



**COUNTY OF SANTA BARBARA
LEGISLATIVE PROGRAM COMMITTEE**

AGENDA

Date: Monday, August 3, 2015
Time: **10:30AM to Noon**
Place: **Board of Supervisors Conference Room, Fourth Floor**
105 E. Anapamu Street, Santa Barbara

Committee Members: Salud Carbajal, First District Supervisor
Doreen Farr, Third District Supervisor
Mona Miyasato, County Executive Officer
Robert Geis, Auditor-Controller
Mike Ghizzoni, County Counsel

Public Comment

Agenda Items:

1. Approve minutes from the July 6, 2015, meeting. (*Agenda Item 1: July 6, 2015 Meeting Minutes*)
2. Receive an update on Federal issues of interest to the County and direct staff to take action as necessary. (*Agenda Item 2: Report from Thomas Walters & Associates*)
3. Receive report on State issues of interest to the County and direction staff to take action as necessary. (*Agenda Item 3: Update from Governmental Advocates*)
 - 3A. Advocacy letters sent last month. (*Agenda Item 3A: Copies of letters*)
4. Staff Reports:
 - 4A. **SB 233 (Hertzberg)** Marine resources and preservation. (*Agenda Item: 4A: SB 233 Legislative Language and Bill Analysis*)
 - 4B. **SB 295 (Jackson)** Pipeline Safety: Inspections (*Agenda Item 4B: Legislative Language and Fact Sheet*)
 - 4C. **SB 414 (Jackson)** Rapid Oil Spill Response Act (*Agenda Item 4C: Legislative Language and Fact Sheet*)
 - 4D. **AB 806 (Dodd)** Planning and zoning: permits: strand-mounted antenna (*Agenda Item 4D: Legislative Language and Fact Sheet*)
 - 4E. **AB 35 (Chiu)** Income taxes: credits: low-income housing: allocation increase (*Agenda Item 4E: Legislative Language and Bill Analysis*)
 - 4F. **AB 1335 (Atkins)** Building Homes and Jobs Act (*Agenda Item 4F: Legislative Language and Fact Sheet*)

- 4G. **2016 Legislative Platform:** Review and direct on needed changes for the Legislative Platform timeline and Legislative Principles in preparation of 2016 Legislative Platform (*Agenda Item 4G: 2016 Timeline and 2015 Legislative Principles*)
5. Consider new Committee business for future meetings.

Next meeting: Please note, due to holiday, the next meeting is scheduled for **Monday, September 14, 2015**



**COUNTY OF SANTA BARBARA
LEGISLATIVE PROGRAM COMMITTEE**

MINUTES

Date: Monday, July 6, 2015
Time: **10:30AM to Noon**
Place: **Planning Commission Hearing Room, 1st Floor**
123 East Anapamu Street, Santa Barbara

Committee Members: Salud Carbajal, First District Supervisor - Present
Doreen Farr, Third District Supervisor - Present
Mona Miyasato, County Executive Officer - Present
Robert Geis, Auditor-Controller - Present
Mike Ghizzoni, County Counsel - Present

Public Comment

No Comment

Agenda Items:

1. Approve minutes from the June 1, 2015, meeting. ***(Motion to approve minutes made by Supervisor Farr, second by Supervisor Carbajal; 5-0)***
2. Receive an update on Federal issues of interest to the County and direct staff to take action as necessary. ***(Motion to approve made by Mona Miyasato, second by Supervisor Farr; 5-0)***
Member of Public Spoke
3. Receive report on State issues of interest to the County and direction staff to take action as necessary. ***(Motion to approve made by Supervisor Carbajal, second by Supervisor Farr; 5-0)***
4. Consider taking a position on:
 - 4A. **AB 57, as amended (Quirk)** Telecommunications: wireless telecommunication facilities ***(Motion to oppose made by Supervisor Carbajal, second by Supervisor Farr; 5-0)***
 - 4B. **AB 864, as amended (Williams)** Oil spill response: environmentally and ecologically sensitive areas. ***(Motion to support made by Supervisor Carbajal, second by Robert Geis; 5-0)***
 - 4C. **ACR 58, as introduced (Williams)** Relative to memorial paths and access ways. ***(Motion to support made by Supervisor Carbajal, second by Supervisor Farr; 5-0)***
5. Consider new Committee business for future meetings.
 - SB 233 – Marine resources and preservation- was withdrawn in June, will be brought back at August LPC meeting
 - SB 414 – Oil Spill Response – will be reviewed at August LPC meeting
 - SB 295 – Oil Pipeline Inspection - will be reviewed at August LPC meeting
 - 2016 Legislative Platform preparation process is beginning

(Motion to adjourn to the next regularly scheduled meeting of the Legislative Program Committee on August 3, 2015, motion made by Mona Miyasato, second by Robert Geis; 5-0)

Washington Update

COUNTY OF SANTA BARBARA

July 28, 2015

MAP 21 REAUTHORIZATION

As the July 31 deadline for expiration of the current extension of MAP 21 reauthorization approaches, Congress is scurrying for a strategy to address surface transportation programs. Earlier in the month, the House approved H.R. 3038, the *Highway and Transportation Funding Act*, which would provide \$8 billion in patchwork funding to keep MAP 21 programs afloat through December 18. As previously reported, in the Senate the Environment and Public Works Committee approved S. 1647, the *Developing a Reliable and Innovative Vision for the Economy Act (DRIVE Act)*, which would authorize highway programs over six years. The DRIVE Act has been merged with highway safety provisions drafted by the Commerce Committee, transit provisions drafted by the Banking Committee, and funding provisions drafted by the Finance Committee. Senate Majority Leader McConnell (R-KY) has inserted the package as an amendment to an unrelated veterans bill, H.R. 22. While pledging to complete this process by July 31, the Senate may have to accept a short-term extension to avoid an interruption in transportation programs, and several options have been offered in both the House and Senate. House Leaders announced on July 28 that they plan to approve a three-month highway spending bill and then leave town for the August recess, which would force the Senate to accept the short-term measure for the time being. As a further complication, the Senate has voted to attach the controversial reauthorization of the Export-Import Bank to the DRIVE Act, which many House conservatives oppose.

PUBLIC HEALTH FUNDING

While floor action on appropriations measures appears to be stalled for the foreseeable future, work at the committee level continues. The House Appropriations Committee recently released its report to accompany the *FY 2016 Labor, HHS, Education, and Related Agencies*

Appropriations bill. The measure would provide essentially level funding of \$1.49 billion for community health centers, a \$79.2 million increase to \$1.82 billion for substance abuse block grants, a \$34.7 million increase to \$607 million for immunizations, a \$21 million increase to \$461.5 million for mental health block grants, and a slight increase in preventative health services block grants to \$170 million. It also includes \$638.2 million for the Maternal and Child Health Block Grant, also a slight increase over FY 2015.

OLDER AMERICANS ACT

We continued to work closely with national stakeholder groups to advocate for full Senate action on S. 192, the *Older Americans Act Reauthorization Act*, bipartisan legislation that would reauthorize OAA for three years and strengthen important social services programs to help seniors stay independent and at home. On July 16, we were notified by Senate Health, Education, Labor and Pensions (HELP) Committee staff that S. 192 would be voted on later in the day by the full Senate. The bill was approved by voice vote without opposition, and has been sent to the House for consideration. To date, the House Energy and Commerce Committee has not drafted its version of OAA reauthorization, nor scheduled action on the Senate bill. July 14th marked the 50th Anniversary of the signing into law of the original Older Americans Act.

JUVENILE JUSTICE

We continued to urge the Senate Judiciary Committee to take action on Chairman Grassley's S. 1169, the *Juvenile Justice and Delinquency Prevention Reauthorization Act*, reiterating the need for adequate Federal resources to address juvenile justice and delinquency prevention needs in the community. On July 23, the Judiciary Committee marked up and approved S. 1169 with bipartisan support. As approved by the committee, the bill would authorize \$160 million per year for five years

for juvenile justice program, with a 2% increase each year. It also updates the standards for how juveniles should be detained for the first time since 2002, and adds additional support for youth with mental illnesses. The bill will now be placed on the calendar for full Senate consideration, pending release of the Committee's report to accompany its action.

TANF REAUTHORIZATION

Led by Human Resources Subcommittee Chairman Boustany (R-LA), members of the House Ways and Means Committee introduced a package of legislative proposals to amend and reauthorize the Temporary Assistance for Needy Families (TANF) program. We provided the eight measures to County staff for analysis, as well as Chairman Boustany's overarching draft bill, the *Improving Opportunity in America Welfare Reauthorization Act of 2015*, which would reauthorize TANF through 2020. The proposals are intended to strengthen TANF and better help its beneficiaries move from welfare to work, and range from ending the separate, higher work requirement for two-parent families, to increasing the share of adults expected to work or prepare for work by preventing states from receiving certain "credits," to provide up to \$300 million annually to states to test ways to better serve welfare beneficiaries by improved case management, better coordinated benefits, and a choice of service providers. The committee held its initial hearings on these proposals on July 15.

