

**Metropolitan Transportation Commission and Association of Bay Area Governments
Joint MTC Legislation Committee and ABAG Legislation Committee**

July 12, 2019

Agenda Item 4b

Summary of the FY 2019-20 State Budget Housing Trailer Bill (AB 101)

Subject: Governor Newsom signed the FY 2019-20 State Budget on June 27, the largest in state history at \$214.8 billion. The budget invests \$1.75 billion in the production and planning of new housing. Assembly Bill 101, the budget's housing trailer bill, details many of the Governor's plans for moving forward on housing in the state.

Summary: The FY 2019-20 State Budget prioritizes affordable housing in many respects. An additional \$500 million may be allocated to low-income housing under the low-income housing tax credit program, and the bill also makes certain tax adjustments to this program. Importantly from a local and regional standpoint, the bill provides substantial one-time funding for a new Local Government Planning Support Grants Program, which requires the Department of Housing and Community Development (HCD) to allocate \$250 million to councils of governments and local jurisdictions to accelerate housing production. Of the total, \$125 million will go directly to cities and counties, and \$125 million will go to councils of government. Staff estimates that the region will receive approximately \$50 million in combined funds from this program, split 50/50 between ABAG and local jurisdictions, with the ABAG portion also available to be used as grants for local agencies. See Attachment A for full details on this program, including eligible uses of these funds, and Attachment B for the specific amount that each Bay Area jurisdiction is estimated to receive.

AB 101 also allocates \$500 million, through the Infill Infrastructure Grant Program, to capital improvement projects that facilitate development of infill projects or infill areas.

A Stick and Carrot Approach

The bill establishes a new penalty and reward structure for the state to impose financial penalties on local governments that violate state housing law as well as a reward system for jurisdictions that meet specified benchmarks by giving them priority for certain funds. Jurisdictions can also be brought to court by the Attorney General if they do not comply with their HCD-approved housing element, where they will be subject to fines, court follow-ups, and ineligibility for programs until they are compliant. HCD must also post on its website a list of jurisdictions that have failed to adopt a compliant housing element. See Attachment C for more details on penalties and rewards for housing-compliant jurisdictions.

Major Investment in Homelessness

To address homelessness, the bill distributes \$650 million to cities, counties and regional homelessness prevention agencies. Funding from this category is eligible for a variety of purposes, including development of permanent housing, subsidies for new and existing housing units, emergency shelters and navigation centers, and rental assistance. Funds will be distributed based on 2019 Point-in-Time (PIT) counts, which are snapshot counts of people experiencing homelessness on a single night, conducted by local Continuums of Care (CoCs) nationwide. Of the total, \$190 million will go to CoCs; \$275 million will go to cities over 300,000 people (Oakland, San Francisco and San Jose in the Bay Area); and \$175 million will go to counties. Based on 2017's PIT numbers (subject to change for 2019), the Bay Area could

expect to receive approximately \$118 million (\$21 million to CoCs, \$62 million to the three cities above, and \$35 million to counties).

The bill also requires that supportive housing for people transitioning from homelessness be allowed “by right” in areas already zoned to allow multifamily and mixed-use. Local agencies therefore may not impose certain requirements, such as conditional use permits or other discretionary review or approval, on transitional homeless navigation centers until 2027. Additionally, the California Environmental Quality Act (CEQA) will not apply to actions taken by agencies to build these centers through 2027.

Homeownership Programs

With respect to homeownership, this bill also increases the amount of money applicants can receive, and expands the uses of the money, through various established housing loan funds, including the Local Housing Trust Fund Matching Grant Program and the Housing Rehabilitation Loan Fund. Most notably, the bill appropriates \$500 million from the General Fund to the Self-Help Housing Fund, a program that makes loans to low- and moderate-income families to build their homes with their own labor. The bill also authorizes HCD to make grants to local agencies or nonprofits to build or repair accessory dwelling units (ADUs) for low-income homeowners under the CalHome Program, and for disaster relief for low-income homeowners.

