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To: Housing, Land Use and Transportation Policy Committee
County Planning Directors
County Legislative Coordinators

From: Chris Lee, CSAC Legislative Representative
Marina Espinoza, CSAC Legislative Analyst

Re: AB 101 (Committee on Budget): Housing Development and Financing

Summary. CSAC's top budget priority, a direct allocation of funding for counties to tackle the homelessness crisis, is included in AB 101 (Committee on Budget) — the budget trailer bill that reflects the final agreement between the Governor and Legislature on housing and homelessness budget items for fiscal year 2019-20. The bill also includes significant investments in affordable housing, regional and local planning, and housing-related infrastructure.

The following memo includes detailed summaries of key provisions of the budget trailer bill of interest to counties, including allocations of \$650 million to address the homelessness crisis, \$500 million for infrastructure grants to support housing production, \$500 million to support low-income housing tax credits, \$500 million for mixed-income housing development, and \$250 million to support local and regional housing plans.

The trailer bill also establishes a method for the state to determine whether local jurisdictions are in substantial compliance with housing element law and includes an enforcement mechanism for those that fail to comply. The budget trailer bill also makes adjustments to the local housing trust fund matching program, creates grant incentives for jurisdictions with "pro-housing" local policies, and requires that local jurisdictions streamline the approval of applications for "low barrier navigation centers" that meet certain criteria and are located in areas zoned for mixed use and nonresidential zones permitting multifamily uses.

Following extensive negotiations between the Governor and legislative leadership, the bill was passed by both houses of the Legislature in early July. Governor Newsom is expected to sign the bill when it is formally presented to him.

Homeless Housing, Assistance, and Prevention Program

Section 10 of the bill includes components that address county priorities and advocacy related to homelessness funding and Continuum of Care operations. The bill creates the Homeless Housing, Assistance, and Prevention Program to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges informed by a best-practices framework focused on moving homeless individuals and families into permanent housing and supporting the efforts of those individuals and families to maintain their permanent housing. The bill calls for the following allocation of funds included in the 2019-20 Budget:

- \$190 million to continuums of care (40 percent cap and \$500,000 minimum)
- \$275 million to cities with a population greater than 300,000 (45 percent cap)
- \$175 million to counties (40 percent cap)

Allocations will be based on 2019 point-in-time counts with specified exceptions for utilizing 2017 counts.

County applications will need to demonstrate how funds will complement the regional needs described in the continuum of care's plan for a coordinated housing and service system that meets the needs of individuals, unaccompanied youth, and families experiencing homelessness. All applications will also need to demonstrate Evidence of connection with the continuum of care's coordinated entry system.

Program funds may be used on:

- Rental assistance and rapid rehousing.
- Operating subsidies in new and existing affordable or supportive housing units, emergency shelters, and navigation centers. Operating subsidies may include operating reserves.
- Incentives to landlords, including, but not limited to, security deposits and holding fees.
- Outreach and coordination, which may include access to job programs, to assist vulnerable populations in accessing permanent housing and to promote housing stability in supportive housing.
- Systems support for activities necessary to create regional partnerships and maintain a homeless services and housing delivery system, particularly for vulnerable populations including families and homeless youth.
- Delivery of permanent housing and innovative housing solutions such as hotel and motel conversions.
- Prevention and shelter diversion to permanent housing.
- New navigation centers and emergency shelters based on demonstrated need.

Infill Infrastructure Grant Program of 2019

Section 20 of the bill establishes the Infill Infrastructure Grant Program of 2019 to be administered by HCD. The program will allocate funds to capital improvement projects necessary to facilitate the development of a qualifying infill project or qualifying infill area.

While the program is similar to prior rounds of the Infill Infrastructure Grant Program, CSAC successfully advocated for broader definitions of infill and other eligibility criteria that help ensure that housing projects located in less urban unincorporated areas where infrastructure can pose a significant challenge for housing development are eligible for funding.

Upon appropriation by the Legislature, authorizes HCD to expend \$500 million for the program, specifically:

- \$410 million in competitive grants for capital improvement projects for large jurisdictions, defined as any county or city within that county with a population over 250,000.
- \$90 million in over-the-counter grants for small jurisdictions, defined as any county or city within that county with a population less than 250,000.

- For notices of funding availability released after July 1, 2021, jurisdictions that have adopted a housing element in substantial compliance with housing element law will be granted additional points or preference for the Infill Infrastructure Grant Program of 2019.

