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AB-816 Homelessness: Housing Trust Fund: housing projects. (2021-2022)

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AMENDED IN SENATE JULY 16, 2021

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AMENDED IN ASSEMBLY MAY 04, 2021

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 816

Introduced by Assembly Members Chiu, Bloom, Bonta, Quirk-Silva, Santiago, and Wicks

February 16, 2021

An act to amend ~~Section 11552 of the Government Code, to amend~~ Section 50676 of the Health and Safety Code, ~~and to add Sections 8257.1 and 8257.2 to, and to add Chapter 6.6 (commencing with Section 8258) to Division 8 of, the Welfare and Institutions Code,~~ relating to homelessness.

LEGISLATIVE COUNSEL'S DIGEST

AB 816, as amended, Chiu. ~~State and local agencies: homelessness plan:~~ *Homelessness*: Housing Trust Fund: housing projects.

~~Existing law establishes in state government the Business, Consumer Services, and Housing Agency, comprised of the Department of Consumer Affairs, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety Commission. federal law requires the Secretary of the United States Department of Housing and Urban Development to establish a Housing Trust Fund to provide grants to states to increase the supply of rental housing for extremely low and very low income families, including homeless families, and home ownership for extremely low and very low income families. Existing federal law establishes regulations for the implementation of these grants.~~

~~Existing law requires the Governor to create the Homeless Coordinating and Financing Council (referred to as "the coordinating council") and to appoint up to 19 members of that council, as provided. Existing law specifies the duties of the coordinating council, including creating partnerships among state agencies and departments, local government agencies, and specified federal agencies and private entities, for the purpose of arriving at specific strategies to end homelessness.~~

~~This bill, upon appropriation by the Legislature or upon receiving technical assistance offered by the federal Department of Housing and Urban Development (HUD), if available, would require the coordinating council to conduct, or contract with an entity to conduct, a statewide needs and gaps analysis to, among other things, identify state programs that provide housing or services to persons experiencing homelessness and create a financial model that will assess certain investment needs for the purpose of moving persons experiencing homelessness into permanent housing. The bill would provide that the council's obligation to~~

~~conduct the statewide needs and gaps analysis is fulfilled if a technical assistance provider from HUD conducts the analysis on behalf of the council. The bill would require the council to work with the technical assistance provider to complete the analysis. The bill would authorize local governments to collaborate with the coordinating council or other entity conducting the analysis upon an appropriation by the Legislature to cover costs of the collaboration or upon provision of technical assistance by HUD. The bill would also require the coordinating council or any other entity conducting the analysis to seek input from the coordinating council's members on the direction of, design of data collection for, and items to be included in the statewide needs and gaps analysis. The bill would require the council to report on the analysis to specified committees in the Legislature by July 31, 2022. The bill would require the coordinating council or other entity conducting the analysis to evaluate all available data, including, among other things, data from other state departments and agencies. The bill would require a state department or agency with a member on the coordinating council to assist in data collection for the analysis by responding to data requests within 180 days, as specified.~~

~~This bill would require the Department of Housing and Community Development (department) to set a benchmark goal in reducing homelessness by January 1, 2029, for the state pursuant to the statewide needs and gaps analysis. The bill would require the department to approve or work with local agencies, as defined, to identify, as provided, appropriate benchmark goals to reduce homelessness for each local agency and cities within each local agency. The bill would also require the department to set annual benchmarks to meet these benchmark goals. The bill, on or before January 1, 2023, would require each local agency to submit to the department an actionable county-level plan for meeting specific annual benchmarks, with the goal of achieving the state-identified benchmark goal. The bill would require each city in the local agency's jurisdiction to participate in the plan, and each local agency would be required to request and actively seek the participation of all homeless continuums of care that serve the local agency's jurisdiction. The bill would require the plan to include, among other things, a description and the amount of all funding sources the local agency, and any incorporated jurisdiction and continuum of care, has earmarked or committed to addressing homelessness, mental illness, and substance abuse within its jurisdiction. The bill would require the state and each local agency to submit an annual progress report to the department that details the progress and implementation of the adopted plan and any amendments proposed to the plan.~~