Rental Assistance

To assist renters, the budget also includes \$20 million to provide legal aid for renters and assist with landlord-tenant disputes, including legal assistance for counseling, renter education programs, and preventing evictions, consistent with Governor Newsom’s proposal in the May Revise.

Recommendation: No recommendation

Bill Positions: None on file

Attachments: **Attachment A:** Local Government Planning Support Grants Program Details
Attachment B: Bay Area Jurisdiction Funds under Local Government Planning Support Grants Program
Attachment C: Penalties and Incentives for Housing Production


Therese W. McMillan

**FY 2019-20 State Budget Housing Trailer Bill (AB 101)
Local Government Planning Support Grants Program Details**

AB 101 provides substantial one-time funding for the Local Government Planning Support Grants Program, a new grant program to be administered by the Department of Housing and Community Development (HCD), to help implement the Sixth Cycle of the Regional Housing Needs Assessment (RHNA), covering the planning period of January 1, 2019 to August 31, 2027. The breakdown of the funds is as follows:

- \$250 million towards housing planning, including technical assistance/documents/process improvements, to accelerate housing production
- \$125 million directly to jurisdictions based on a 6-tier system
- \$125 million to councils of government (COGs), in matching amounts as provided to the total individual jurisdictions in the COG
- For the Bay Area, this amounts to \$25.5 million to ABAG and \$25.5 million to local jurisdictions directly. See Attachment B for the amount each Bay Area jurisdiction will receive.

Fund Distribution to Jurisdictions: 6 Tiers

- \$1,500,000 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 to localities with populations between 20,000 and 59,999
- \$65,000 to localities with populations under 20,000

Regional Funding

Funds to councils of government may be spent on the following uses:

- Establishing regional or countywide housing trust funds for affordable housing
- A planning grant program to accelerate housing production in alignment with state goals
- Technical, staffing, or planning assistance to local agencies
- Updating housing elements to comply with state law
- Improving methodology for the distribution of the Sixth Cycle RHNA
- Developing local or regional policies to link transportation funds to housing outcomes
- Infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents
- Feasibility studies
- Staffing needs to implement the program

Until January 31, 2021, a region may request funds. HCD will then have 30 days to review the application. The region must develop an education and outreach strategy to inform local agencies and meet other tracking and reporting requirements as outlined in the bill. The region must submit a final report on the uses of the funds by December 31, 2024.

Jurisdictional Funding

Funds to jurisdictions may be used for all of the above *regional uses* on the local level, plus:

- Rezoning and updating plans to encourage development
- Completing environmental clearance to eliminate project-specific review
- Establishing Workforce Housing Opportunity Zones
- Revamping local planning processes to speed up production of housing
- Creating/improving accessory dwelling unit (ADU) ordinances

A jurisdiction may request funds until July 1, 2020, must meet certain reporting requirements as outlined in the bill, and submit a final report on the uses of the funds by December 31, 2024.

FY 2019-20 State Budget Housing Trailer Bill (AB 101)
Local Government Planning Support Grants Program
Bay Area Jurisdictional Funds

Funding Tiers

- \$1,500,000 to populations over 750,000
- \$750,000 to populations between 300,000 and 749,999
- \$500,000 to populations between 100,000 and 299,999
- \$300,000 to populations between 60,000 and 99,999
- \$150,000 to populations between 20,000 and 59,999
- \$65,000 to populations under 20,000

County/City/Town	Population	Funding Tier Per Population
<i>County of Alameda -</i>		
<i>Unincorporated</i>	149,536	\$500,000
City of Alameda	79,316	\$300,000
City of Albany	19,393	\$65,000
City of Berkeley	123,328	\$500,000
City of Dublin	64,577	\$300,000
City of Emeryville	11,885	\$65,000
City of Fremont	232,532	\$500,000
City of Hayward	159,433	\$500,000
City of Livermore	91,039	\$300,000
City of Newark	48,712	\$150,000
City of Oakland	432,897	\$750,000
City of Piedmont	11,420	\$65,000
City of Pleasanton	80,492	\$300,000
City of San Leandro	89,825	\$300,000
City of Union City	74,916	\$300,000
TOTAL, Alameda County	1,669,301	\$4,895,000