PIPELINE SAFETY

We provided staff support for County Planning and Development Assistant Director Dianne Black during her July 14 trip to Washington, DC to testify before the House Energy and Commerce Subcommittee on Energy and Power. Congresswoman Capps serves on the Subcommittee, and Ms. Black was invited to testify at an oversight hearing on pipeline safety to discuss the County's experiences in responding to the recent Plains All American pipeline failure that led to the Refugio oil spill.

CALIFORNIA DROUGHT RELIEF

We have closely monitored Congressional efforts to address the ongoing drought in California. In the House, Congressman Valadao (R-CA) recently introduced H.R. 2898, the *Western Water and American Food Security Act*, which would allow the use of more water from the federally-operated Central Valley Project and the state-operated State Water Project in times of drought, unless reducing water flow is necessary to ensure the long-term survival of a species. The legislation also includes provisions to speed up construction of new water storage projects. The House approved H.R. 2898 in mid-July, and the next step would be for the Senate to also consider drought relief legislation. Senator Feinstein is reportedly leading an effort to draft a measure that could eventually be merged with H.R. 2898.

v Tom Walters v

TO: Members, County of Santa Barbara Legislative Committee

FROM: Cliff Berg, Legislative Advocate
Monica Miller, Legislative Advocate

RE: July 2015 State Update

DATE: July 28, 2015

The legislature wrapped up their policy deadline just prior to going on their summer break which began July 17, 2015. They will return on August 17, 2015 for the final stretch of this first year of the two year session. They are scheduled to adjourn on September 11, 2015, and then they will return to their districts for their fall recess.

The bills passed at the end of session will go to the Governor where he will have 30 days to act on them, otherwise they become law.

In addition to wrapping up the end of session, the legislature will still actively participate in the two special sessions they have running concurrently with the regular session, one on transportation and one on Medi-Cal funding, which we reported on in our June update.

Bills of Interest to the County

AB 3 (Williams) This bill would express the intent of the Legislature to clarify and establish the necessary authority for the creation of the Isla Vista Community Services District within the unincorporated area of Santa Barbara County. The substance of the bill has been amended into the measure and we understand that the county is reviewing the language currently in order to provide additional input and potentially take a position. The County is in support of the bill. The bill is sitting in the Senate Appropriations Committee where it will be heard on August 17, 2015. It passed out of the Senate Governance and Finance Committee on July 8, 2015 with a vote of 5-2

AB 45 (Mullin) This bill is opposed by the County. The bill would mandate cities and counties that provide residential collection and disposal of solid waste to create a household hazardous waste (HHW) baseline and to meet an unspecified diversion requirement for HHW collection. The bill was opposed by many cities and counties. The bill is now a two-year bill, it will be taken up again in January.

AB 514 (Williams) This bill is the County sponsored bill which was introduced by Assembly Member Das Williams. This measure is an attempt to address the inadequacy of the current fines and penalties system for local governments. Under current law the violations are rather insignificant therefore people are not discouraging from violating them, we are hopeful that this will provide additional incentives to work with the locals to provide the best outcomes for our local communities. The bill has been referred to the Assembly Local Government Committee but has not been set for a hearing at this time. We are continuing to work with the author on some clarifying amendments; the bill was heard in the Senate Governance and Finance Committee on July 8, 2015, where it passed 5-

1. It will be heard in the Senate Appropriations Committee when they return from their recess, but the date has not been set as of yet.

SB 13 (Pavley) This bill would provide a local agency or groundwater sustainability agency 90 or 180 days, as prescribed, to remedy certain deficiencies that caused the board to designate the basin as a probationary basin. This bill would authorize the board to develop an interim plan for certain probationary basins one year after the designation of the basin as a probationary basin. The bill also state that if the department determines that all or part of a basin or subbasin is not being monitored, would require the department to determine whether there is sufficient interest in establishing a groundwater sustainability plan. The bill will also serve as a vehicle for any necessary clean-up to the major ground water bill package passed and signed into law in 2014. The County does not have a position on this bill, but we are watching it as it moves through the process. The bill has cleared both the policy committee and the Appropriations committee in the Assembly; it has moved on the consent file, it will now go to the Assembly Floor for a full vote when they return in August from their summer recess.

SB 122 (Jackson, Hill and Roth) This bill is a vehicle for potential CEQA reform. The bill would require the lead agency, at the request of a project applicant and consent of the lead agency, to prepare a record of proceedings concurrently with the preparation of a negative declaration, mitigated negative declaration, EIR, or other environmental document for projects. The bill would state the intent of the Legislature to enact legislation establishing an electronic database clearinghouse of notices and environmental document prepared pursuant to CEQA, establishing a public review period for a final environmental impact report, and relating to the record of proceedings for a project for which an environmental impact report is prepared pursuant to CEQA. This County is supporting the bill. The bill passed the Assembly Natural Resources Committee where it passed 7-1; it is now sitting on the Assembly Appropriations Suspense file, which will be taken up when they return in August.

SB 128 (Wolk and Monning) The bill is the End of Options Act. It is modeled after a law in Oregon that allows a person who has received a life ending diagnosis to work with their physician to determine if they would like to option to end their life in their own manner. The bill is scheduled to be heard in the Assembly Health Committee, however was pulled and put over due to the lack of votes; the author's continue to work with the Committee in an effort to obtain those necessary votes. The bill is now a two-year bill, it will be taken up next year by the authors. The County is supporting the bill.

SB 658 (Hill) The County is supporting this measure. This bill revises the maintenance and training requirements for placement of automated external defibrillators (AEDs) in commercial buildings and K-12 schools that are conditions for obtaining qualified immunity from civil liability for the selection, installation, placement, and use of AEDs in those facilities. This bill is scheduled to go the Assembly Floor, it passed out of Assembly Judiciary Committee on June 23, 2015 with no opposition.

SB 788 (McGuire) The County is supporting this measure. This bill eliminates the exception in the California Coastal Sanctuary Act of 1994 (AB 2444, O'Connell) (CCSA) that allows the State Lands Commission (Commission) to issue an offshore oil lease if state oil or gas deposits are being drained by wells on federal lands and the lease is in the best interests of the state. The bill will was heard in Assembly Natural Resources Committee on June 29, 2015, where it got out

7-2, the measure is currently sitting on the Assembly Appropriations Suspense file which will be heard when they return in August.

Conclusion

With the budget having been completed, members are back in their districts trying to meet with constituents, do town hall meetings and enjoy their families. Once they return in August they will work at a frantic pace to get their work completed. With the end of session quickly approaching, September 11, 2015; there is much work to be done in an effort to get the bills moved to the Governor for his action. He will then have until October 11, 2015 to sign or veto any bills that land on his desk. As always, if you or your staff has any questions, please don't hesitate to contact us.

Agenda Item 3A: State Advocacy Letters

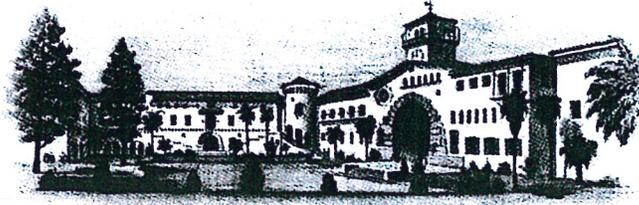
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First District

JANET WOLF
Second District, Chair

DOREEN FARR
Third District

PETER ADAM
Fourth District, Vice Chair

STEVE LAVAGNINO
Fifth District



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County Administration Building
105 East Anapamu Street
Santa Barbara, CA 93101
Telephone: (805) 568-2190
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COUNTY OF SANTA BARBARA

July 13, 2015

The Honorable Bill Quirk
Assemblymember, 20th District
State Capitol, Rm 2163
Sacramento, CA 94249

Fax No.: (916) 319-2120

RE: AB 57 Telecommunications: wireless telecommunication - OPPOSE

Dear Assemblymember Quirk,

I am writing on behalf of the Santa Barbara County Board of Supervisors to express their opposition for AB 57 Telecommunications: wireless telecommunication facilities. This bill would erode local government land use authority for wireless telecommunication facility siting and design and bypass the CEQA process.

Telecommunications facilities require discretionary zoning permits, and the permitting process will often require more time than the 150 day processing window the bill proposes under the best of circumstances. The discretionary permitting process includes getting adequate information from the applicant to determine that an application is complete, followed by the preparation and circulation for public review of a CEQA document, and finally, preparation of a staff report and attendance at a public hearing. This process is legally required and often takes more than 150 days.

The Santa Barbara County 2015 Legislative Platform, adopted by the Board of Supervisors, includes the principle of Local Control. The principle supports efforts to ensure local authority and control over governance issues and land use policies. AB 57 would conflict with this principle. For these reasons, Santa Barbara County opposes AB 57. If you have questions about the Board's position, please contact the County's Legislative Coordinator, Joseph Toney at 805-568-2060 or jtoney@countyofsb.org.