Competitive Grant Process for Large Jurisdictions

- HCD must administer a competitive application process for capital improvement projects for large jurisdictions and must release a notice of funding availability no later than November 30, 2019.
- HCD must rank the affected qualifying infill projects and qualifying infill areas based on the following priorities:
 - Project readiness, which includes all of the following:
 - A demonstration that the project or area development can complete environmental review and secure necessary entitlements from the local jurisdiction within a reasonable period of time following the submission of a grant application.
 - A demonstration that the eligible applicant can secure sufficient funding commitments derived from sources other than this part for the timely development of a qualifying infill project or development of a qualifying infill area.
 - A demonstration that the project or area development has sufficient local support to achieve the proposed improvement.
 - The depth and duration of the affordability of the housing proposed for a qualifying infill project or qualifying infill area.
 - The extent to which the average residential densities on the parcels to be developed exceed the density standards.
 - The qualifying infill project's or qualifying infill area's inclusion of, or proximity or accessibility to, a transit station or major transit stop.
 - The proximity of housing to parks, employment or retail centers, schools, or social services.
 - The qualifying infill project or qualifying infill area location's consistency with an adopted sustainable communities strategy, alternative planning strategy, or other adopted regional growth plan intended to foster efficient land use.
- For purposes of awarding grants pursuant to the competitive application process, the bill defines a:
 - "Qualifying infill area" as a contiguous area located within an urbanized area:
 - That has been previously developed, or where at least 75 percent of the perimeter of the area adjoins parcels that are developed with urban uses.

- In which at least one development application has been approved or is pending approval for a residential or mixed-use residential project that meets the definition and criteria in this section for a qualifying infill project.
- “Qualifying infill project” as a:
 - Residential or mixed-use residential project located within an urbanized area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses.
 - Property is adjoining the side of a project site if the property is separated from the project site only by an improved public right-of-way.

Over-the-Counter Grant Process for Small Jurisdictions

- HCD must administer an over-the-counter application process for capital improvement projects for small jurisdictions and must release a notice of funding availability no later than November 30, 2019.
- Eligible applicants must submit the following information in the application request for funding:
 - A complete description of the qualifying infill project or qualifying infill area and documentation of how the infill project or infill area meets program requirements.
 - A complete description of the capital improvement project and requested grant funding for the project, how the project is necessary to support the development of housing, and how it meets program criteria.
 - Documentation that specifies how the application meets all of the following conditions:
 - Be located in a jurisdiction with a general plan with an adopted housing element that is in compliance with housing element law.
 - Be located in a jurisdiction that, at the time of application, has submitted its annual progress reports for 2017 through the most recently required annual progress reports.
 - Include not less than 15 percent of affordable units, as follows:
 - For projects that contain both rental and ownership units, units of either or both product types may be included in the calculation of the affordability criteria.
 - To the extent included in a project grant application, for the purpose of calculating the percentage of affordable units, the department may consider the entire master development in which the development seeking grant funding is included.

Where applicable, an applicant may include a replacement housing plan to ensure that dwelling units housing persons and families of low or moderate income are not removed from the low-

and moderate-income housing market. Residential units to be replaced shall not be counted toward meeting the affordability threshold required for eligibility for funding under this section.

- “Affordable unit” refers to a unit that is made available at an affordable rent, to a household earning no more than 60 percent of the area median income or at an affordable housing cost, to a household earning no more than 120 percent of the area median income. Rental units shall be subject to a recorded covenant that ensures affordability for at least 55 years. Ownership units shall initially be sold to and occupied by a qualified household, and shall be subject to a recorded covenant that includes either a resale restriction for at least 30 years or equity sharing upon resale.
- A qualifying infill project or qualifying infill area for which a disposition and development agreement or other project- or area-specific agreement between the developer and the local agency having jurisdiction over the project has been executed on or before the effective date of the act adding this section, shall be deemed to meet the affordability requirements of this paragraph if the agreement includes affordability covenants that subject the project or area to the production of affordable units for very low, low-, or moderate-income households.
- Include average residential densities on the parcels to be developed that are equal to or greater than the following densities, except that a project located in a rural area shall include average residential densities on the parcels to be developed of at least 10 units per acre.
 - For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.
 - For an unincorporated area in a nonmetropolitan county: sites allowing at least 10 units per acre.
 - For a suburban jurisdiction: sites allowing at least 20 units per acre.
 - For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.
- Be located in an area designated for mixed-use or residential development pursuant to a general plan, sustainable communities strategy, specific plan, Workforce Housing Opportunity Zone, or a Housing Sustainability District.
- For purposes of awarding grants pursuant to the over-the-counter application process, the bill defines a:
 - “Qualifying infill area” as a contiguous area located within an urbanized area that meets either of the following criteria:

