but not limited to, information from the county auditor describing how the county or counties where the applicant is from has historically distributed its educational revenue augmentation fund revenue to schools and local agencies.
 - (E) Identification of the funding and financing methods that will be used by each project included in the plan, including whether the applicant intends to issue bonds that will be repaid from property tax increment.
 - (F) The affordable housing and community development investment amount requested by the applicant to complete each project included in the plan or the services or facilities needed by each project included in the plan, as proposed, and the proposed date on which the annual allocation of the affordable housing and community development investment amount will terminate.
 - (G) The amount of administrative costs associated with the plan. The plan may set aside not more than 5 percent of the total affordable housing and community development investment amount requested in the plan for administrative costs.
- (c) (1) Except as provided in paragraph (3), the applicant shall certify that a skilled and trained workforce will be used to complete the project if the plan is approved.
- (2) If the applicant has certified that a skilled and trained workforce will be used to complete the project or projects and the plan is approved, the following shall apply:
- (A) The applicant shall require every contractor and subcontractor at every tier performing work on the project to provide the applicant with an enforceable commitment that the contractor or subcontractor will individually use a skilled and trained workforce to complete the project.
 - (B) Every contractor and subcontractor shall individually use a skilled and trained workforce to complete the project.
 - (C) The applicant shall be considered an awarding body for purposes of Section 2602 of the Public Contract Code.
- (3) This subdivision shall not apply to a housing project that meets any of the following criteria:
- (A) One hundred percent of the housing project's units, exclusive of any legally required manager's unit or units, are affordable to households earning 80 percent or below of the area median income.
 - (B) The housing project consists of 25 units or less.
 - (C) The housing project is located in a county with a population of 100,000 or less.
- (d) (1) Within 30 days of receipt of a plan pursuant to this section, the committee shall provide the applicant with a written statement identifying any questions about the plan.
- (2) If the committee denies approval of the plan, the committee shall, not more than 30 days following the date the committee has issued a decision, provide the applicant with a written statement explaining the reasons why the plan was denied.
- (3) Subject to subdivision (e), the committee shall develop a rubric to determine which plan to approve. The rubric shall give priority to plans based on, but not limited to, the following factors:
- (A) The number of housing units created.
 - (B) The depth of affordability of the new housing units, including:
 - (i) The share of housing units to be constructed that are available to individuals with an area median income below 120 percent.

(ii) The share of housing units to be constructed that are available to individuals with an area median income below 80 percent.

(iii) The share of housing units to be constructed that are available to individuals with an area median income below 50 percent.

(iv) The share of housing units to be constructed that are available to individuals with an area median income below 30 percent.

(C) The level of local, state, and federal funds that will be dedicated toward the projects included in the plan, including, but not limited to, tax credits, in-kind transfers, personnel costs and services, and land.

(D) Whether the applicant adopts plans that streamline development, including the following:

(i) Plans adopted through a workforce housing opportunity zone (Article 10.10 (commencing with Section 65620) of Chapter 3 of Division 1 of Title 7) or a housing sustainability district (Chapter 11 (commencing with Section 66200) of Division 1 of Title 7).

(ii) Plans to streamline development funded by the Building Homes and Jobs Act (Chapter 2.5 (commencing with Section 50470) of Part 2 of Division 31 of the Health and Safety Code).

(iii) Other local measures adopted to reduce development costs, including, but not limited to, accelerating housing approvals, reducing the average time for issuing a conditional use or other development permit to less than one year, reducing fees imposed in connection with the approval of accessory dwelling units, and increasing density near transit.

(e) Notwithstanding any other provision of this part, the committee may approve a plan submitted to it pursuant to this section only if it finds all of the following:

(1) The conditions specified in paragraph (1) of subdivision (a) of Section 55906 have been satisfied for the applicable fiscal year.

(2) (A) Except as otherwise provided in subparagraph (B), the applicant will provide matching resources, including, but not limited to, financial, in-kind land dedication, or public-private funds, for the state investment in the program.

(B) This paragraph shall not apply in the case of an applicant located in a rural area of the state.

(3) (A) If applicable, the applicant has a housing element that the Department of Housing and Community Development has determined to be in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7, pursuant to Section 65585.

