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No Place Like Home Summary (AB 1618 and AB 1628, 2016)

AB 1618 created the No Place Like Home Initiative which will divert a portion of Mental Health Services Act (MHSA) funds – established through Proposition 63 in 2004 – to provide \$2 billion in bond funds for affordable housing to the target population of homeless individuals or individuals who are at risk of homelessness and who are living with a serious mental illness.

Subsequently, AB 1628 made some technical changes to AB 1618 and also provides the details on the bond securitization of MHSA and the issuance of the bonds.

HCD Advisory Committee

AB 1618 creates the No Place Like Home Advisory Committee. The committee will assist and advise the California Department of Housing and Community Development (HCD) on the implementation of the program, review and make recommendations on the department’s guidelines, review HCD’s progress in distributing funds, and provide advice and guidance more broadly on statewide homelessness issues.

Membership on the committee is as follows:

- The Director of HCD.
- The Director of Health Care Services.
- The Secretary of Veterans Affairs.
- The Director of Social Services.
- The Treasurer.
- The chair of the Mental Health Services Oversight and Accountability Commission.
- A chief administrative officer or a member of a county board of supervisors from a small county, to be appointed by the Governor.
- A chief administrative officer or a member of a county board of supervisors from a large county, to be appointed by the Governor.
- A director of a county behavioral health department, to be appointed by the Governor.
- An administrative officer of a city, to be appointed by the Governor.
- A representative of an affordable housing organization, to be appointed by the Speaker of the Assembly.
- A resident of supportive housing, to be appointed by the Governor.
- A representative of a community mental health organization, to be appointed by the Senate Rules Committee.
- A representative of a local or regional continuum of care organization that coordinates homelessness funding, to be appointed by the Governor.

Guidelines

AB 1618 provides that HCD may adopt guidelines or regulations, in consultation with the California State Association of Counties and other stakeholders, as necessary to exercise the power and perform the duties conferred on it by this bill. HCD shall also consult with key stakeholders, including but not limited to, counties. HCD may also adopt emergency regulations in order to expedite the award of monies.

Competitive Program - \$1.8 billion

In order to finance permanent supportive housing for the target population, HCD may enter into one or more contracts with the California Health Facilities Financing Authority (CHFFA) to provide services for the benefit of the people of the state.

AB 1618 provides under any service contract with CHFFA, HCD shall administer a competitive grant program among counties to finance capitol costs including but not limited to, acquisition, design, construction, rehabilitation or preservation, and to capitalize operating reserves, of permanent supportive housing for the target population.

Requirements are as follows:

- A county may apply as the sole applicant if it is the development sponsor or jointly with a separate entity as a development sponsor.
- Funded developments shall integrate the target population with the general public.
- Funded developments shall utilize low barrier tenant selection practices that prioritize vulnerable populations and offer flexible, voluntary, and individualized supportive services.

The guidelines developed by HCD may provide for alternative housing models, such as shared housing models of fewer than five units. Integration requirements may be modified in shared housing. The guidelines must include establishing income and rent standards.

AB 1618 provides that any loans made by HCD shall be in the form of secured deferred payment loans to pay for the eligible costs of development. Principal and accumulated interest is due and payable upon completion of the term of the loan, which shall be established through program guidelines. The loan shall bear simple interest at a rate of three percent per annum on the unpaid principal balance. HCD shall require annual loan payments in the minimum amount necessary to cover the costs of project monitoring. For the first 15 years of the loan term, the amount of the required loan payments shall not exceed forty-two hundredths of 1 percent per annum.

HCD may establish maximum loan-to-value requirements for some or all of the types of projects that are eligible for funding, which shall be established through program guidelines.

County Tiers

AB 1618 provides that HCD shall organize counties into the following competitive groupings based on population:

- (a) The County of Los Angeles.
- (b) Large counties with a population greater than 750,000.
- (c) Medium counties with a population between 200,000 to 750,000.
- (d) Small counties with a population less than 200,000.

AB 1618 provides that the competitive program shall distribute funding among the groupings based on a calculation made by HCD that shall include the number of homeless persons residing within each county, as determined by HCD, and considers minimum funding levels necessary for a permanent supportive housing development. HCD may also consider other factors in the calculation if it supports the objectives of AB 1618.