- The area contains sites included on the inventory of land suitable and available for residential development in the housing element of the applicable jurisdiction’s general plan and at least 50 percent of the perimeter of the area shall adjoin parcels that are developed with urban uses.
 - The capital improvement project for which funding is requested is necessary, as documented by an environmental review or some other adopted planning document, to make the area suitable and available for residential development, or to allow the area to accommodate housing for additional income levels, and the area otherwise meets the requirements for inclusion on the inventory of land suitable and available for residential development in the housing element of the applicable jurisdiction’s general plan. At least 50 percent of the perimeter of the area shall adjoin parcels that are developed with urban uses.
- “Qualifying infill project” as a residential or mixed-use residential project located within an urbanized area on a site that has been previously developed, or on a vacant site where at least 50 percent of the perimeter of the site adjoins parcels that are developed with urban uses.

Housing Planning and Progress Grants

Section 11 of the bill allocates \$250 million to regions and jurisdictions through the Local Government Planning Support Grants Program for the purpose of providing regions and jurisdictions with one-time funding, including grants for planning activities to enable jurisdictions to meet the sixth cycle of the regional housing need assessment, specifically:

- \$125 million available to councils of governments and other regional entities
- \$125 million available to jurisdictions to assist in planning for other activities related to meeting the sixth cycle regional housing need

Regional Planning Grants

- \$125 million of the \$250 million to regions for housing planning activities
- Regions include “big 4” MPOs/COGs (ABAG, SACOG, SANDAG, SCAG), and multi-jurisdictional working groups:
 - Association of Bay Area Governments: Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, Sonoma, and the City and County of San Francisco
 - Sacramento Area Council of Governments: El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba
 - San Diego Association of Governments: San Diego
 - Southern California Association of Governments: Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura

- Central Coast Multiagency Working Group: Association of Monterey Bay Area Governments, San Luis Obispo Council of Governments, and Santa Barbara Association of Governments, representing the counties of Monterey, San Benito, San Luis Obispo, Santa Barbara, and Santa Cruz
- San Joaquin Valley Multiagency Working Group: Fresno Council of Governments, Kern Council of Governments, Kings County Association of Governments, Madera County Transportation Commission, Merced County Association of Governments, San Joaquin Council of Governments, Stanislaus Council of Governments and the Tulare County Association of Governments, representing the counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare
- Councils of governments from the Counties of Butte, Humboldt, Lake, and Mendocino*
- Counties of Alpine, Amador, Calaveras, Colusa, Del Norte, Glenn, Inyo, Lassen, Mariposa, Modoc, Mono, Nevada, Plumas, Shasta, Sierra, Siskiyou, Tehama, Tuolumne, and Trinity*

** These jurisdictions may request to receive allocation directly.*

- Until January 31, 2021, a regional entity or a county may request an allocation of funds by submitting an application to HCD. A council of governments, multiagency working group, or county that is awarded funding must establish priorities and use that funding to increase housing planning and accelerate housing production, by:
 - Developing an improved methodology for the distribution of the sixth cycle regional housing need assessment
 - Suballocating funding directly and equitably to jurisdictions or other subregional entities in the form of grants for planning that will accommodate the development of housing and infrastructure to accelerate housing production in a way that aligns with state planning priorities, housing, transportation, equity, and climate goals. An entity that receives a suballocation of funds must only use that suballocation for housing-related planning activities, including, but not limited to:
 - Technical assistance in improving housing permitting processes, tracking systems, and planning tools
 - Establishing regional or countywide housing trust funds for affordable housing.
 - Performing infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents.
 - Performing feasibility studies to determine the most efficient locations to site housing
 - Covering the costs of temporary staffing or consultant needs
 - Providing jurisdictions and other local agencies with technical assistance, planning, temporary staffing or consultant needs associated with updating

local planning and zoning documents, expediting application processing, and other actions to accelerate additional housing production