Sincerely,

Janet Wolf
Chair, Board of Supervisors

cc: Assemblymember Katcho Achadjian, 35th Assembly District
Assemblymember Das Williams, 37th Assembly District
Members, County of Santa Barbara Board of Supervisors
Mona Miyasato, County Executive Officer
Monica Miller, Governmental Advocates
Cliff Berg, Governmental Advocates
Glenn Russell, Director, Planning and Development, County of Santa Barbara

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COUNTY OF SANTA BARBARA

July 13, 2015

The Honorable Das Williams
Assemblymember, 37th District
State Capitol, Room 4005
Sacramento, CA 94249

FAX No.: (916) 319-2137

RE: AB 864 Oil spill response: environmentally and ecologically sensitive areas – SUPPORT

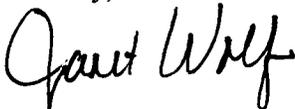
Dear Assemblymember Williams,

I am writing on behalf of the Santa Barbara County Board of Supervisors to express their support for AB 864 Oil spill response: environmentally and ecologically sensitive areas. This bill will require an operator of an oil pipeline along environmentally and ecologically sensitive areas near the coast to use the best available technology to reduce the amount of oil released in an oil spill in order to protect state waters and wildlife. This includes automatic shut off technology, and requires a pipeline operator to document the best available technology used in their oil spill contingency plan.

With the recent oil spill along the Santa Barbara County coastline, improved speed of issue detection and faster response times are necessary. This bill will ensure that the best available technology is in place with the purpose of protecting water and wildlife. For these reasons, Santa Barbara County supports AB 864.

If you have questions about the Board's position, please contact the County's Legislative Coordinator, Joseph Toney at 805)568-2060 or jtoney@countyofsb.org.

Sincerely,



Janet Wolf
Chair, Board of Supervisors

cc: Assemblymember Katcho Achadjian, 35th Assembly District
Members, County of Santa Barbara Board of Supervisors
Mona Miyasato, County Executive Officer
Monica Miller, Governmental Advocates
Cliff Berg, Governmental Advocates

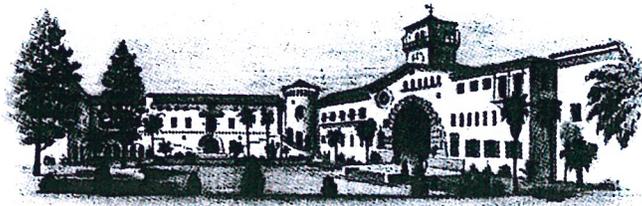
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COUNTY OF SANTA BARBARA

July 13, 2015

The Honorable Das Williams
Assemblymember, 37th District
State Capitol, Room 4005
Sacramento, CA 94249

FAX No.: (916) 319-2137

RE: ACR 58 Ralph Fertig Memorial Bicycle-Pedestrian Path and the Peter Douglas Coastal Access Way – SUPPORT

Dear Assemblymember Williams,

I am writing on behalf of the Santa Barbara County Board of Supervisors to express their support for Assembly Concurrent Resolution 58 Ralph Fertig Memorial Bicycle-Pedestrian Path and the Peter Douglas Coastal Access Way. This resolution honors Ralph Fertig's bicycle advocacy and Peter Douglas's coastal advocacy. Both of were strong supporters of California and their communities.

These two men were tireless advocates for their cause. The project to widen State Highway Route 101 would not have been possible without Mr. Fertig's many years of diligent determination and direction to improve local bicycling conditions. Mr. Douglas was a relentless advocate for coastal access, protection and park preservation. For these reasons, Santa Barbara County supports ACR 58.

If you have questions about the Board's position, please contact the County's Legislative Coordinator, Joseph Toney at 805)568-2060 or jtoney@countyofsb.org.

Sincerely,

Janet Wolf
Chair, Board of Supervisors

cc: Assemblymember Katcho Achadjian, 35th Assembly District
Members, County of Santa Barbara Board of Supervisors
Mona Miyasato, County Executive Officer
Monica Miller, Governmental Advocates
Cliff Berg, Governmental Advocates

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COUNTY OF SANTA BARBARA

July 27, 2015

The Honorable Das Williams
Assemblymember, 37th District
State Capitol, Room 4005
Sacramento, CA 94249

FAX No.: (916) 319-2137

RE: AB 3 Isla Vista Community Services District – SUPPORT

Dear Assemblymember Williams,

On May 19, 2015, the Santa Barbara County Board of Supervisors voted to support for Assembly Bill 3 (Williams) Isla Vista Community Services District (IVCSD), if amended with the requirement that the District approves a Utility User's Tax (UUT) within 6 years instead of 10 years. The Bill has since been amended for the UUT to be passed by January 1, 2023, or within 6 years. The Board of Supervisors supports the amended legislation.

If you have any questions about the Board's position, please contact the County's Legislative Coordinator, Joseph Toney at (805) 568-2060 or jtoney@countyofsb.org.

Sincerely,

Janet Wolf
Chair, Board of Supervisors

cc: Assemblymember Katcho Achadjian, 35th Assembly District
Members, County of Santa Barbara Board of Supervisors
Mona Miyasato, County Executive Officer
Monica Miller, Governmental Advocates
Cliff Berg, Governmental Advocates

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 21, 2015

AMENDED IN SENATE MARCH 19, 2015

SENATE BILL

No. 233

Introduced by Senator Hertzberg

~~(Coauthor: Assembly Member Rendon~~ *Coauthors: Assembly Members
Dababneh, Harper, and Rendon)*

February 13, 2015

An act to amend Sections 6604, 6612, 6613, 6614, 6615, 6616, and 6618 of the Fish and Game Code, relating to ocean resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 233, as amended, Hertzberg. Marine resources and preservation.

(1) The California Marine Resources Legacy Act establishes a program, administered by the Department of Fish and Wildlife, to allow partial removal of offshore oil structures. The act authorizes the department to approve the partial removal of offshore oil structures, if specified criteria are satisfied. The act requires the first person to file an application to partially remove an offshore oil structure to pay, in addition to other specified costs, the startup costs incurred by the department or the State Lands Commission to implement the act, including the costs to develop and adopt regulations, and requires the payment of startup costs to be reimbursed by the department, as specified. The act requires an applicant, upon conditional approval for removal, to apportion a percentage of the cost-savings funds in

accordance with a prescribed schedule to specified entities and funds. The act defines “cost savings” to mean the difference between the estimated cost to the applicant of complete removal of an oil platform, as required by state and federal leases, and the estimated costs to the applicant of partial removal of the oil platform pursuant to the act.

Before the first application to partially remove an offshore oil structure is filed, this bill would authorize a prospective applicant to pay a portion of the startup costs in an amount determined by the department to be necessary for staff and other costs in anticipation of receipt of the first application. The bill would require an applicant, upon conditional approval for partial removal of an offshore oil structure, to apportion and transmit a portion of the cost savings to the department, instead of to the specified entities and funds. The bill would require the department to apportion those cost-savings funds received from the applicant in accordance with the prescribed schedule to the specified entities if certain criteria are satisfied. The bill would require the department to apportion the cost-savings funds received from *the applicant who elects to pay a portion of the startup costs before the first application is filed and who files* the first application in accordance with the prescribed schedule based on when the application was submitted rather than when the cost savings are transmitted. The bill would authorize the applicant to withdraw the application at any time before final approval and would require the department to return specified funds, including startup costs, submitted to process the application that have not been expended as of the date of receipt of the notification of withdrawal. The bill would require the department to promptly return the cost savings to the applicant if the partial removal of the offshore oil structure is not permitted by a court or governmental agency and the applicant is required to carry out full removal of the structure.

(2) Existing law requires the Natural Resources Agency to serve as the lead agency for the environmental review under the California Environmental Quality Act (CEQA) of a proposed project to partially remove an offshore oil structure pursuant to the California Marine Resources Legacy Act. Upon certification of environmental documents pursuant to CEQA, the California Marine Resources Legacy Act requires the State Lands Commission to determine the cost savings of partial removal compared to full removal of the structure and requires the Ocean Protection Council to determine whether partial removal provides a net environmental benefit to the marine environment compared to the full removal of the structure.

This bill would instead require the commission to serve as the lead agency for the environmental review under CEQA.

The bill would require the council, in determining whether partial removal of the structure would provide a net benefit to the marine environment compared to full removal of the structure, to take certain adverse impacts to air quality and greenhouse gas emissions into account and to consult with the State Air Resources Board, among other entities. In making that determination, the bill would require the council to determine the appropriate weight to be assigned to adverse impacts to air quality and greenhouse gas emissions as compared to adverse impacts to biological resources and water quality.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6604 of the Fish and Game Code is
2 amended to read:

3 6604. (a) A proposed project to partially remove an offshore
4 oil structure pursuant to this chapter is a project as defined in
5 subdivision (c) of Section 21065 of the Public Resources Code
6 and is therefore subject to the California Environmental Quality
7 Act (Division 13 (commencing with Section 21000) of the Public
8 Resources Code) and shall be reviewed pursuant to the time limits
9 established in Section 21100.2 of the Public Resources Code.