~~This bill would require the department to review submitted plans and provide feedback and recommended revisions. The bill would require the state or a local agency to either adopt those recommended revisions, or adopt findings as to why the recommended revisions are not needed. The bill would require the department to monitor the implementation and progress of state and local agency plans. The bill would require the department to notify the state or the local agency and the inspector general if the agency fails, within a reasonable time, to make progress in accordance with their plan. The bill would provide that an innovative project to test new programs, as described, shall be deemed approved by the department if the department approves a plan or plan amendment with the innovative project and the local agency or city establishes and documents outcomes upon implementation of the project. The bill would prohibit the department from considering a local agency to be out of compliance for a partner jurisdiction's failure to adopt a plan, if the local agency made at least 3 attempts to partner with the other jurisdiction, or to assist the jurisdiction in formally adopting a plan, as provided.~~

~~This bill would establish an independent state officer, named the Housing and Homelessness Inspector General, within the department. The bill would require the Governor to appoint the Housing and Homelessness Inspector General, subject to confirmation by the Senate. The bill would, on and after January 1, 2023, authorize the inspector general to bring an action against the state, a local agency, or a city that fails to adopt a plan or fails, within a reasonable time, to make progress in accordance with their adopted plan. The bill, if the court finds that the state or applicable local agency or city has not substantially complied, would authorize the Housing and Homelessness Inspector General to request the court to issue an order or judgment directing the state, local agency, or city to substantially comply, as provided.~~

~~The bill would authorize the inspector general to impose a civil penalty on the state, a local agency, or a city that is found to have deliberately and intentionally transported a homeless individual to a different jurisdiction in order to reduce the number of homeless individuals within their jurisdiction, as specified.~~

~~By requiring local agencies to submit a county-level plan for meeting specific annual benchmarks relating to homelessness and to develop and implement a homelessness plan to achieve the benchmark goal developed by the department, this bill would impose a state-mandated local program.~~

~~Existing federal law requires the Secretary of the United States Department of Housing and Urban Development to establish a Housing Trust Fund to provide grants to states to increase the supply of rental housing for extremely low and very low income families, including homeless families, and home ownership for extremely low and very low income families. Existing federal law establishes regulations for the implementation of these grants.~~

Existing state law designates the Department of Housing and Community Development as the state agency responsible for administering funds received by the state from the federal Housing Trust Fund. The department is required to administer the funds through existing or newly created programs that produce, preserve, rehabilitate, or support the operation of rental housing

for extremely low income and very low income households, except that up to 10% of funding may be used to support home ownership for extremely low income and very low income households.

Existing law requires the department to collaborate with the California Housing Finance Agency to develop an allocation plan to demonstrate how the funds will be distributed, based on the priority housing needs identified in the state's consolidated plan, and to convene a stakeholder process to inform the development of the plan. Existing law requires the allocation plan and program guidelines to prioritize projects based on enumerated factors such as the extent to which project rents are affordable. The department is required to submit this plan to the Assembly Committee on Housing and Community Development and the Senate Transportation and Housing Committees 30 days after receipt of the federal funds.

This bill would require the department to prioritize funding for projects that serve people experiencing homelessness, to the extent that a sufficient number of projects exist. The bill would authorize the department to alter priority for funding to align eligibility for possible benefits, including Medi-Cal benefits that are intended to assist people experiencing homelessness.

~~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~~no

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

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

~~(a) As of January 2019, California has had an estimated 151,278 people experiencing homelessness on any given day, as reported by Continuum of Care to the United States Department of Housing and Urban Development. This is the highest number since 2007, and represents a 17 percent increase since 2018.~~

~~(b) African Americans are disproportionately represented among California's homeless population. While 6.5 percent of Californians identify as black or African American, almost 40 percent of the state's homeless population is African American, far outpacing the rates of poverty among African Americans in general. Similarly, indigenous populations have rates of homelessness that are several times higher than among people who are White, and rates of homelessness among Latinx communities are rapidly rising.~~

~~(c) The vast majority of homeless Californians were unsheltered, which is about 71 percent and the highest rate in the nation, meaning that they were living in streets, parks, or other locations not meant for human habitation. In 2018, among homeless veterans, California had the nation's highest share that are unsheltered (67 percent), and among homeless youth, the share that are unsheltered (80 percent) ranked second highest.~~

~~(d) As local communities work to house the unsheltered, more people are falling into homelessness. Larger urban areas with high numbers of people experiencing homelessness have reported that more people are falling into homelessness than they are able to house.~~

~~(e) In the City of Oakland, for every one person they are able to house, two more are falling into homelessness.~~

~~(f) In the County of Los Angeles, despite housing 20,000 homeless people in 2018, for every 133 people housed, 150 fall into homelessness per day.~~

~~(g) In the City and County of San Francisco, for every one person they are able to house, three more fall into homelessness.~~