Application requirements

In considering applications, HCD shall restrict eligibility to applicants that meet the following minimum criteria:

- The county commits to provide mental health supportive services and to coordinate the provision of, or referral to, other services including, but not limited to, substance use treatment services, to the tenants of the supportive housing development for at least 20 years. Services must be provided onsite at the supportive housing development or in a location otherwise easily accessible to tenants. The county may use any of the following funding sources: Local Mental Health Services Fund, Mental Health Account, Behavioral Health Subaccount, funds received from other private or public entities, or other county funds.
- The county has developed a county plan to combat homelessness, which includes a description of homelessness countywide, any special challenges or barriers to serving the target population, county resources applied to the issue, available community-based resources, an outline of partners and collaborations and proposed solutions.
- Meet other threshold requirements including, but not limited to, developer capacity to develop, own, and operate a permanent supportive housing development for the target population, and the application proposes a financially feasible development with reasonable development costs.

Evaluation of Applications

HCD shall evaluate applications using, at a minimum, the following criteria:

- The extent to which assisted units are restricted to persons who are chronically homeless or at risk of chronic homelessness within the target population.
- The extent to which other funds are leveraged for capital costs.
- The extent to which projects achieve deeper affordability through the use of non-state project based rental assistance, operating subsidies, or other funding.
- Project readiness.
- The extent to which applicants offer a range of on-site and off-site supportive services to tenants, including mental health services, behavioral health services, primary health, employment and other tenancy support services.
- Past history of implementing programs that use evidence-based best practices that have led to the reduction of the number of chronic homeless or at risk of chronic homelessness individuals within the target population.

Rural Set-Aside

AB 1618 provides that HCD shall set-aside 8 percent of the funds offered in Rounds 1 through 4 of the competitive program for small counties as identified in the County Tiers.

Funding Rounds

AB 1618 provides that HCD must award the funds in at least four rounds as follows:

- HCD must issue its first request for proposal for the competitive program no later than 180 days after the effective date of a final judgment, with no further opportunity for appeals, in any court proceeding affirming the validity of the contracts authorized by CHFFA and HCD and any bonds authorized to be issued.
- The second round must be completed no later than one year after the completion of the first round.
- The third round must be completed no later than one year after the completion of the second round.
- The fourth round must be completed no later than one year after the completion of the third round.

Subsequent rounds shall occur annually in order to fully exhaust remaining funds and HCD may discontinue the use of competitive groupings, the alternative process, and the rural set aside after the first four rounds.

Court Validation

AB 1628 provides that HCD shall issue its first request for proposal for the competitive program no later than 180 days after the effective date of a final judgment in any court proceeding affirming the validity of the contracts authorized by the CHFFA and HCD and any bond authorized to be issued.

Alternative Process (Funded through Competitive Pot - \$1.8 billion)

AB 1618 authorizes HCD to establish an alternative process for allocating funds as grants directly to counties with at least five percent of the state's homeless population and that demonstrates the capacity to directly administer loan funds for permanent supportive housing serving the target population and the ability to prioritize individuals with mental health supportive needs who are homeless or at risk of chronic homelessness.

HCD must adopt guidelines establishing the parameters of the alternative process if any, and requirements for local administration of funds including project selection process, eligible use of funds, loan terms, rent and occupancy restrictions, provision of services, and reporting and monitoring requirements.

AB 1618 provides that counties participating in the alternative process shall not be eligible for the competitive process and are limited to funds in proportion to their share of the percentage of the statewide homeless population, as calculated by HCD in the County Tiers section.

Funds not committed to projects within two years following award to counties shall be returned to the state for the competitive program.

HCD shall consider the following when selecting participating counties:

- Demonstrated ability to finance permanent supportive housing with local and federal funds, and monitor requirements for the life of the loan.
- Past history of delivering supportive services to the target population in housing.
- Past history of committing project-based vouchers to supportive housing.
- Ability to prioritize the most vulnerable within the target population through coordinated entry system.

HCD must award at least four rounds of grant and provides that HCD may establish maximum loan-to-value requirements for some or all of the types of projects that are eligible for funding under this section. HCD must also establish per-unit and per-project loan limits for all project types.