10 (b) The commission shall serve as the lead agency for the
11 environmental review of any project proposed pursuant to this
12 chapter.

13 SEC. 2. Section 6612 of the Fish and Game Code is amended
14 to read:

15 6612. (a) Upon receipt of an application to partially remove
16 an offshore oil structure pursuant to this chapter, the department
17 shall determine whether the application is complete and includes
18 all information needed by the department.

19 (b) (1) Upon a determination that the application is complete,
20 the applicant shall provide surety bonds executed by an admitted
21 surety insurer, irrevocable letters of credit, trust funds, or other
22 forms of financial assurances, determined by the department to be
23 available and adequate, to ensure that the applicant will provide
24 sufficient funds to the department, council, commission, and

1 conservancy to carry out all required activities pursuant to this
2 article, including all of the following:

3 (A) Environmental review of the proposed project pursuant to
4 Section 6604.

5 (B) A determination of net environmental benefit pursuant to
6 Section 6613.

7 (C) A determination of cost savings pursuant to Section 6614.

8 (D) Preparation of a management plan for the structure pursuant
9 to Section 6615.

10 (E) Implementation of the management plan and ongoing
11 maintenance of the structure after the department takes title
12 pursuant to Section 6620.

13 (F) Development of an advisory spending plan pursuant to
14 Section 6621.

15 (G) Other activities undertaken to meet the requirements of this
16 article, including the costs of reviewing applications for
17 completeness, and reviewing, approving, and permitting the
18 proposed project, which includes the costs of determining whether
19 the project meets the requirements of all applicable laws and
20 regulations and the costs of environmental assessment and review.

21 (2) The department shall consult with the council, commission,
22 and conservancy in determining appropriate funding for activities
23 to be carried out by those agencies.

24 (3) The funds provided pursuant to paragraph (1) shall not be
25 considered in the calculation of cost savings pursuant to Section
26 6614 or the apportionment of cost savings pursuant to Section
27 6618.

28 (c) The first person to file an application on and after January
29 1, 2011, to partially remove an offshore oil structure pursuant to
30 this chapter, shall pay, in addition to all costs identified under
31 subdivision (b), the startup costs incurred by the department or the
32 commission to implement this chapter, including the costs to
33 develop and adopt regulations pursuant to this chapter. Before the
34 first application is filed, a prospective applicant may elect to pay,
35 and the department may accept payment of, a portion of the startup
36 costs, in an amount determined by the department to be necessary
37 for staff and other costs in anticipation of receipt of the first
38 application. The payment of startup costs shall be reimbursed by
39 the department as provided in paragraph (3) of subdivision (e) of
40 Section 6618.

1 (d) As soon as feasible after the applicant provides financial
2 assurances pursuant to subdivision (b), the lead agency shall begin
3 the environmental review of the proposed project as required
4 pursuant to Section 6604.

5 (e) The applicant may withdraw the application at any time
6 before final approval. Upon notification that the applicant has
7 withdrawn the application, the department shall return to the
8 applicant any funds provided by the applicant under subdivisions
9 (b) and (c) that have not been expended as of the date of receipt
10 of notification of withdrawal.

11 SEC. 3. Section 6613 of the Fish and Game Code is amended
12 to read:

13 6613. (a) The council shall determine whether the partial
14 removal of an offshore oil structure pursuant to this chapter
15 provides a net benefit to the marine environment compared to the
16 full removal of the structure.

17 (b) As a necessary prerequisite to determining net environmental
18 benefit as required in subdivision (a), the council shall, upon receipt
19 of its initial application from the department pursuant to Section
20 6610, establish appropriate criteria, based on ~~the best available~~
21 *credible* science, for evaluating the net environmental benefit of
22 full removal and partial removal of offshore oil structures.

23 (1) The criteria shall include, but are not limited to, the depth
24 of the partially removed structure in relation to its value as habitat
25 and the location of the structure, including its proximity to other
26 reefs, both natural and artificial.

27 (2) The criteria shall not include any consideration of the funds
28 to be generated by the partial removal of the structure.

29 (3) In determining the criteria, the council shall consult with
30 appropriate entities, including, but not limited to, the department,
31 the commission, the State Air Resources Board, the California
32 Coastal Commission, and the California Ocean Science Trust.

33 (4) The council shall establish the criteria in time to use them
34 in making its initial determination of net environmental benefit
35 pursuant to this section.

36 (c) Upon certification of environmental documents pursuant to
37 the California Environmental Quality Act, the council shall, based
38 on the criteria developed pursuant to subdivision (b) and other
39 relevant information, determine whether partial removal of the
40 structure would provide a net benefit to the marine environment

1 compared to full removal of the structure. In making the
2 determination, the council shall, at a minimum, take into account
3 the following:

4 (1) The contribution of the proposed structure to protection and
5 productivity of fish and other marine life.

6 (2) Any adverse impacts to biological resources or water quality,
7 air quality or greenhouse gas emissions, or any other marine
8 environmental impacts, from the full removal of the facility that
9 would be avoided by partial removal as proposed in the application.

10 (3) Any adverse impacts to biological resources or water quality,
11 air quality or greenhouse gas emissions, or any other marine
12 environmental impacts, from partial removal of the structure as
13 proposed in the application.

14 (4) Any benefits to the marine environment that would result
15 from the full removal of the structure or from partial removal as
16 proposed in the application.

17 (5) Any identified management requirements and restrictions
18 of the partially removed structure, including, but not limited to,
19 restrictions on fishing or other activities at the site.

20 (d) In making the determination pursuant to subdivision (c), the
21 council shall determine the appropriate weight, based on ~~the best~~
22 ~~available~~ *credible* science, to be assigned to adverse impacts to air
23 quality or greenhouse gas emissions as compared to adverse
24 impacts to biological resources or water quality.

25 (e) Benefits resulting from the contribution of cost savings to
26 the endowment shall not be considered in the determination of net
27 environmental benefit.

28 (f) The council may contract or enter into a memorandum of
29 understanding with any other appropriate governmental or
30 nongovernmental entity to assist in its determination of net
31 environmental benefit.

32 (g) The determination made pursuant to this section and
33 submitted to the department by the council shall constitute the
34 final determination and shall not be revised except by the council.

35 (h) The council shall take all feasible steps to complete its
36 determination in a timely manner that accommodates the
37 department's schedule for consideration of the application.

38 SEC. 4. Section 6614 of the Fish and Game Code is amended
39 to read:

1 6614. (a) Upon certification of the appropriate environmental
2 documents, the commission shall determine, or cause to be
3 determined, the cost savings that will result from the partial
4 removal of an offshore oil structure as proposed in the application
5 compared to full removal of the structure.

6 (b) The commission shall ensure that any cost savings are
7 accurately and reasonably calculated. The commission may contract
8 or enter into a memorandum of understanding with any other
9 appropriate governmental agency or other party, including an
10 independent expert, to ensure that cost savings are accurately and
11 reasonably calculated.

12 (c) The commission shall consider any estimates of cost savings
13 made by any governmental agency, including, but not limited to,
14 the Internal Revenue Service, the Franchise Tax Board, and the
15 United States Department of the Interior. The commission shall
16 include in its determination a written explanation, which shall be
17 available to the public, of the differences, and the reasons for the
18 differences, between the commission's determination of cost
19 savings and any other estimates of cost savings the commission
20 considered.

21 (d) The applicant shall provide all necessary documentation, as
22 determined by the commission, to allow the commission to
23 calculate the amount of cost savings. Failure to provide information
24 requested by the commission in a timely manner may result in
25 rejection of the application.

26 (e) The determination made pursuant to this section and
27 submitted to the department by the commission shall constitute
28 the final determination and shall not be revised except by the
29 commission.

30 (f) The commission shall take all feasible steps to complete its
31 determination in a timely manner that accommodates the
32 department's schedule for consideration of the application.

33 SEC. 5. Section 6615 of the Fish and Game Code is amended
34 to read:

35 6615. Prior to granting conditional approval of an application
36 for partial removal of an offshore oil structure, the department
37 shall do all of the following:

38 (a) Prepare a plan to manage the offshore oil structure after its
39 partial removal. The plan shall include measures to manage fishery
40 and marine life resources at and around the structure in a manner

1 that will ensure that the net benefits to the marine environment
2 identified pursuant to Section 6613 are maintained or enhanced.
3 Consistent with state and federal law, management measures may
4 include a buffer zone in which fishing or removal of marine life
5 is restricted or prohibited.

6 (b) Provide an opportunity for public comment on the
7 application and environmental document pursuant to the California
8 Environmental Quality Act.

9 (c) Hold public hearings for comment on the application and
10 environmental document pursuant to the California Environmental
11 Quality Act in the county nearest to the location of the offshore
12 oil structure that is the subject of the application.

