

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

July 12, 2019

Agenda Item 5a

**AB 1487 (Chiu): Bay Area Regional Housing Funding**

**Subject:** This bill would authorize a regional housing funding measure for affordable housing production, preservation, and protection of tenants from displacement to be placed on the ballot in the Bay Area with funds administered by MTC and ABAG.

**Background:** Unlike transportation, which has long had access to substantial regional funding through bridge tolls and federal and state funds distributed at the regional level, affordable housing is reliant upon private, local, state and federal funding, including state and federal tax breaks. Given the Bay Area faces an estimated \$2.5 billion annual affordable housing funding shortfall, a new flexible fund source to help close the funding gap for housing projects especially in those jurisdictions that have less resources available at the local level would benefit the entire Bay Area.

**Discussion:** As originally proposed, AB 1487 (Chiu) would have established the Housing Alliance for the Bay Area (HABA) to oversee new funding for affordable housing in the nine-county region.

In May, ABAG and MTC took a “seek amendment” position on AB 1487 as follows:

<b>Issue</b>	<b>Concern Addressed</b>	<b>Notes</b>
<b>Revenue</b> - Exclude sales tax from revenue options	✓	Author has agreed and will be reflected in amendments
<b>Start-up Funding</b> - Ensure no new responsibilities are assigned to MTC or ABAG without a guaranteed source of ongoing funding and bill includes a provision allowing for dissolution of HABA if not enough revenue is generated to be meaningful	✓	In addition, the FY 2019-20 Budget will provide at least \$25 million to ABAG for flexible housing planning work  Proposed amendments will give ABAG and MTC authority to determine whether to place on ballot and set tax rates, thereby determining what level of revenue is ‘meaningful’
<b>Split Board</b> - Ensure the bill doesn’t require MTC staff report to a newly structured board	✓	Author has agreed not to form HABA and instead to split up duties between MTC and ABAG
<b>Revenue Distribution</b> - Develop a distribution formula that distributes <i>more than 25</i> percent of any employer-based revenue to a regional pool	✓	Author has agreed to bill language which provide that “at least 50 percent” of head tax shall be distributed to counties, with up to 50 percent for regional pool

### Ad Hoc Committee Discussions

Another component of the MTC and ABAG boards' actions on AB 1487 called for the formation of a joint ad hoc committee to work with the author on governance and other issues. The membership on the Ad Hoc Committee on AB 1487 (appointed by the MTC Chair and ABAG President) include for MTC: Vice Chair Alfredo Pedroza, Jim Spering, Amy Worth, Libby Schaaf and Damon Connolly; and for ABAG: President David Rabbit, Vice President Jesse Arreguin, Cindy Chavez, Julie Pierce and Warren Slocum.

The committee met three times, including with Assemblymember Chiu on a number of important matters related to governance of this process within the constraints of our existing regional governmental structures, primarily that no new board would be created. Discussions also addressed revenue distribution frameworks. A summary is included as Attachment A.

Amendments to AB 1487 released on July 5<sup>th</sup> are largely consistent with the discussion of the ad hoc committee though not entirely complete, as a number of items need to be included in a later draft of the bill. Staff was still combing through the most recent draft bill language at the time this memo was finalized, but is aware of further changes needed for the timely use of fund provisions, at a minimum.

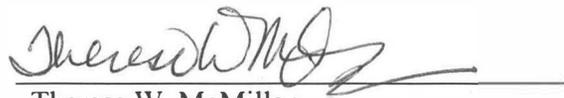
The July Joint MTC and ABAG Legislation Committee meeting will be an opportunity to continue the discussion and to consider forwarding AB 1487 to the Commission and the ABAG Executive Committee for their deliberation.

AB 1487 is up against a final hearing deadline for 2019 as the session is set for summer break on July 12<sup>th</sup>. As of this writing it remains uncertain if the bill will be scheduled for a hearing in the Senate Governance & Finance Committee on July 10<sup>th</sup>, or if it will receive a waiver to allow it to be heard in August.

**Recommendation:** Information Item

**Bill Positions:** See attached

**Attachments:** **Attachment A:** ABAG-MTC AB 1487 Ad Hoc Committee Recommendations  
**Attachment B:** Bill Positions

  
Therese W. McMillan

**ABAG-MTC AB 1487 Ad Hoc Committee Recommendations**

**June 28, 2019**

**Governance**

Rather than establishing a new regional entity with a new board, AB 1487 should be amended to rely upon the existing governance structures, strengths and areas of expertise of MTC and ABAG, as outlined in the table below.

A shared arrangement for our two agencies has precedent in state law (Government Code 65080 (b)(2)(C)) which assigned different roles to each agency relative to the development of the sustainable communities strategy (Plan Bay Area). Likewise, MTC agreed to give ABAG a formal role in the selection process for the new MTC Executive Director (who currently serves as the ABAG Executive Director).