Non-Competitive Program

In addition to the competitive grant program, HCD shall distribute two hundred million from the fund on an over-the-counter basis to finance the construction, rehabilitation, or preservation, and to capitalize operating reserves, of permanent and supportive housing for individuals in the target population with a priority for those with mental health supportive needs who are homeless or at risk of chronic homelessness. **Funds to be awarded shall be available to all counties within the state proportionate to the number of homeless persons within each county or in the amount of \$500,000 whichever is greater.** A county receiving these funds must commit to provide mental health supportive services and coordinate the provision of other services, including substance abuse treatment services, to the tenants of the supportive housing development for at least 20 years. Services must be provided onsite at the supportive housing development or at a location otherwise easily accessible to the tenants.

Funds not committed within 18 months following the first allocation shall be used in the competitive grant program.

AB 1618 provides that monies shall be distributed either in accordance with the procedures for awarding funds to local agencies established by the existing MHSA housing program administered by DHCS and the California Housing Finance Authority or alternative procedures developed by HCD for distributing these monies that enhance the efficiency and goals of the distribution program.

AB 1628 provides that HCD shall make the first allocation of funds as soon as practical and in any event no later than 150 days after the effective date of a final judgment in any court proceeding affirming the validity of the contracts and bonds.

Technical Assistance Funds

AB 1618 will allocate \$6.2 million from the Mental Health Services Fund to HCD to provide technical and grant preparation assistance to counties. Eligible uses of technical and grant preparation assistance shall include, but is not limited to, assistance in performing one or more of the following activities:

- Applying for program funds.
- Implementing activities funded by monies distributed under this part, including the development of supportive housing for the target population.
- Coordinating funded activities with local homelessness systems, including coordinated access systems developed under federal regulations.
- Delivering a range of supportive services to tenants.
- Collecting data, evaluation program activities, and sharing data among multiple systems, such as MHSA, the Medi-Cal Act and implementing regulations, and homelessness systems.

HCD shall provide grant funds to a county upon application as follows:

- To a large county and to Los Angeles County, HCD shall provide \$150,000.
- To a medium county, HCD shall provide \$100,000.
- To a small county, HCD shall provide \$75,000.

Default Reserve Funds

AB 1618 provides that HCD may designate up to four percent of the funds allocated for the competitive grant program, in order to cure or avert a default on the terms of any loan or other obligation by the recipient of financial assistance, or bidding at any foreclosure sale where the default or foreclosure sale would jeopardize HCD's security in the rental housing development assisted under this proposal.

HCD may also use default reserve funds to repair or maintain any rental housing development assistance to protect HCD's security interest.

The payment or advance of funds by HCD under this subdivision, are exclusively within HCD's discretion, and no person shall be deemed to have any entitlement to the payment or advance of those funds.

Reporting and Monitoring

Evaluation of NPLH

Upon an appropriation for the purposes of this section, HCD must contract with a public or private research university in this state to evaluate NPLH. HCD shall develop the research design and issue a request for proposal for a contract for the evaluation with the assistance of the Legislative Analyst's Office and the Department of Finance (DOF).

HCD must submit the final research design and request for proposal to the Chairperson of the Joint Legislative Budget Committee no more than 30 days prior to executing a contract for the evaluation.

NPLH Reporting

AB 1618 provides that counties must annually report to HCD on activities funded under this part, including information on the funded supportive housing development. Reported information must include location of projects, number of units assisted, occupancy restrictions, number of individuals and households served, related income levels, and homeless, veteran, and mental health status.

HCD must submit a report on the program to the Legislature by December 31 of each year, starting with the year after the first full year the program is in effect. The report must contain the following:

- The processes established for distributing funds.
- The distribution of funds among counties.
- Any recommendation as to modifications to the program for the purpose of improving efficiency or furthering the goals of the program.

Financing Provisions

These bills create the No Place Like Home Fund within the State Treasury continuously appropriated to HCD, CHFFA, and the Treasurer for the purposes of implementing NPLH. Up to 5 percent of the amount deposited in the fund may be used for administrative expenses for implementation.

These bills also provide that DOF may authorize one or more loans from the General Fund to the NPLH Funds for cash flow purposes subject to the following conditions:

- To allow HCD to begin program implementation activities including drafting program guidelines and regulations.
- To allow HCD, CHFFA, and the Treasurer to pay for financial advisory and legal services to prepare for and in connection with any validation action.