13 SEC. 6. Section 6616 of the Fish and Game Code is amended
14 to read:

15 6616. The department may grant conditional approval of an
16 application for partial removal of an offshore oil structure only if
17 all of the following criteria are satisfied:

18 (a) The partial removal of the offshore oil structure and the
19 planning, development, maintenance, and operation of the structure
20 would be consistent with all applicable state, federal, and
21 international laws, including, but not limited to, all of the
22 following:

23 (1) The federal Magnuson-Stevens Fishery Conservation and
24 Management Act (16 U.S.C. Sec. 1801 et seq.).

25 (2) The federal National Fishing Enhancement Act of 1984 (33
26 U.S.C. Sec. 2101 et seq.).

27 (3) The federal Coastal Zone Management Act (16 U.S.C. Sec.
28 1451 et seq.).

29 (4) The California Coastal Management Program.

30 (5) The Marine Life Management Act (Part 1.7 (commencing
31 with Section 7050)).

32 (6) The Marine Life Protection Act (Chapter 10.5 (commencing
33 with Section 2850) of Division 3).

34 (7) State and federal water quality laws.

35 (8) Navigational safety laws.

36 (b) The partial removal of the offshore oil structure provides a
37 net benefit to the marine environment compared to full removal
38 of the structure, as determined pursuant to Section 6613.

1 (c) The cost savings that would result from the conversion of
2 the offshore oil platform or production facility have been
3 determined pursuant to Section 6614.

4 (d) The applicant has provided sufficient funds consistent with
5 subdivision (b) of Section 6612.

6 (e) The department and the applicant have entered into a
7 contractual agreement whereby the applicant will provide sufficient
8 funds for overall management of the structure by the department,
9 including, but not limited to, ongoing management, operations,
10 maintenance, monitoring, and enforcement as these relate to the
11 structure.

12 (f) The department has entered into an indemnification
13 agreement with the applicant that indemnifies the state and the
14 department, to the extent permitted by law, against any and all
15 liability that may result, including, but not limited to, active
16 negligence, and including defending the state and the department
17 against any claims against the state for any actions the state
18 undertakes pursuant to this article. The agreement may be in the
19 form of an insurance policy, cash settlement, or other mechanism
20 as determined by the department. In adopting indemnification
21 requirements for the agreement, the department shall ensure that
22 the state can defend itself against any liability claims against the
23 state for any actions the state undertakes pursuant to this article
24 and pay any resulting judgments. The department shall consult
25 with and, as necessary, use the resources of the office of the
26 Attorney General in preparing and entering into the indemnification
27 agreement.

28 (g) The applicant has applied for and received all required
29 permits, leases, and approvals issued by any governmental agency,
30 including, but not limited to, a lease issued by the commission if
31 the proposed project involves state tidelands and submerged lands.
32 For structures located in federal waters, all of the following
33 requirements shall be met:

34 (1) The department and the owner or operator of the structure
35 reach an agreement providing for the department to take title to
36 the platform or facility as provided in Section 6620.

37 (2) The department acquires the permit issued by the United
38 States Army Corps of Engineers.

1 (3) The partial removal of the structure is approved by the
2 Bureau of Safety and Environmental Enforcement of the United
3 States Department of the Interior.

4 SEC. 7. Section 6618 of the Fish and Game Code is amended
5 to read:

6 6618. (a) The cost savings from the partial removal of an
7 offshore oil structure, as determined pursuant to Section 6614,
8 shall be apportioned and transmitted as described in this section.

9 (b) Except as provided in subdivision (c), upon receipt of
10 conditional approval pursuant to Section 6617, the applicant shall
11 apportion and directly transmit a portion of the total amount of the
12 cost savings to the department as follows:

13 (1) Fifty-five percent, if transmitted by the applicant to the
14 department before January 1, 2017.

15 (2) Sixty-five percent, if transmitted by the applicant to the
16 department on or after January 1, 2017, and before January 1,
17 2023.

18 (3) Eighty percent, if transmitted by the applicant to the
19 department on or after January 1, 2023.

20 (c) Upon receipt of conditional approval pursuant to Section
21 6617, the applicant *who elects to pay a portion of the startup costs*
22 *pursuant to subdivision (c) of Section 6612 before the first*
23 *application is filed and who files the first application to partially*
24 *remove an offshore oil structure shall apportion and directly*
25 *transmit a portion of the total amount of the cost savings resulting*
26 *from the first application to the department as follows:*

27 (1) Fifty-five percent, if the application was submitted before
28 January 1, 2017.

29 (2) Sixty-five percent, if the application was submitted on or
30 after January 1, 2017, and before January 1, 2023.

31 (3) Eighty percent, if the application was submitted on or after
32 January 1, 2023.

33 (d) If the department's final approval pursuant to Section 6619
34 or any other federal, state, or local permit or approval required for
35 the partial removal of the offshore oil structure is permanently
36 enjoined, vacated, invalidated, rejected, or rescinded by a court or
37 governmental agency as the result of litigation challenging the
38 permit or approval, and the applicant is required to carry out full
39 removal of the structure, the department shall promptly return the
40 cost savings to the applicant.

1 (e) Upon final, nonappealable judicial decisions upholding the
2 department's final approval pursuant to Section 6619 and all
3 permits and approvals required for the partial removal of the
4 offshore oil structure or the running of the statutes of limitations
5 applicable to all the permits and approvals, whichever is later, the
6 department shall directly transmit the following amounts from the
7 total amount of the cost savings transmitted pursuant to subdivision
8 (b) or (c) to the following entities:

9 (1) Eighty-five percent shall be deposited into the California
10 Endowment for Marine Preservation established pursuant to
11 Division 37 (commencing with Section 71500) of the Public
12 Resources Code.

13 (2) Ten percent shall be deposited into the General Fund.

14 (3) Two percent shall be deposited into the Fish and Game
15 Preservation Fund for expenditure, upon appropriation by the
16 Legislature, by the department to pay any costs imposed by this
17 chapter that are not otherwise provided for pursuant to subdivision
18 (b) of Section 6612 and subdivision (e) of Section 6616. Any
19 moneys remaining in the Fish and Game Preservation Fund, after
20 providing for these costs, shall be used, upon appropriation by the
21 Legislature, first to reimburse the payment of the startup costs
22 described in subdivision (c) of Section 6612, and thereafter to
23 conserve, protect, restore, and enhance the coastal and marine
24 resources of the state consistent with the mission of the department.

25 (4) Two percent shall be deposited into the Coastal Act Services
26 Fund, established pursuant to Section 30620.1 of the Public
27 Resources Code, and shall be allocated to support state agency
28 work involving research, planning, and regulatory review
29 associated with the application and enforcement of coastal
30 management policies in state and federal waters pursuant to state
31 and federal quasi-judicial authority over offshore oil and gas
32 development.

33 (5) One percent shall be deposited with the board of supervisors
34 of the county immediately adjacent to the location of the facility
35 prior to its decommissioning. The amount paid to the county shall
36 be managed pursuant to paragraph (1) of subdivision (d) of Section
37 6817 of the Public Resources Code.

O

THIRD READING

Bill No: SB 233
Author: Hertzberg (D), et al.
Amended: 6/2/15
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 6-1, 4/28/15
AYES: Stone, Allen, Hertzberg, Hueso, Monning, Wolk
NOES: Jackson
NO VOTE RECORDED: Pavley, Vidak

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/28/15
AYES: Lara, Bates, Beall, Hill, Leyva, Mendoza, Nielsen

SUBJECT: Marine resources and preservation

SOURCE: Coalition for Enhanced Marine Resources
Sport Fishing Conservancy

DIGEST: This bill modifies the rigs-to-reefs program by requiring that the decision to allow partial decommissioning consider air quality or greenhouse gas emissions (GHGs), designating the State Lands Commission (commission) as the lead agency for the purposes of California Environmental Quality Act (CEQA), and makes other clarifying and technical changes.

ANALYSIS: Existing federal law requires that “decommissioned” oil and gas platforms be removed at the end of production, and the surrounding marine environment be cleaned up and restored to a natural condition. Existing state and federal offshore oil leases generally require the removal of decommissioned oil platforms after the lease ends. Both federal regulations and provisions in state and federal leases allow the federal government to consider and approve alternative decommissioning methods other than complete removal. “Rigs-to-reefs” programs are widely used in the Gulf of Mexico, and Louisiana, Texas and Mississippi.