~~(h) A growing percentage of the state's homeless population are seniors who are experiencing homelessness for the first time. Seniors who are on fixed incomes and who are severely rent burdened have no potential for additional income.~~

~~(i) Once seniors are homeless, their health quickly deteriorates and they use emergency services at a higher rate and face high mortality rates.~~

~~(j) Fifty percent of seniors who are homeless become homeless after 50 years of age.~~

~~(k) While comprehensive statewide data is lacking, local surveys indicate that people living on the streets are typically from the surrounding neighborhood. For example, 70 percent of the people experiencing homelessness in the City and County of San Francisco were housed somewhere in the city where they lost housing, while only 8 percent came from out-of-state. In addition, three-quarters of the homeless population of the County of Los Angeles lived in the region before becoming homeless.~~

~~(l)About 1,300,000 California renters are considered "extremely low income," making less than twenty-five thousand dollars (\$25,000) per year.~~

~~(m)In many parts of the state, many lower income residents are severely cost burdened, paying over 50 percent of their income toward housing costs. One small financial setback can push these individuals and families into homelessness.~~

~~(n)The Legislature has made the following investments in affordable housing and homelessness response:~~

~~(1)In 2016, the Legislature passed and the voters approved Proposition 63, known as the Mental Health Services Act, which generates two billion dollars (\$2,000,000,000) per year for mental health services that can be used for people experiencing homelessness.~~

~~(2)In 2017, Senate Bill 2 (Chapter 364 of the Statutes of 2017) established a recording fee for real estate documents that has generated three hundred fifty million dollars (\$350,000,000) per year since its creation. Beginning this year, 70 percent of funds from the recording fee go directly to cities and counties to use to address affordable housing and homelessness.~~

~~(3)In 2017, the Legislature passed No Place Like Home to authorize the use of two billion dollars (\$2,000,000,000) in Proposition 63 revenues in bonds for supportive housing for chronically homeless individuals with mental illness.~~

~~(4)In 2018, the Legislature passed and the voters approved Proposition 1, which authorized three billion dollars (\$3,000,000,000) in general fund bonds to increase the supply of affordable housing around the state.~~

~~(5)Local governments have also passed general obligation bonds to fund affordable housing, supportive housing, and emergency shelters:~~

~~(A)In 2016, the voters of the City of Los Angeles passed Measure HHH, which authorizes 1.2 billion dollars (\$1,200,000,000) to fund the construction of 10,000 supportive housing units.~~

~~(B)In 2019, the City and County of San Francisco passed Proposition A, which authorized six hundred million dollars (\$600,000,000) to support the creation of affordable housing.~~

~~(C)In 2019, the City and County of San Francisco passed Proposition C, which authorizes a tax on gross receipts of business with incomes of fifty million dollars (\$50,000,000) or more to fund affordable housing, supportive housing, and legal assistance programs.~~

~~(6)The Legislature has also made policy changes to allow for siting and building emergency shelters, affordable housing, and supportive housing:~~

~~(A)In 2017, the Legislature passed Senate Bill 35 (Chapter 366 of the Statutes of 2017), which created a streamlined process for housing developments that include a percentage of affordable housing.~~

~~(B)In 2018, the Legislature passed Assembly Bill 2162 (Chapter 753 of the Statutes of 2018), which established a streamlined process for supportive housing developments.~~

~~(C)In 2018, the Legislature authorized five hundred million dollars (\$500,000,000) for the Homeless Emergency Aid Program to provide local governments with flexible block grant funds to address their immediate homelessness challenges.~~

~~(D)In 2019, the Legislature passed Assembly Bill 101 (Chapter 159 of the Statutes of 2019), which streamlines navigation centers that provide emergency shelter and services to people experiencing homelessness.~~

~~(E)In 2019, the Legislature authorized six hundred fifty million dollars (\$650,000,000) for the Homeless Housing, Assistance, and Prevention Program one-time block grant that provides local jurisdictions with funds to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges.~~

~~(o)State and local government at all levels should be held responsible for responding to homelessness and providing permanent housing for people experiencing homelessness. In order to ensure state and local jurisdictions are making best use of existing resources, and to determine the additional resources needed to substantially reduce unsheltered homelessness in California, the state should work with local communities to determine the appropriate roles of each level of government.~~

~~(p)To identify the types and levels of interventions the state currently provides, and to arrive at strategies the state will pursue to solve homelessness, the state must conduct a state gaps analysis. The analysis should include an assessment of existing resources, gaps in interventions needed to solve homelessness, and a financial analysis of the costs of filling those gaps at a state level.~~