(B) An applicant subject to this paragraph shall annually submit its housing element to the Department of Housing and Community Development for review to ensure that its housing element remains in substantial compliance with state law. The Department of Housing and Community Development shall certify to the committee whether the housing element is in substantial compliance and whether any rezoning of sites required by law, including, but not limited to, Sections 65583, 65583.2, and 65863, have been completed.

(4) If applicable, the applicant has not been found to have violated the Housing Accountability Act (Section 65589.5) or the Density Bonus Law (Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7) within the following time periods:

(A) Until January 1, 2024, the applicant has not been found to have violated the provisions specified in this paragraph on or after January 1, 2019.

(B) On and after January 1, 2024, the applicant has not been found to have violated the provisions specified in this paragraph within the five years preceding the date of the submission of the applicant's plan pursuant to this section.

55906. (a) The committee shall adopt annual priorities consistent with the objectives set forth in Section 55903 and shall adhere to the following funding schedule:

(1) (A) Commencing January 1, 2021, the committee may only approve a plan for funding pursuant to Section 55905 if the Legislature enacts a budget bill for the applicable fiscal year that specifies the amount available for the committee to allocate pursuant to the program, subject to the limits of this section.

(B) Nothing in this paragraph shall affect or have any financial impact upon previously approved funding pursuant to the program.

(2) Subject to paragraph (1), for the five-year period commencing July 1, 2021, and ending June 30, 2026, the committee may approve no more than two hundred million dollars (\$200,000,000) in funding in any year for plans approved pursuant to the program.

(3) Subject to paragraph (1), for the four-year period commencing July 1, 2026, and ending June 30, 2030, the committee may approve no more than two hundred fifty million dollars (\$250,000,000) in funding in any year for plans approved pursuant to the program.

(4) The Legislature, by statute, may direct the committee to suspend consideration of plans submitted pursuant to Section 55903 in any fiscal year in which the Legislature passes a bill described in Section 22 of Article XVI of the California Constitution. Nothing in this paragraph shall affect or have any financial impact upon previously approved funding pursuant to this program.

(5) The Legislature, by statute, may direct the committee to suspend consideration of plans submitted pursuant to Section 55903 in any fiscal year in which the Legislature passes a bill described in Section 8 of Article XVI of the California Constitution. Nothing in this paragraph shall affect or have any financial impact upon previously approved funding pursuant to this program.

(b) The annual amounts dedicated to individual approved projects shall be allocated based on the schedule of funding included in the plan that includes the project, unless the committee decides to allocate a different level of funding or change the number of years that the project is to receive funding pursuant to the program in accordance with the plan approved pursuant to subdivision (d).

(c) The committee shall adopt guidelines to explain how geographic equity will be maintained in the approval of plans pursuant to this program.

(d) (1) The committee shall approve or deny a plan submitted pursuant to Section 55905 upon both of the following:

(A) Receipt of the information required to be submitted pursuant to paragraphs (1) through (4) of subdivision (b) of Section 55905.

(B) A determination that the affordable housing and community development investment amount requested is consistent with the guidelines adopted pursuant to subdivision (b).

(2) The approval shall state the amount of the affordable housing and community development investment amount approved and the date upon which the affordable housing and community development investment amount terminates.

(e) The committee may require the applicant to reimburse it for the reasonable cost incurred to review the plan to participate in the program.

(f) The committee shall review, and may approve or deny, any changes to a plan submitted by the applicant.

55907. (a) Upon approval of a plan pursuant to subdivision (d) of Section 55906, and subject to paragraph (1) of subdivision (a) of Section 55906, the committee shall issue an order directing the county auditor to transfer an amount of ad valorem property tax revenue pursuant to Section 97.68.1 of the Revenue and Taxation Code in an amount equal to the annual affordable housing and community development investment amount approved by the committee.

(b) The revenues allocated to an applicant pursuant to Section 97.68.1 of the Revenue and Taxation Code may be used for the purposes set forth in Section 55903.

(c) The applicant may use the additional revenue received pursuant to Section 97.68.1 of the Revenue and Taxation Code to incur debt or issue bonds or other financing to support the project or projects included in the plan.

55908. (a) On or before July 1, 2022, and annually thereafter, each applicant that has received financing pursuant to the program for any fiscal year shall provide a report to the committee that includes all of the following information for the previous fiscal year:

(1) The affordable housing and community development investment amount that the county auditor reallocated to the applicant pursuant to Section 97.68.1 of the Revenue and Taxation Code.

(2) The purposes for which that reallocated money was used, including the number of housing units constructed and at which income level.