Existing state law:

- 1) Establishes the California Marine Resources Legacy Act (Fish and Game Code §§ 6600 *et seq.*) which established state policy to allow, on a case-by-case basis, the partial decommissioning of offshore oil and gas platforms. Partial decommissioning means removing the top part of the platform while leaving the lower portion behind to act as a subsurface “reef.” Not all platforms may qualify for partial decommissioning, however, as certain conditions must be met. These include, among others, that there be a net environmental benefit from the “reef” and that a portion of the cost savings to the platform owner from partial, as opposed to full, decommissioning be shared with the state and deposited in an endowment whose moneys would be used to the benefit of coastal marine resources. This “rigs-to-reefs” program is voluntary and platforms in both state and federal waters are eligible to participate. The legislative findings for the bill that established the “rigs-to-reefs” program (AB 2503, Perez, Chapter 687, Statutes of 2010) included that the costs of the program should be borne by the applicants.
- 2) Recognizes the multi-jurisdictional nature of platform decommissioning and the need for a viable rigs-to-reefs program to utilize the established expertise and authority of different state entities. AB 2503 split up program responsibilities between different regulators as follows:
 - a) The Department of Fish and Wildlife (department) has the primary authority, as specified, for carrying out the program,
 - b) The Natural Resources Agency serves as lead agency under CEQA,
 - c) The Ocean Protection Council (council) determines whether a net benefit to the marine environment from partial decommissioning exists,
 - d) The State Lands Commission (commission) determines the cost savings, and
 - e) The authority of the California Coastal Commission is acknowledged and information sharing, coordination and communication between the different entities is emphasized.
- 3) Provides that a rigs-to-reef application is complete when the applicant provides certain financial assurances that ensures that sufficient funds are available to pay for the cost of processing the application. The first AB 2503 applicant will also be required to pay the program’s set-up costs, although those are reimbursable.

- 4) Provides that conditional approval of a rigs-to-reef application may be provided when certain criteria, as specified, are met. When conditional approval is received, the owner or operator of the structure must transmit a portion of the total cost savings to the state on the following schedule: 55% by January 1, 2017, 65% between January 1, 2017 – January 1, 2023 and 80% after January 1, 2023.

This bill modifies the existing rigs-to-reefs program. Specifically, this bill:

- 1) Replaces the Natural Resources Agency as CEQA lead with the commission;
- 2) Allow the applicant to withdraw its rigs-to-reef application at any time and clarifies payment for start-up costs and reimbursement procedures, if applicable, for applicants;
- 3) Adds consultation with the Air Resources Board, as specified, in the calculation of net benefits to the marine environment;
- 4) Adds air quality or GHGs to the determination of the net benefit to the marine environment;
- 5) Adds a public meeting to review the environmental documents to the one already required on the application, as specified; and
- 6) Makes additional technical and clarifying changes.

Background

There are 27 oil and gas platforms offshore California. Four of these platforms are in state waters at relatively shallow depths (approximately 200 feet or less). The remaining 23 platforms are over three miles from shore at depths reaching nearly 1,200 feet. Additionally, there are five more offshore “islands” (which are also platforms) in state waters. The platforms are located off the coasts of Los Angeles, Ventura and Santa Barbara counties. At least five offshore platforms, including one island, off the coast of California have been “decommissioned” and removed.

Rigs-to-reefs programs allow the oil industry to avoid the costs of full decommissioning, although full decommissioning was an agreed-upon lease condition. Estimates of the cost savings associated with partial decommissioning vary from tens of millions to hundreds of millions of dollars per platform. AB 2503 provided a financial incentive to the oil industry to submit partial

decommissioning applications by providing that a smaller fraction of the cost savings would be shared with the state in the early years of the program (55%) compared to later (80%).

Despite repeated assertions over at least the last 15 years that applications for partial decommissioning were imminent, no applications under AB 2503 have been filed with the state. (It is a fair point that no application has been developed pursuant to AB 2503, which this bill seeks to address.) The economic viability of any offshore platform and its oil and gas wells is a function of many factors. High prices for crude oil the last five years – prices of benchmark crudes often exceeded \$100/barrel – compared to approximately \$50/barrel in last several months with muted expectations of a substantial price rise in the short term are likely to have affected the outlook for the offshore California platforms.

Comments

The commission has experience as a CEQA lead agency for platform decommissioning. Even in the event of an application for a rigs-to-reefs conversion in federal waters, it is likely that substantial elements of the decommissioning would be under the commission's jurisdiction.

Air quality and the net environmental benefit. The consideration of air quality, including GHGs, in decommissioning is a required element of the CEQA environmental analysis. The focus on biological resources and water quality – in other words on the proposed reef and its immediate subsurface environment – in the existing calculation of the net environmental benefit to the marine environment seeks to ensure the reef provides lasting benefits. It is highly likely that there will be a significant difference in total air emissions between partial and full decommissioning to the advantage of partial decommissioning. That said, the direct and indirect impacts from air emissions to the proposed reef and their duration are unclear, and the council will have to determine how to appropriately weigh these impacts in its calculations.

The rigs-to-reef program is voluntary. Circumstances may arise, such as advances in offshore oil production, where the platform owner may wish to keep the platform in operation despite having applied for partial decommissioning. Existing law is clear that the rigs-to-reefs program is voluntary, and the bill makes explicit that the platform owner may withdraw the program application.

AB 2503's division of regulatory effort is appropriate given existing jurisdiction and expertise. Offshore oil platforms operate under the jurisdiction of multiple regulators, as will their eventual partial or full decommissioning. There is substantial existing expertise and experience relevant to decommissioning already extant in state government. Coordination and communication are critical between the relevant entities as they utilize their existing expertise and exercise their independent judgment in processing a rigs-to-reef application. AB 2503 specifically provides for formal agreements to be used to ensure coordination and communication between entities and timely application processing. These have proven successful in many other circumstances.

Recent platform decommissioning. According to the commission, Belmont Island off the coast of Los Angeles County was decommissioned in the early 2000s and was the last offshore oil facility to be removed from California's waters. The commission found that complete removal of the island was the environmentally preferred option because there was no evidence that the island provided unique habitat in the area. Additionally, the Coast Guard determined, given the shallow depth, that leaving the base of the island behind would create a navigational hazard.

Prior to the Belmont Island decommissioning, the Chevron 4-H platforms off the coast of Carpinteria and Summerland were decommissioned in 1996. The commission acted as CEQA lead. During the platforms' operation, "shell mounds" built up under each one. The mounds are composed of materials from the periodic cleaning of the platform legs of marine life as well as other marine organisms. Additionally drilling fluids and drill cuttings were deposited on the sea floor underneath the platforms prior to this practice being banned. The drilling materials contain contaminants such as PCBs, hydrocarbons and metals. All of these materials are now bonded together in the mounds which were left in place when the platforms were decommissioned. The mounds are 25 – 28 feet high, and 200 – 250 feet in diameter. Decommissioning requirements included the full removal of the shell mounds and all site debris, and that a "trawl test" with standard equipment be performed. According to reports, the site is untrawlable. A decision has been made to leave the mounds in place, but it is unclear if all the necessary permits have been issued.

Most of the offshore platforms are in federal waters and will need federal permits. While close coordination and communication may be able to facilitate the necessary state permits for partial decommissioning, the state cannot compel the relevant federal entities to issue the applicable federal permits in a timely manner.

Do rigs-to-reefs automatically mean there will be more fishing opportunities? Not necessarily. The department is authorized to limit fishing in the vicinity of the reef, if warranted (FGC §6613(c)).

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, this bill has one-time costs in the low to mid tens of thousands of dollars, reimbursable by the project applicant, to the department and the Air Resources Board for new responsibilities in considering a partial decommissioning application

SUPPORT: (Verified 6/1/15)

Coalition for Enhanced Marine Resources (co-source)

Sport Fishing Conservancy (co-source)

Amigos Del Air Libre

Big Fish Bait and Tackle

Deep Blue Scuba and Swim Center

Get Wet Scuba

Harbor Breeze Corporation

Hubbs-Sea World Research Institute

Inland Empire Waterkeeper

Orange County Coastkeeper

Pierpoint Landing

Professional Association of Diving Instructors

San Diego County Wildlife Federation

22nd Street Landing Sportfishing

United Anglers

Valley Industry and Commerce Association

OPPOSITION: (Verified 6/1/15)

Citizens Planning Association of Santa Barbara County

Community Environmental Council

Environment California

Environmental Action Committee of West Marin

Environmental Defense Center

Food and Water Watch

Friends of the Sea Otter

Get Oil Out!

International Marine Mammal Project of Earth Island Institute
Ocean Conservancy
Ocean Conservation Research
Pacific Coast Federation of Fishermen's Association
Santa Barbara Channelkeeper
Sierra Club – Los Padres Chapter
Sierra Club California
The Ocean Foundation
Western Alliance for Nature
Wholly H₂O
Two individuals

ARGUMENTS IN SUPPORT: According to the author, “in 2010, the Legislature passed AB 2503 by former Speaker John Perez, which enacted California’s rigs-to-reefs program. We are now nearing the point where the first of California’s offshore oil rigs will be ready for decommissioning in the next few years. It has become apparent through discussions with the Administration, that the permitting process is unworkable, both for practical reasons involving a lack of expertise and fiscal reasons as well. Senate Bill 233 is intended to make the current rigs-to-reefs permitting process more pragmatic without sacrificing any level of environmental review. As the bill moves along, we intend to work closely with a multi-agency group to review the rigs-to-reefs approval process and make recommendations for changes, the chairs of the policy committees, and stakeholders to make sure that we have a consensus approach to the decommissioning process [that] is both workable and protective of the environment.”