<i>County of Contra Costa -</i>		
<i>Unincorporated</i>	173,406	\$500,000
City of Antioch	113,901	\$500,000
City of Brentwood	63,662	\$300,000
City of Clayton	11,653	\$65,000
City of Concord	129,889	\$500,000
Town of Danville	45,270	\$150,000
City of El Cerrito	25,459	\$150,000
City of Hercules	26,224	\$150,000
City of Lafayette	26,327	\$150,000
City of Martinez	38,490	\$150,000
Town of Moraga	16,939	\$65,000
City of Oakley	41,759	\$150,000
City of Orinda	19,475	\$65,000

County/City/Town	Population	Funding Tier Per Population
City of Pinole	19,498	\$65,000
City of Pittsburg	72,541	\$300,000
City of Pleasant Hill	35,055	\$150,000
City of Richmond	110,436	\$500,000
City of San Pablo	31,817	\$150,000
City of San Ramon	83,957	\$300,000
City of Walnut Creek	70,121	\$300,000
TOTAL, Contra Costa County	1,155,879	\$4,660,000
<i>County of Marin -</i>		
<i>Unincorporated</i>	69,343	\$300,000
City of Belvedere	2,148	\$65,000
City of Corte Madera	10,047	\$65,000
Town of Fairfax	7,721	\$65,000
City of Larkspur	12,578	\$65,000
City of Mill Valley	14,675	\$65,000
City of Novato	54,115	\$150,000
Town of Ross	2,526	\$65,000
Town of San Anselmo	12,902	\$65,000
City of San Rafael	60,046	\$300,000
City of Sausalito	7,416	\$65,000
Town of Tiburon	9,362	\$65,000
TOTAL, Marin County	262,879	\$1,335,000
<i>County of Napa - Unincorporated</i>		
City of American Canyon	26,158	\$150,000
City of Calistoga	20,629	\$150,000
City of Napa	5,453	\$65,000
City of St. Helena	79,490	\$300,000
City of St. Helena	6,133	\$65,000
Town of Yountville	2,916	\$65,000
TOTAL, Napa County	140,779	\$795,000
<i>City and County of San Francisco</i>		
<i>San Francisco</i>	883,869	\$1,500,000
TOTAL, SF City & County	883,869	\$1,500,000
<i>County of San Mateo -</i>		
<i>Unincorporated</i>	66,027	\$300,000
Town of Atherton	7,070	\$65,000
City of Belmont	27,174	\$150,000
City of Brisbane	4,691	\$65,000
City of Burlingame	30,317	\$150,000
Town of Colma	1,512	\$65,000
City of Daly City	109,122	\$500,000
City of East Palo Alto	30,499	\$150,000

County/City/Town	Population	Funding Tier Per Population
City of Foster City	33,693	\$150,000
City of Half Moon Bay	12,631	\$65,000
Town of Hillsborough	11,769	\$65,000
City of Menlo Park	35,790	\$150,000
City of Millbrae	23,154	\$150,000
City of Pacifica	38,674	\$150,000
Town of Portola Valley	4,659	\$65,000
City of Redwood City	85,319	\$300,000
City of San Bruno	45,257	\$150,000
City of San Carlos	29,864	\$150,000
City of San Mateo	104,570	\$500,000
City of South San Francisco	67,078	\$300,000
Town of Woodside	5,615	\$65,000
TOTAL, San Mateo County	774,485	\$3,705,000
<i>County of Santa Clara -</i>		
<i>Unincorporated</i>	88,368	\$300,000
City of Campbell	43,250	\$150,000
City of Cupertino	59,879	\$150,000
City of Gilroy	55,928	\$150,000
City of Los Altos	31,190	\$150,000
Town of Los Altos Hills	8,785	\$65,000
Town of Los Gatos	30,988	\$150,000
City of Milpitas	76,231	\$300,000
City of Monte Sereno	3,787	\$65,000
City of Morgan Hill	45,742	\$150,000
City of Mountain View	81,992	\$300,000
City of Palo Alto	69,397	\$300,000
City of San Jose	1,043,058	\$1,500,000
City of Santa Clara	128,717	\$500,000
City of Saratoga	31,407	\$150,000
City of Sunnyvale	155,567	\$500,000
TOTAL, Santa Clara County	1,954,286	\$4,880,000
<i>County of Solano -</i>		
<i>Unincorporated</i>	19,580	\$65,000
City of Benicia	27,570	\$150,000
City of Dixon	19,794	\$65,000
City of Fairfield	117,149	\$500,000
City of Rio Vista	9,416	\$65,000
City of Suisun City	29,447	\$150,000
City of Vacaville	98,807	\$300,000
City of Vallejo	119,544	\$500,000
TOTAL, Solano County	441,307	\$1,795,000

