

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

**April 12, 2024**

**Agenda Item 2d**

**Assembly Bill 2353 (Ward): Property Tax Welfare Exemption**

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**Subject:**

Provides upfront savings on affordable housing developments by allowing nonprofit developers to withhold property tax payments while their application for a tax exemption is under review.

**Background and Bill Provisions:**

The California Constitution exempts properties owned by nonprofits and used for specified charitable purposes from local property taxes. This is known as the “welfare tax exemption.” One of the specified charitable purposes is housing maintained as affordable to lower-income households through a deed restriction.

In practice, if a nonprofit housing developer’s application for a welfare exemption is not quickly approved by the Board of Equalization and the county assessor, the developer must pay the taxes upfront and seek reimbursement. As a result, some nonprofit developers float hundreds of thousands of dollars in tax payments for as long as three years, then receive the money back without interest once the application is approved. The developers either pay interest to borrow this money or seek additional subsidies from local or state programs, further increasing development costs.

Last year, Assemblymember Ward attempted to tackle this unnecessary cost-driver with Assembly Bill (AB) 84, which MTC and ABAG supported. Among other provisions, the bill would have required the county assessor to conditionally grant a welfare exemption within 30 days of application without payment of taxes, subject to retroactive tax payments if the owner or any units were ultimately deemed ineligible. Concerns from Assemblymember Irwin, chair of the Assembly Revenue and Taxation Committee, the California Assessors’ Association, and the California Association of County Treasurers and Tax Collectors led to the removal of this provision; a stripped-down version of the bill with smaller welfare exemption changes was signed by the Governor.

AB 2353, also authored by Assemblymember Ward, offers the same upfront cost savings to nonprofit housing developers but takes a slightly different approach. The bill would allow nonprofit housing developers to withhold property tax payments without penalty while their application for a welfare tax exemption is under review. The developer would be liable for paying any penalties and taxes if all or a portion of their application is denied.

**Recommendation:**

Support / ABAG Executive Board Approval

Support / MTC Commission Approval

**Discussion:**

The welfare tax exemption is a valuable resource for reducing the cost of developing new buildings and acquiring and preserving existing residential properties. One of the first pilots established by the Bay Area Housing Finance Authority – the Welfare Tax Exemption Preservation Program – provides the \$5,000 in public subsidy that developers need to qualify for the welfare exemption. In just two years, the program has supported the acquisition and long-term deed-restriction of nearly 500 apartments with affordable rents at a cost of just \$30,000. AB 2353 will reduce the upfront amount of local, regional or state subsidy required to build or preserve affordable housing by eliminating an inefficient and costly process of payments and refunds. Besides lowering development costs, this change will reduce assessors’ costs tied to processing refund requests and issuing checks. If a developer fails to deliver the promised affordable housing, localities will retain all their current powers to pursue payment of back taxes. For these reasons and consistent with Item 3C in our 2024 Advocacy Program, staff recommends MTC and ABAG adopt a “support” position on AB 2353.

**Known Positions:**

**Support**

California Housing Partnership Corporation (sponsor)

**Opposition**

California Assessors' Association (unless amended)

**Attachments:**

None

  
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Andrew B. Fremier