(3) The actions taken during the prior fiscal year to implement the project.

(4) The total amount of funds expended for planning and general administrative costs.

(b) Notwithstanding Section 10231.5, on or before March 1, 2021, and annually thereafter, if the committee has approved funding pursuant to the program, the committee shall provide a report to the Joint Legislative Budget Committee that includes all of the following information for the preceding fiscal year:

(1) The name, location, and general description, including the number of housing units constructed and at which income level, of each project that received an affordable housing and community development investment amount pursuant to this program.

(2) The total amount of money that county auditors reallocated from affordable housing and community development investment funds pursuant to the program in the previous fiscal year.

(3) An evaluation of the value of the state's investment through the funding provided by this program as measured by a net revenue increase to the General Fund and progress towards achieving the purposes and intent of the program.

(c) The committee shall develop a corrective action plan for noncompliance with the requirement of this part.

55909. (a) If, based on annual reports submitted to the committee pursuant to Section 55908, the committee determines that any of the following has occurred, the committee shall direct the applicant to develop a corrective action plan based on recommendations made by the committee:

(1) The applicant is not on track to produce the number of housing units included in the plan.

(2) The applicant is not on track to spend at least 50 percent of plan funds on affordable housing, as required by subdivision (b) of Section 55903.

(3) The applicant is on track to exceed 5 percent of the administrative limit.

(4) The applicant is found to have used funding provided by the program for purposes not authorized by the act.

(5) The applicant is found to have used funds to subsidize market rate housing.

(6) The applicant has violated antidisplacement provisions pursuant to paragraph (6), (7), (8), or (9) of subdivision (a) of Section 55905.

(7) The applicant is not on track to complete all of the projects included in the plan according to the timeline included in the plan.

(b) The applicant shall have one year from the date that the committee directed the applicant to develop a corrective action plan.

(c) The committee shall issue a finding that the applicant is out of compliance with the program if the committee finds either of the following apply:

(1) The applicant has not provided an adequate corrective action plan to the committee within one year of the date the committee directed the applicant to develop a corrective action plan.

(2) The annual report provided to the committee pursuant to Section 55908 does not demonstrate that the applicant has taken adequate steps to implement the corrective action plan that was provided to the committee within one year of the date the committee directed the applicant to develop a corrective action plan.

(d) (1) Except as provided in paragraph (2), if the committee finds that the applicant is out of compliance with the program, the committee shall direct the auditor to stop transferring moneys from the county's ERAF pursuant to the program under Section 97.68.1 of the Revenue and Taxation Code, and prohibit the applicant from applying for additional funds for this program for a period of five years.

(2) The auditor shall continue to transfer money from the county's ERAF pursuant to the program under Section 97.68.1 of the Revenue and Taxation Code in an amount that allows for payment of the following obligations:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by the agency.

(B) Loans or moneys advanced to the agency, including, but not limited to, loans from federal, state, or local agencies, or a private entity.

(C) Contractual obligations that, if breached, could subject the applicant to damages or other liabilities or remedies.

(3) If the auditor continues to transfer money from the county's ERAF pursuant to paragraph (2), the applicant shall continue to provide matching resources pursuant to paragraph (2) of subdivision (e) of Section 55905, but shall be prohibited from entering into any new debts, loans, or obligations related to the plan unless approved by the committee.

(4) The committee shall take all actions necessary to abide by the obligations described in paragraph (1).

(5) The committee may reduce the scope of the plan approved pursuant to subdivision (e) of Section 55905 to align with available financial resources and the purposes of the Affordable Housing and Community Investment Program, which include the option of using the remaining resources to support the construction of affordable housing in the community of the applicant.

(e) If an applicant is found to be out of compliance with the program, the applicant shall be ineligible to apply for other state grant programs for a period of five years.

SEC. 4. Division 6 (commencing with Section 62300) is added to Title 6 of the Government Code, to read:

DIVISION 6. Affordable Housing and Community Development Investment Agencies

62300. As used in this division:

(a) "Agency" means an affordable housing and community development investment agency created pursuant to this division.

(b) "Affordable housing and community development investment amount" means the amount approved by the Affordable Housing and Community Development Investment Committee pursuant to Part 4 (commencing with Section 55900) of Division 2 of Title 5 and allocated to an agency pursuant to Section 97.68.1 of the Revenue and Taxation Code.