County/City/Town	Population	Funding Tier Per Population
<i>County of Sonoma - Unincorporated</i>	<i>141,781</i>	<i>\$500,000</i>
City of Cloverdale	9,257	\$65,000
City of Cotati	7,919	\$65,000
City of Healdsburg	12,501	\$65,000
City of Petaluma	62,247	\$300,000
City of Rohnert Park	43,339	\$150,000
City of Santa Rosa	175,625	\$500,000
City of Sebastopol	7,885	\$65,000
City of Sonoma	11,556	\$65,000
Town of Windsor	28,565	\$150,000
TOTAL, Sonoma County	500,675	\$1,925,000
 BAY AREA TOTAL	 7,783,460	 \$25,490,000

Source: Department of Finance, 2019 Population Estimates
<http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-1/>

**FY 2019-20 State Budget Housing Trailer Bill (AB 101)
Penalties and Incentives for Housing Production**

AB 101, which passed the Senate and was pending approval on the Assembly Floor when this memo was finalized, creates a new system of penalties and rewards for local jurisdictions relative to compliance with state housing law and pursuit of “pro-housing” policies.

Penalties

Penalty-wise, for a jurisdiction that the California Department of Housing & Community Development (HCD) determines is not in “substantial compliance” with California housing element law, HCD must first issue written findings to the jurisdiction, which then has 30 days to respond to the findings. HCD must also offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation.

Next, HCD notifies the Attorney General that the jurisdiction is in violation of state law. The Attorney General, upon a finding of the court that the housing element does not substantially comply, requests that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance.

If the jurisdiction has not complied with the order or judgment after twelve months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply, the bill requires that the court fine the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Fines are a minimum amount of ten thousand \$10,000 per month, but shall not exceed \$100,000 per month.

If the jurisdiction has not complied with the order or judgment after three months following the imposition of these fees, after another status conference, the court may multiply the fine by a factor of three. If the jurisdiction has still not complied with the order or judgment six months following the imposition of fees, the court may multiply the fine by a factor of six.

In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the State Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction’s failure to pay. The court may also order remedies available under the Code of Civil Procedure, providing broad latitude to the court to use all the powers necessary to bring the jurisdiction’s housing element into substantial compliance.

Incentives

The bill intends to award additional points or other preference in the scoring of competitive housing and infrastructure programs to “pro-housing” jurisdictions. For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements, and that have been designated “pro-housing” based upon their adopted local policies, shall be awarded *additional points or preference* in the scoring of program applications for the following programs:

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

The bill defines “pro-housing local policies” as policies that facilitate the planning, approval, or construction of housing. These policies include, but are not limited to:

- financial incentives for housing;
- reduced parking requirements for sites zoned residential;
- 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 required;
- adoption of accessory dwelling unit ordinances;
- reduction of permit processing time;
- creation of objective development standards;
- reduction of development impact fees; and
- Establishment of a Workforce Housing Opportunity Zone or housing sustainability district.