Bond Issuance and Loans

AB 1628 provides that CHFFA may issue taxable or tax-exempt revenue bonds in an amount not to exceed \$2 billion dollars for the purpose of financing permanent supportive housing under the NPLH Program and through loans. CHFFA may also utilize bond proceeds to fund necessary reserves for principal and interest, capitalized interest, credit enhancement or liquidity costs, costs of issuance, administrative expenses and to reimburse loans.

CHFFA may make secured or unsecured loans to HCD in connection with financing permanent supportive housing under NPLH or to refund bonds previously issued, in accordance with an agreement between CHFFA and HCD. Loan proceeds may also be used to fund reserves for principal and interest, capitalized interest, credit enhancement and liquidity costs, expenses of funding, financing and refinancing, administrative expenses and to reimburse loans.

AB 1628 also provides that the issuance of the bonds or refunding bonds are not subject to, and need not comply with, the requirements of any other law applicable to the issuance of those bonds including CEQA. However the financing of permanent supportive housing shall not exempt permanent supportive housing from the requirements of any other law otherwise applicable to the permanent supportive housing.

This bill also allows CHFFA to issue bonds and to consult with the Mental Health Services Oversight and Accountability Commission and DHCS concerning the implementation of a grant program for California counties to support the development of programs that increase access to, and capacity for crisis mental health services.

MHSA Funding Transfer Process

AB 1628 provides that the Supportive Housing Program Subaccount is created in the Mental Health Services Fund and caps the total annual amount of MHSA funding that can be diverted at \$140 million. All monies in the subaccount are reserved and continuously appropriated to CHFFA to provide funds to meet its financial obligations under any service contracts. No later than the last day of each month, the Controller shall, prior to any transfer or expenditure from the fund for any other purpose for the following month, transfer from the MHSA Fund to the Supportive Housing Program Subaccount an amount which has been certified by CHFFA.

If in any month the amount in the MHSA Fund are insufficient to fully transfer to the subaccount or the amounts in the subaccount are insufficient to fully pay the amount certified by the CHFFA, the shortfall

shall be carried over to the next month. Moneys in the Supportive Housing Program Subaccount shall not be loaned to the General Fund.

CHFFA Duties and Responsibilities

CHFFA may do all of the following:

- Consult with the commission and DHCS concerning the implementation of NPLH, including the review of annual reports.
- Enter into one or more contracts with HCD to provide and CHFFA to pay HCD for providing services related to permanent supportive housing for the target population. Prior to entering any contract the executive director of CHFFA must transmit a copy of the contract to the commission. The contract shall be deemed approved by the commission unless it acts within 10 days to disapprove the contract.
- On or before June 15 and December 15 of each year, CHFFA shall certify to the Controller of the amounts CHFFA is required to pay for the following six-month period to HCD under any service contract.

HCD Duties and Responsibilities

HCD may do all of the following:

- Enter into one or more contracts with CHFFA to provide services related to permanent supportive housing for the target population. Payments received by HCD under any service contract shall be used, prior to any other allocation or distribution, to repay loans from CHFFA.
- Enter into one or more loan agreements with CHFFA as security for repayment of the revenue bonds issued by CHFFA. HCD must deposit the proceeds of these loans into the fund.

MHSA Reporting

AB 1618 requires DHCS to post on its website the three-year program and expenditure plans submitted by every county in a timely manner. In addition, DHCS must annually post on its website a summary of the performance outcomes reports submitted by counties if clearly and separately identified by counties as the achievement or performance outcomes.

AB 1618 also requires DHCS to conduct program reviews of performance contracts to determine compliance. Each county performance contract shall be reviewed at least once every three years, subject to available funding for this purpose.

This bill would also require DHCS, in consultation with the Commission and CBHDA to revise the instructions for the Annual Mental Health Services Act Revenue and Expenditure Report by July 1, 2017 to improve the timely and accurate submission of county revenue and expenditure data. The instruction must include a requirement that the county certify the accuracy of this report.

AB 1618 also provides that if a county does not submit the annual revenue and expenditure report, DHCS may withhold MHSA funds until the reports are submitted.