~~(q)There are few other areas of important public policy where government efforts to achieve a compelling societal objective are voluntary.~~

~~(f)The state required the state's utilities and public agencies to meet a timetable for increasing their use of renewable energy, and the state is achieving dramatic results.~~

~~(s)Government at all levels should be obligated to spend existing resources in the most efficient and expeditious manner to reduce homelessness.~~

~~SEC. 2.Section 11552 of the Government Code is amended to read:~~

~~11552.(a)Effective January 1, 1988, an annual salary of eighty five thousand four hundred two dollars (\$85,402) shall be paid to each of the following:~~

~~(1)Commissioner of Business Oversight.~~

~~(2)Director of Transportation.~~

~~(3)Real Estate Commissioner.~~

~~(4)Director of Social Services.~~

~~(5)Director of Water Resources.~~

~~(6)Director of General Services.~~

~~(7)Director of Motor Vehicles.~~

~~(8)Executive Officer of the Franchise Tax Board.~~

~~(9)Director of Employment Development.~~

~~(10)Director of Alcoholic Beverage Control.~~

~~(11)Director of Housing and Community Development.~~

~~(12)Director of Alcohol and Drug Programs.~~

~~(13)Director of Statewide Health Planning and Development.~~

~~(14)Director of the Department of Human Resources.~~

~~(15)Director of Health Care Services.~~

~~(16)Director of State Hospitals.~~

~~(17)Director of Developmental Services.~~

~~(18)State Public Defender.~~

~~(19)Director of the California State Lottery.~~

~~(20)Director of Fish and Wildlife.~~

~~(21)Director of Parks and Recreation.~~

~~(22)Director of Rehabilitation.~~

~~(23)Director of the Office of Administrative Law.~~

~~(24)Director of Consumer Affairs.~~

~~(25)Director of Forestry and Fire Protection.~~

~~(26)The Inspector General pursuant to Section 6125 of the Penal Code.~~

~~(27)Director of Child Support Services.~~

~~(28)Director of Industrial Relations.~~

~~(29)Director of Toxic Substances Control.~~

~~(30)Director of Pesticide Regulation.~~

~~(31)Director of Managed Health Care.~~

~~(32)Director of Environmental Health Hazard Assessment.~~

~~(33)Director of California Bay-Delta Authority.~~

~~(34)Director of California Conservation Corps.~~

~~(35)Director of Technology.~~

~~(36)Director of Emergency Services.~~

~~(37)Director of the Office of Energy Infrastructure Safety.~~

~~(38)The Housing and Homelessness Inspector General.~~

~~(b)The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.~~

SEC. 3. **SECTION 1.** Section 50676 of the Health and Safety Code is amended to read:

50676. (a) The department is hereby designated as the state agency responsible for administering funds received by the state from the federal Housing Trust Fund pursuant to the Housing and Economic Recovery Act of 2008 (Public Law 110-289), and implementing federal regulations. The department may use up to 10 percent of the federal Housing Trust Fund annual grant award for expenses of administering these funds.

(b) The department shall administer the funds through any existing or newly created programs that produce, preserve, rehabilitate, or support the operation of rental housing for extremely low income and very low income households, except that up to 10 percent of funding may be used to support home ownership for extremely low income and very low income households. Any rental project funded from the federal Housing Trust Fund shall restrict affordability for 55 years through a recorded and enforceable affordability covenant. Any home ownership program funded from the federal Housing Trust Fund shall restrict affordability for 30 years through either a recorded and enforceable affordability covenant or a recorded and enforceable equity recapture agreement.

(c) The department shall collaborate with the California Housing Finance Agency to develop an allocation plan to demonstrate how the funds shall be distributed, based on the priority housing needs identified in the state's consolidated plan prepared in accordance with Part 91 (commencing with Section 91.1) of Subtitle A of Title 24 of the Code of Federal Regulations. The department shall submit the plan to the Assembly Committee on Housing and Community Development and the Senate Transportation and Housing Committees 30 days after receipt of the federal funds.

(d) The allocation plan and guidelines shall give priority to projects based on:

- (1) Geographic diversity.
- (2) The extent to which rents are affordable, especially to extremely low income households.
- (3) The merits of a project.
- (4) Applicants readiness.
- (5) The extent to which projects will use nonfederal funds.

(e) The department shall award funds to projects serving people experiencing homelessness, to the extent that a sufficient number of projects exist. The department may alter priority for funding to align eligibility for possible benefits, including Medi-Cal benefits intended to fund services for people experiencing homelessness.