(c) "Program" means the Affordable Housing and Community Development Investment Program established pursuant to Part 4 (commencing with Section 55900) of Division 2 of Title 5.

(d) "Project" has the same meaning as defined in Section 55902.

(e) "Plan area" means the area that includes the territory described in any plan submitted by an agency pursuant to subdivision (b) of Section 55905.

62302. (a) An affordable housing and community development investment agency created pursuant to this division shall be a public body, corporate and politic, with jurisdiction to carry out one or more projects within a project area. The agency shall have only those powers and duties specifically set forth in Section 62304.

(b) (1) Subject to paragraphs (2) and (3), an agency may be created in any one of the following ways:

(A) A city, county, or city and county may adopt a resolution creating an agency. The composition of the governing board shall be comprised as set forth in subdivision (c).

(B) Any of the following entities may create an agency by entering into a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1:

(i) A city.

(ii) A county.

(iii) A city and county.

(iv) A special district, as that term is defined in subdivision (m) of Section 95 of the Revenue and Taxation Code.

(v) Any combination of entities described in clauses (i) to (iv), inclusive.

(2) (A) A school entity, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, shall not participate in an agency created pursuant to this division.

(B) A successor agency, as defined in subdivision (j) of Section 34171 of the Health and Safety Code, shall not participate in an agency created pursuant to this division, and an agency created pursuant to this division shall not receive any portion of the property tax revenues or other moneys distributed pursuant to Section 34188 of the Health and Safety Code.

(3) An agency created by a city or county that created a redevelopment agency that was dissolved pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code shall not become effective until the successor agency or designated local authority for the former redevelopment agency has adopted findings of fact stating all of the following:

(A) The successor agency has received a finding of completion from the Department of Finance pursuant to Section 34179.7 of the Health and Safety Code.

(B) Former redevelopment agency assets that are the subject of litigation against the state, where the city or county or its successor agency or designated local authority are a named plaintiff, have not been or will not be used to benefit any efforts of an agency created under this division unless the litigation has been resolved by entry of a final judgment by any court of competent jurisdiction and any appeals have been exhausted.

(C) The successor agency has complied with all orders of the Controller pursuant to Section 34167.5 of the Health and Safety Code.

(c) (1) The governing board of an agency created pursuant to subparagraph (A) of paragraph (1) of subdivision (b) shall be appointed by the legislative body of the city, county, or city and county that created the agency and shall include three members of the legislative body of the city, county, or city and county that created the agency and two public members. The appointment of the two public members shall be subject to Section 54974. The two public members shall live or work within the plan area.

(2) The governing body of an agency created pursuant to subparagraph (B) of paragraph (1) of subdivision (b) shall be comprised of a majority of members from the legislative bodies of the public agencies that created the agency and a minimum of two public members who live or work within the plan area. The majority of the board shall appoint the public members to the governing body. The appointment of the public members shall be subject to Section 54974.

62304. An agency may do all of the following in order to carry out a project:

(a) Apply for funding to carry out the project pursuant to the program.

(b) Accept an allocation of property tax revenues, in the form of an affordable housing and community development investment amount allocated under the program pursuant to Section 97.68.1 of the Revenue and Taxation Code.

(c) Issue bonds in accordance with Article 4.5 (commencing with Section 53506) and Article 5 (commencing with Section 53510) of Chapter 3 of Part 1 of Division 2 of Title 5.

(d) Borrow money, receive grants, or accept financial or other assistance or investment from the state or the federal government or any other public agency or private lending institution for any project within its area of operation. The agency may comply with any conditions of a loan or grant received pursuant to this subdivision.

(e) Receive funds allocated to it pursuant to a resolution adopted by a city, county, or special district to transfer these funds from a source described in subdivision (d), (e), or (f) of Section 53398.75, subject to any requirements upon, or imposed by, the city, county, or special district as to the use of these funds.

(f) Acquire and transfer real property.

SEC. 5. Section 97.68.1 is added to the Revenue and Taxation Code, to read:

97.68.1. Notwithstanding any other provision of law, for each fiscal year for which funding for a plan for the county is approved under Part 4 (commencing with Section 55900) of Division 2 of Title 5 of the Government Code, in allocating ad valorem property tax revenue, all of the following shall apply:

(a) The county auditor shall transfer an amount, equal to the countywide affordable housing and community development investment amount, from the county's Educational Revenue Augmentation Fund, up to the amount available in the Educational Revenue Augmentation Fund after complying with subdivision (d), and deposit that amount into the Affordable Housing and Community Development Investment Fund established pursuant to subdivision (b).