**Summary of Proposed Decision-Making Responsibilities in AB 1487**

	<b>ABAG Executive Board</b>	<b>MTC</b>
Developing ballot expenditure plan (including setting tax rates and revenue sources, setting minimum shares for 3Ps, criteria, potentially minimum shares at county level)	√	√
Project selection/ programming of funds for specific purposes	√	√
Commercial Linkage Fee Study & Expenditure Plan	√	√
Placement of measure on ballot		√
Financial administration (including collecting revenue, authorizing payments and issuing bonds)		√

**Option to Adjust in Future**

We recommend the bill add a provision requiring MTC and the ABAG Executive Board to revisit the division of roles five years after the bill takes effect. To the extent it can work from a legal standpoint, the bill would ideally grant the agencies the authority to take formal action to modify the roles to one another if agreed to by both bodies. The bill should also provide a statement of legislative intent to transfer this responsibility to a successor agency to MTC and ABAG if one is established in future legislation.

## Expenditures & Revenue

We spent a lot of time on how the funds are distributed in terms of usage and in terms of county versus region. Below is our proposal:

### 1. Splitting up the 3Ps:

The regionwide and county **required** minimums (“at least” floors) for the different components of the 3Ps should be the same, as follows:

	Regionwide Minimum	County Minimum
Production	50%	50%
Preservation	15%	15%
Protection	5%	5%
Incentive Funds for local governments	5%	NA

- There should be no caps on the 3P shares.
- Retain flexibility in bill now to modify the regionwide 3P shares (subject to board action and 30 day notice), but require a 55% vote requirement of both bodies to make changes.

### 2. Region vs. County Split of Funds

The bill should specify that the head tax should be distributed with at least 50% of the funds remaining in the county of origin based on revenue, leaving up to 50 percent available to be spent regionwide, while the other taxes in the bill should be distributed so that at least 75% of revenue goes to the county of origin based on revenue, leaving up to 25% for a regional fund.

The bill should allow the ABAG Executive Board and MTC to revisit this periodically and modify it but subject to a very high bar.

### 3. Distribution of local funds to and within a county

We agreed that the county share funds should go to the county – to be administered at the county level, leaving details about how the funds are distributed up to each county in coordination with their cities (subject to the minimum shares and potential details added in the ballot measure language) with one exception – big cities.

For the first five years, the four biggest cities in the region should get a direct allocation of their county’s share based on their share of the county’s RHNA. This can be extended at the option of the ABAG EB and MTC. Counties may want to also use RHNA in some manner for distributing within their county, but the bill should not mandate a formula distribution for smaller cities as this could result in funds not being put to use as efficiently as on a first-come, first-served basis for qualifying projects within each county.

#### **4. Timely Use of Fund Provisions**

We agreed that the bill shouldn't mandate a specific deadline by which counties have to commit or expend their share of the funds. However, to encourage that funds are put to use as swiftly as possible, the bill should include annual reporting requirements about use of the funds by counties and the regional agencies. The bill should also provide for evaluation of each county's use of funds and delivery of projects at least once every five years, and permit the ABAG EB and MTC with the authority to jointly assess and establish deadlines applicable to the county funds, considering, among other factors, best practices deployed over that period by the counties and cities.

We suggested that timely use of fund requirements could be applied to specific projects, but we have not discussed the exact number of years or the appropriate benchmarks. Funds for projects that miss a timely use of funding deadline should return to the original fund (county or regional) from where they originated.

#### **5. Commercial Linkage Fee**

We would like the bill to broaden where the fee revenue can be spent (not just in the local jurisdiction where it was imposed), consistent with whatever the legal nexus study determines. Also, we support the offset provision in bill now, which reduces the rate of the regional linkage fee in any jurisdiction that already has a local commercial linkage fee.

#### **6. Revenue Sources**

As adopted by the MTC and the ABAG Executive Board's position on AB 1487, we would like the sales tax removed as one of the funding options in the bill. We understand removing the sales tax from AB 1487 does not mean that the sales tax is off the table as a funding option that might be considered in a broader Bay Area transportation and housing "mega measure" that would require separate legislative authorization and may be pursued legislatively and on the ballot in 2020 or beyond.

#### **Other**

##### **1. Land Acquisition & Assembly**

We recommend removing this aspect of the bill since neither MTC nor ABAG have experience or skill set in this regard. The regional funds can instead help support local agencies which do have such expertise in this work.

**AB 1487 (Chiu) Bill Positions**

**SUPPORT**

- PICO California
- Silicon Valley Community Foundation
- Non-Profit Housing Association of Northern California
- Bay Area Council
- Burbank Housing Development Corporation
- Greenbelt Alliance
- TMG Partners
- Community Housing Development Corporation
- SPUR
- Habitat for Humanity East Bay/Silicon Valley
- Silicon Valley at Home
- California Community Builders
- Hamilton Families
- California YIMBY
- TechEquity Collaborative
- Chan Zuckerberg Initiative
- Enterprise Community Partners, Inc.
- Urban Displacement Project, UC-Berkeley
- Ensuring Opportunity Campaign to End Poverty in Contra Costa County
- Bay Area Housing Advocacy Coalition

Source: Senate Housing Committee, 6/13/2019 - **SENATE Housing (Based on text dated 5/16/2019)**

**OPPOSE**

- California Taxpayers Association
- Howard Jarvis Taxpayers Association
- Coalition for San Francisco Neighborhoods
- Alameda County Transportation Commission