The author continues, “[t]he bill adds the impact of greenhouse gas emissions [which] should be considered in weighing the removal options for offshore oil rigs” in the calculation of the net environmental benefit and “has left open for negotiation moving back the various cut-off dates which encourage early retirement of oil rigs to accommodate the five years since the passage of AB 2503.”

“Overall, SB 233 seeks to take a critical look at the rigs-to-reefs program and to work to make the process better. Ultimately, if oil rigs are approved for conversion, a productive marine ecosystem will be saved from destruction and potentially hundreds of millions of dollars will be made available in perpetuity for funding ocean oriented environmental programs.”

ARGUMENTS IN OPPOSITION: In a joint opposition letter, the Environmental Defense Center and others note that this bill “is unnecessary, premature, and would undermine the provisions in existing law that require a balanced, thorough analysis of proposal to leave offshore oil platforms at sea. The bill is unnecessary because the legislature already passed AB 2503 in 2010. That bill followed many years of state-wide debate and was fashioned to include relevant agencies and stakeholders in a process that would address the many issues that will be raised if oil platforms are not removed from the ocean environment. These issues include legacy pollution resulting from residual toxins and contaminated debris left in the ocean, introduction of invasive species, attraction of fish away from productive natural reefs, safety and navigational risks, and increased liability to the state.”

The joint letter continues that this bill is premature because “no platforms are ready for decommissioning. [...] Clearly, there is no need to hasten to amend existing law.” While acknowledging that many of the letter signers did not support AB 2503 because “we believe the oil industry should comply with its original commitments to remove oil platforms at the end of their productive life and to restore the marine environment to a natural condition,” they note that “[e]xisting law is adequate to address the issues raised by proposals to avoid full decommissioning of offshore oil platforms.”

The Environmental Action Committee of West Marin identifies several issues in its letter, including, among others, concerns about the length of time considered in the net environmental benefit analysis, and the lack of public participation in the development of net environmental benefit criteria.

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
6/2/15 20:10:46

**** **END** ****

AMENDED IN ASSEMBLY JUNE 24, 2015

SENATE BILL

No. 295

Introduced by Senator ~~De León~~ Jackson
(Principal coauthor: Assembly Member Williams)

February 23, 2015

~~An act to amend Sections 17053.86 and 23686 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to amend Section 51013.5 of, and to add Section 51015.1 to, the Government Code, relating to pipeline safety.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 295, as amended, ~~De León~~ Jackson. ~~College Access Tax Credit Fund.~~ Pipeline safety: inspections.

Under the Elder California Pipeline Safety Act of 1981, the State Fire Marshal exercises safety regulatory jurisdiction over intrastate pipelines used for the transportation of hazardous or highly volatile liquid substances. The act authorizes the State Fire Marshal to exercise safety regulatory jurisdiction over portions of interstate pipelines located within the state and subject to an agreement between the United States Secretary of Transportation and the State Fire Marshal. The act requires those pipelines over 10 years of age to be hydrostatically tested every 3 or 5 years, as provided, except that high-risk pipelines, as designated by the State Fire Marshall, are to be tested every 2 years or annually, as provided.

This bill would require the State Fire Marshal, or an officer or employee authorized by the State Fire Marshal, to annually inspect all operators of intrastate pipelines under the jurisdiction of the State Fire Marshal. The bill would require pipelines over 5 years of age to be hydrostatically tested every 2 or 3 years, as provided, and would require

all designated high-risk pipelines to be tested annually. The bill would require the State Fire Marshall, to the maximum extent possible, to become an inspection agent by entering into an agreement with the federal Pipeline and Hazardous Materials Safety Administration, as specified. The bill would require the State Fire Marshall to revise specified fees assessed to cover the costs associated with this measure. The bill would also delete obsolete provisions.

~~The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including, for taxable years beginning on or after January 1, 2014, and before January 1, 2017, a credit equal to a certain percentage of a contribution to the College Access Tax Credit Fund for specified education purposes, as provided.~~

~~This bill would extend the allowance of these credits to taxable years beginning before January 1, 2018.~~

~~This bill would take effect immediately as a tax levy.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 51013.5 of the Government Code is*
2 *amended to read:*

3 51013.5. (a) Every newly constructed pipeline, existing
4 pipeline, or part of a pipeline system that has been relocated or
5 replaced, and every pipeline that transports a hazardous liquid
6 substance or highly volatile liquid substance, shall be tested in
7 accordance with Subpart E (commencing with Section 195.300)
8 of Part 195 of Title 49 of the Code of Federal Regulations.

9 (b) Every pipeline not provided with properly sized automatic
10 pressure relief devices or properly designed pressure limiting
11 devices shall be hydrostatically tested annually.

12 (c) Every pipeline over ~~10~~ *five* years of age and not provided
13 with effective cathodic protection shall be hydrostatically tested
14 every ~~three~~ *two* years, except for those on the State Fire Marshal's
15 list of higher risk pipelines, which shall be hydrostatically tested
16 annually.

17 (d) Every pipeline over ~~10~~ *five* years of age and provided with
18 effective cathodic protection shall be hydrostatically tested every
19 ~~five~~ *three* years, except for those on the State Fire Marshal's list

1 of higher risk pipelines which shall be hydrostatically tested ~~every~~
2 ~~two years.~~ *annually.*

3 (e) Piping within a refined products bulk loading facility served
4 by pipeline shall be tested hydrostatically at 125 percent of
5 maximum allowable operating pressure utilizing the product
6 ordinarily transported in that piping if that piping is operated at a
7 stress level of 20 percent or less of the specified minimum yield
8 strength of the pipe. The frequency for pressure testing these
9 pipelines shall be every five years for those pipelines with effective
10 cathodic protection and every three years for those pipelines
11 without effective cathodic protection. If that piping is observable,
12 visual inspection may be the method of testing.

13 ~~(f) Beginning on July 1, 1990, and continuing until the~~
14 ~~regulations adopted by the State Fire Marshal pursuant to~~
15 ~~subdivision (g) take effect, each pipeline within the State Fire~~
16 ~~Marshal's jurisdiction which satisfies any of the following sets of~~
17 ~~criteria shall be placed on the State Fire Marshal's list of higher~~
18 ~~risk pipelines until five years pass without a reportable leak due~~
19 ~~to corrosion or defect on that pipeline. Initially, pipelines on that~~
20 ~~list shall be tested by the next scheduled test date, or within two~~
21 ~~years of being placed on the list, whichever is first. On July 1,~~
22 ~~1990, pipeline operators shall provide the State Fire Marshal with~~
23 ~~a list of all their pipelines which satisfy the criteria in this~~
24 ~~subdivision as of July 1, 1990. If any pipeline becomes eligible~~
25 ~~for the list of higher risk pipelines after that date, the pipeline~~
26 ~~company shall report that fact to the State Fire Marshal within 30~~
27 ~~days, and the pipeline shall be placed on the list retroactively to~~
28 ~~the date on which it became eligible for listing. Pipelines which~~
29 ~~are found to belong on the list, but are not so reported by the~~
30 ~~operator to the State Fire Marshal, shall be placed on the list~~
31 ~~retroactively. Operators failing to properly report their pipelines~~
32 ~~shall be subject to penalties under Section 51018.6. Pipelines not~~
33 ~~covered under the risk criteria developed pursuant to subdivision~~
34 ~~(g) shall be deleted from the list when regulations are adopted~~
35 ~~pursuant to that subdivision. For purposes of this subdivision, a~~
36 ~~leak which is traceable to an external force, but for which corrosion~~
37 ~~is partly responsible, shall be deemed caused by corrosion, "defect"~~
38 ~~refers to manufacturing or construction defects, and "leak" or~~
39 ~~"reportable leak" means a rupture required to be reported pursuant~~
40 ~~to Section 51018. As long as all pipelines are tested in their entirety~~

1 at least as frequently as standard risk pipelines under subdivisions
2 (e) and (d), it shall suffice for additional tests on higher risk
3 pipelines to cover 20 pipeline miles in all directions along an
4 operator's pipeline from the position of the leak or leaks which
5 led to the inclusion or retention of that pipeline on the higher risk
6 list. The interim list shall include pipelines which meet any of the
7 following criteria:

8 (1) Have suffered two or more reportable leaks, not including
9 leaks during a certified hydrostatic pressure test, due to corrosion
10 or defect in the prior three years.

11 (2) Have suffered three or more reportable leaks, not including
12 leaks during a certified hydrostatic pressure test, due to corrosion,
13 defects, or external forces, but not all due to external forces, in the
14 prior three years.

15 (3) Have suffered a reportable leak, except during a certified
16 hydrostatic pressure test, due to corrosion or defect of more than
17 50,000 gallons, or 10,000 gallons in a standard metropolitan
18 statistical area, in the prior three years; or have suffered a leak due
19 to corrosion or defect which the State Fire Marshal finds has
20 resulted in more than 42 gallons of a hazardous liquid within the
21 State Fire Marshal's jurisdiction entering a waterway in the prior
22 three years; or have suffered a reportable leak of a hazardous liquid
23 with a flashpoint of less than 140 degrees Fahrenheit, or 60 degrees
24 centigrade, in the prior three years.