- Covering the costs of administering programs

Local Planning Grants

- \$125 million of the \$250 million to assist in planning for other activities related to meeting the sixth cycle regional housing need assessment
- Maximum grant amounts:
 - \$1.5 million to localities with populations over 750,000
 - \$750,000 to localities with populations between 300,000 and 749,999
 - \$500,000 to localities with populations between 100,000 and 299,999
 - \$300,000 to localities with populations between 60,000 and 99,999
 - \$150,000 localities with populations between 20,000 and 59,999
 - \$65,000 to localities with populations under 20,000
- Until July 1, 2020, a jurisdiction may request an allocation of funds for housing-related planning activities, including, but not limited to:
 - Rezoning and encouraging development by updating planning documents and zoning ordinances, such as general plans, community plans, specific plans, sustainable communities' strategies, and local coastal programs
 - Completing environmental clearance to eliminate the need for project-specific review.
 - Establishing a workforce housing opportunity zone
 - Performing infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents.
 - Partnering with other local entities to identify and prepare excess property for residential development
 - Revamping local planning processes to speed up housing production
 - Developing or improving an accessory dwelling unit ordinance
 - Covering the costs of temporary staffing or consultant needs

Incentives for Jurisdictions with “Pro-housing” Local Policies

Section 5 of the bill states the Legislature’s intent to create incentives for jurisdictions that are in compliance with housing element law and have enacted pro-housing local policies. These incentives will be offered in the form of additional points or other preference in the scoring of competitive housing and infrastructure programs. It also states the Legislature’s intent to adopt regulations related to pro-housing local policy criteria and establish criteria that considers the needs of rural, suburban, and urban jurisdictions and how those criteria may differ in those areas.

Specifically, jurisdictions in substantial compliance with housing element requirements will be awarded additional points or preference in the scoring of program applications for the following programs, for award cycles beginning after July 1, 2021:

- Affordable Housing and Sustainable Communities Program
- Transformative Climate Communities Program
- Infill Incentive Grant Program of 2007
- Additional bonus points may be awarded to other state programs when already allowable under state law.

“Pro-housing local policies” refers to policies that facilitate the planning, approval, or construction of housing, including, but not limited to, the following:

- Local financial incentives for housing, such as establishing a local housing trust fund.
- Reduced parking requirements for sites zoned for residential development.
- Adoption of zoning allowing for use by right for residential and mixed-use development.
- Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.
- Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in current state law, as determined by HCD.
- Reduction of permit processing time.
- Creation of objective development standards.
- Reduction of development impact fees.
- Establishment of a Workforce Housing Opportunity Zone.

Changes to the Local Housing Trust Fund Matching Program

Three hundred million dollars of the Veterans and Affordable Housing Bond Act of 2018 are available pursuant to the Local Housing Trust Fund Matching Program. This funding is available for competitive grants or loans to local housing trust funds that develop, own, lend, or invest in affordable housing and should be used to create pilot programs to demonstrate innovative, cost-saving approaches to creating or preserving affordable housing. Section 18 of the bill makes several changes to the Local Housing Trust Fund Matching program, specifically:

- Authorizes HCD to make matching grants available to Native American tribes.
- Authorizes HCD to increase the minimum allocation above \$500,000 to an applicant that is a newly established trust and increase the minimum allocation to all other trusts above \$1,000,000.
- Provides that the matching fund requirement does not apply to specified funds allocated under the Building Homes and Jobs Act that are used to capitalize a regional housing trust fund.

- Authorizes the applicant to provide evidence of a legally binding commitment to deposit matching funds in the case of an application for an existing housing trust.
- Requires that HCD set aside funding for new trusts, as defined in the guidelines authorized to be adopted to implement the program.
- Requires that funds be used for the predevelopment costs, acquisition, construction, or rehabilitation of emergency shelters, transitional housing, and permanent supportive housing.
- Authorizes HCD to allow grantees under the program to use up to 5% of the grant award for administrative costs.
- Extends the period in which funds are required to be encumbered from 36 months to 60 months.

Expansion of State Low-Income Housing Tax Credit Program

Section 23 of the trailer bill includes a one-time \$500 million increase to the LIHTC allocation, specifically:

- At least \$300 million available to new construction projects receiving the federal 4% tax credit.
- Allows up to \$200 million available to projects receiving assistance from the California Housing Finance Agency (CalHFA) Mixed Income Program.
- Lifts the \$75,000 cap on state housing tax credits allowed to be claimed per calendar year.