(b) (1) The county auditor shall, except as provided in paragraph (2), deposit the countywide affordable housing and community development investment amount into the Affordable Housing and Community Development Investment Fund, which shall be established in the treasury of each county. Moneys in the Affordable Housing and Community Development Investment Fund shall only be used for plans approved pursuant to Part 4 (commencing with Section 55900) of Division 2 of Title 5 of the Government Code, and shall be allocated to the applicant as directed by the committee.

(2) In the case of an applicant that is an enhanced infrastructure financing district, affordable housing authority, community revitalization investment authority, affordable housing and community development investment agency, or transit village development district, the auditor shall allocate an amount from the county's Educational Revenue Augmentation Fund equal to the enhanced infrastructure financing district's, affordable housing authority's, community revitalization investment authority's, affordable housing and community development investment agency's, or transit village development district's affordable housing and community development investment amount to the city or county that created the enhanced infrastructure financing district, affordable housing authority, community revitalization investment authority, affordable housing and community development investment agency, or transit village development district. The city or county shall, upon receipt, transfer those funds to that enhanced infrastructure financing district, affordable housing authority, community revitalization investment authority, affordable housing and community development investment agency, or transit village development district, in an amount equal to the affordable housing and community development investment amount for that enhanced infrastructure financing district, affordable housing authority, community revitalization investment authority, affordable housing and community development investment agency, or transit village development district.

(3) The county auditor shall allocate one-half of an amount specified in paragraph (1) or (2) on or before January 31 of each fiscal year, and the other one-half on or before May 31 of each fiscal year.

(c) For purposes of this section, all of the following shall apply:

(1) "Affordable housing and community development investment amount" for a particular city, county, or city and county means the amount approved by the Affordable Housing and Community Development Committee pursuant to Part 4 (commencing with Section 55900) of Division 2 of Title 5 of the Government Code.

(2) "Countywide affordable housing and community development investment amount" means, for any fiscal year, the total sum of the amounts described in paragraph (1) for a county or a city and county, and each city and county.

(d) This section shall not be construed to do any of the following:

(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to county superintendents of schools, cities, counties, special districts, and cities and counties pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Sections 97.2 and 97.3, Section 97.70, and Article 4 (commencing with Section 98) had this section not been enacted. The allocations required by this section shall be adjusted to comply with this paragraph.

(2) Require an increased ad valorem property tax revenue allocation or increased tax increment allocation to a community redevelopment agency.

(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is otherwise determined or allocated in a county.

(4) Reduce ad valorem property tax revenue allocations required under Article 4 (commencing with Section 98).

(e) If, for the fiscal year, after complying with subparagraph (B) of paragraph (1) of subdivision (a) of Section 97.70, there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a

county Educational Revenue Augmentation Fund for the county auditor to complete the transfer required by subdivision (a), the county auditor shall reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in the county for that fiscal year by an amount equal to the difference between the countywide affordable housing and community development investment amount and the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund for that fiscal year. This reduction for each school district and community college district in the county shall be the percentage share of the total reduction that is equal to the proportion that the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the school district or community college district bears to the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in a county. For purposes of this subdivision, "school districts" and "community college districts" do not include any districts that are excess tax school entities, as defined in Section 95.

(f) Any transfer of ad valorem property tax revenues deposited in the county's Educational Revenue Augmentation Fund as a result of subdivision (a) shall be applied exclusively to reduce the amounts that are allocated from that fund to school districts and county offices of education, and shall not be applied to reduce the amounts of ad valorem property tax revenues that are otherwise required to be allocated from that fund to community college districts.

(g) (1) A property tax revenue allocation or transfer made pursuant to subdivision (a) or (b) shall not be considered for purposes of determining under Section 96.1 the amount of property tax revenue allocated to a jurisdiction in the prior fiscal year.

(2) The county auditor may deduct its administrative costs related to this section from the affordable housing and community development investment amount before depositing that amount into the county's Affordable Housing and Community Development Investment Fund pursuant to subdivision (a).

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 7. Each provision of this act is a material and integral part of the act, and the provisions of this act are not severable. If any provision of this act or its application is held invalid, the entire act shall be null and void.