Self-Help Housing Fund

Section 29 of the bill appropriates a total of \$500 million to the Self-Help Housing Fund to finance low and moderate income housing, specifically:

- \$200 million for FY 2019-20
- \$95 million for FY 2020-21
- \$120 million for FY 2021-22
- \$85 million for FY 2022-23

Jurisdictions Not in Substantial Compliance with Housing Element Requirements

Section 6 of the bill requires HCD to post a list of jurisdictions that have failed to adopt a housing element that has been found to be in substantial compliance to its internet website each month. HCD must annually provide the most recent version of the list to the Governor's Office of Planning and Research and any other applicable agency or department by July 1 or upon request. It requires a jurisdiction that is included on the list upon the first occurrence and requires that a copy of the notification be submitted to the legislative body of the jurisdiction.

The bill requires the Department of Finance to publish a list of programs where eligibility for funding is contingent on the jurisdiction having a substantially compliant housing element by

January 1, 2023. If a jurisdiction is included on that list, the HCD must offer the jurisdiction the opportunity for two meetings to discuss the jurisdiction's failure to adopt a housing element that is found to be in substantial compliance with state law and to provide the jurisdiction written findings regarding its failure to comply. HCD must provide a local jurisdiction with up to 30 days to respond to the findings before taking any other action.

Housing Element Enforcement Changes

Section 4 of the bill includes new provisions and remedies related to the enforcement of housing element law. Specifically, the bill requires the Attorney General, prior to bringing a suit to enforce compliance with the housing element requirement for a jurisdiction to zone for sites adequate to accommodate its allocation of regional housing needs, to provide a city or county with written findings regarding the violation and an offer of two meetings to discuss the violation.

If a court finds that a jurisdiction is out of compliance with this housing requirement, it can, after one year, impose fines ranging from \$10,000-\$100,000 per month. If a jurisdiction continues to fail to have a compliant housing element, these fines can be increased by a factor of 3 or 6 after specified timelines. If a jurisdiction fails to pay these fines, the State Controller may intercept state and local funds otherwise due to the local agency that are not constitutionally-protected.

Finally, the trailer bill authorizes the appointment of an agent of the court with the power to bring the jurisdiction's housing element into substantial compliance. The bill also provides that court needs to consider good faith efforts and reasonable reasons that the jurisdiction may not be able to comply in determining the application of each of these remedies.

Streamlined Review Process for Low Barrier Navigation Centers

Section 7 of the bill requires that a Low Barrier Navigation Center development be a use by right in areas zoned for mixed uses and nonresidential zones permitting multifamily uses if the shelter meets the following criteria:

- It offers services to connect people to permanent housing through a services plan that identifies services staffing.
- It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing.
- It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System.

"Low Barrier Navigation Center" is defined as a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

"Low Barrier" means best practices to reduce barriers to entry, and may include, but is not limited to, the following:

- The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
- Pets.
- The storage of possessions.
- Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

CalHFA Funding for ADUs and Disaster Assistance for Moderate Income Households

Section 17 of the bill authorizes HCD to make CalHOME Program grants to enable low-and very low income households to become or remain homeowners and to provide disaster relief assistance to households at or below 120 percent of the area median income (AMI).

The bill also authorizes HCD to make CalHOME Program grants to local agencies or nonprofits for the construction, repair, reconstruction, or rehabilitation of accessory dwelling units (ADUs) and junior ADUs. The bill authorizes HCD to make CalHOME Program grants to local agencies and nonprofits to assist households at or below 120 percent of the area median income that are victims of a disaster, if:

- The Governor has proclaimed a state of emergency resulting from a disaster.
- A special appropriation of federal emergency supplemental assistance or a presidential declaration of disaster has occurred.
- Funds must be provided by HCD to local public agencies or nonprofit corporations as any of the following:
 - Grants for programs that assist individual households.
 - Loans that assist development projects involving multiple home ownership units, including single-family subdivisions.
 - Grants for programs that assist individual households, which may be used for first-time homebuyer downpayment assistance, home rehabilitation, including the installation or retrofit of ignition resistant exterior components on existing manufactured homes, mobilehomes, and accessory structures, homebuyer counseling, home acquisition and rehabilitation, or self-help mortgage assistance programs, or for technical assistance for self-help and shared housing home ownership.

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