25 (4) Are less than 50 miles long, and have experienced a
26 reportable leak, except during a certified hydrostatic pressure test,
27 due to corrosion or a defect in the prior three years. For the
28 purposes of this paragraph, the length of a pipeline with more than
29 two termini shall be the longest distance between two termini along
30 the pipeline.

31 (5) Have experienced a reportable leak in the prior five years
32 due to corrosion or defect, except during a certified hydrostatic
33 pressure test, on a section of pipe more than 50 years old. For
34 pipelines which fall in this category, and no other category of
35 higher risk pipeline, additional tests required by this subdivision
36 shall be required only on segments of the pipe more than 50 years
37 old as long as all pipe more than 50 years old which is within 20
38 pipeline miles from the leak in all directions along an operator's
39 pipeline is tested.

40 (g)

1 (f) The State Fire Marshal shall study indicators and precursors
2 of serious pipeline accidents, and, in consultation with the Pipeline
3 Safety Advisory Committee, shall develop criteria for identifying
4 which hazardous liquid pipelines pose the greatest risk to people
5 and the environment due to the likelihood of, and likely seriousness
6 of, an accident due to corrosion or defect. The study shall give due
7 consideration to research done by the industry, the federal
8 government, academia, and to any other information which the
9 State Fire Marshal shall deem relevant, including, but not limited
10 to, recent leak history, pipeline location, and materials transported.
11 Beginning January 1, 1992, using the criteria identified in that
12 study, the State Fire Marshal shall maintain a list of higher risk
13 pipelines, which exceed a standard of risk to be determined by the
14 State Fire Marshal, and which shall be tested as required in
15 subdivisions (c) and (d) as long as they remain on the list. ~~By~~
16 ~~January 1, 1992, after public hearings, the State Fire Marshal shall~~
17 ~~adopt regulations to implement this subdivision.~~

18 ~~(h)~~

19 (g) In addition to the requirements of subdivisions (a) to (e),
20 inclusive, the State Fire Marshal may require any pipeline subject
21 to this chapter to be subjected to a pressure test, or any other test
22 or inspection, at any time, in the interest of public safety.

23 ~~(i)~~

24 (h) Test methods other than the hydrostatic tests required by
25 subdivisions (b), (c), (d), and (e), including inspection by
26 instrumented internal inspection devices, may be approved by the
27 State Fire Marshal on an individual basis. If the State Fire Marshal
28 approves an alternative to a pressure test in an individual case, the
29 State Fire Marshal may require that the alternative test be given
30 more frequently than the testing frequencies specified in
31 subdivisions (b), (c), (d), and (e).

32 ~~(j)~~

33 (i) The State Fire Marshal shall adopt regulations ~~before January~~
34 ~~1, 1992,~~ to establish what the State Fire Marshal deems to be an
35 appropriate frequency for tests and inspections, including
36 instrumented internal inspections, which, when permitted as a
37 substitute for tests required under subdivisions (b), (c), and (d),
38 do not damage pipelines or require them to be shut down for the
39 testing period. That testing shall in no event be less frequent than
40 is required by subdivisions (b), (c), and (d). Each time one of these

1 tests is required on a pipeline, it shall be approved on the same
 2 individual basis as under subdivision ~~(i)~~: (h). If it is not approved,
 3 a hydrostatic test shall be carried out at the time the alternative
 4 test would have been carried out, and subsequent tests shall be
 5 carried out in accordance with the time intervals prescribed by
 6 subdivision (b), (c), or (d), as applicable.

7 *SEC. 2. Section 51015.1 is added to the Government Code, to*
 8 *read:*

9 *51015.1. (a) The State Fire Marshal, or an officer or employee*
 10 *authorized by the State Fire Marshal, shall annually inspect all*
 11 *operators of intrastate pipelines under the jurisdiction of the State*
 12 *Fire Marshal to ensure compliance with applicable laws and*
 13 *regulations.*

14 *(b) For portions of interstate pipelines that are not under the*
 15 *jurisdiction of the State Fire Marshal pursuant to Section 51010.6,*
 16 *the State Fire Marshal shall, to the maximum extent possible,*
 17 *become an inspection agent through entering into an interstate*
 18 *inspection agent agreement with the federal Pipeline and*
 19 *Hazardous Materials Safety Administration.*

20 *(c) The State Fire Marshall shall revise the fee assessed*
 21 *pursuant to Section 51019 to a level sufficient to cover the costs*
 22 *associated with the implementation of this section and Section*
 23 *51013.5, as amended by the act adding this section.*

24 ~~SECTION 1. Section 17053.86 of the Revenue and Taxation~~
 25 ~~Code is amended to read:~~

26 ~~17053.86. (a) (1) For each taxable year beginning on or after~~
 27 ~~January 1, 2014, and before January 1, 2018, there shall be allowed~~
 28 ~~as a credit against the “net tax,” as defined in Section 17039, an~~
 29 ~~amount equal to the following:~~

30 ~~(A) For each taxable year beginning on and after January 1,~~
 31 ~~2014, and before January 1, 2016, 60 percent of the amount~~
 32 ~~contributed by the taxpayer for the 2014 or 2015 taxable year to~~
 33 ~~the College Access Tax Credit Fund, as allocated and certified by~~
 34 ~~the California Educational Facilities Authority.~~

35 ~~(B) For each taxable year beginning on and after January 1,~~
 36 ~~2016, and before January 1, 2017, 55 percent of the amount~~
 37 ~~contributed by the taxpayer for the 2016 taxable year to the College~~
 38 ~~Access Tax Credit Fund, as allocated and certified by the California~~
 39 ~~Educational Facilities Authority.~~

1 ~~(C) For each taxable year beginning on and after January 1,~~
2 ~~2017, and before January 1, 2018, 50 percent of the amount~~
3 ~~contributed by the taxpayer for the 2017 taxable year to the College~~
4 ~~Access Tax Credit Fund, as allocated and certified by the California~~
5 ~~Educational Facilities Authority.~~
6 ~~(2) Contributions shall be made only in cash.~~
7 ~~(b) (1) The aggregate amount of credit that may be allocated~~
8 ~~and certified pursuant to this section and Section 23686 shall be~~
9 ~~an amount equal to the sum of all of the following:~~
10 ~~(A) Five hundred million dollars (\$500,000,000) in credits for~~
11 ~~the 2014 calendar year and each calendar year thereafter.~~
12 ~~(B) The amount of previously unallocated and uncertified~~
13 ~~credits.~~
14 ~~(2) (A) For purposes of this section, the California Educational~~
15 ~~Facilities Authority shall do all of the following:~~
16 ~~(i) On or after January 1, 2014, and before January 1, 2018,~~
17 ~~allocate and certify tax credits to taxpayers under this section.~~
18 ~~(ii) Establish a procedure for taxpayers to contribute to the~~
19 ~~College Access Tax Credit Fund and to obtain from the California~~
20 ~~Educational Facilities Authority a certification for the credit~~
21 ~~allowed by this section. The procedure shall require the California~~
22 ~~Educational Facilities Authority to certify the contribution amount~~
23 ~~eligible for credit within 45 days following receipt of the~~
24 ~~contribution.~~
25 ~~(iii) Provide to the Franchise Tax Board a copy of each credit~~
26 ~~certificate issued for the calendar year by March 1 of the calendar~~
27 ~~year immediately following the year in which those certificates~~
28 ~~are issued.~~
29 ~~(B) (i) The California Educational Facilities Authority shall~~
30 ~~adopt any regulations necessary to implement this paragraph.~~
31 ~~(ii) Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
32 ~~Division 3 of Title 2 of the Government Code does not apply to~~
33 ~~any regulation adopted by the California Educational Facilities~~
34 ~~Authority pursuant to clause (i).~~
35 ~~(e) (1) In the case where the credit allowed by this section~~
36 ~~exceeds the “net tax,” the excess may be carried over to reduce~~
37 ~~the “net tax” in the following year, and succeeding five years if~~
38 ~~necessary, until the credit is exhausted.~~

1 ~~(2) A deduction shall not be allowed under this part for amounts~~
2 ~~taken into account under this section in calculating the credit~~
3 ~~allowed by this section.~~

4 ~~(d) (1) The College Access Tax Credit Fund is hereby created~~
5 ~~as a special fund in the State Treasury. All revenue in this special~~
6 ~~fund shall be allocated as follows:~~

7 ~~(A) First to the General Fund in an amount equal to the~~
8 ~~aggregate amount of certified credits allowed pursuant to this~~
9 ~~section and Section 23686 for the taxable year. Funds allocated to~~
10 ~~the General Fund shall be considered General Fund revenues for~~
11 ~~purposes of Sections 8 and 8.5 of Article XVI of the California~~
12 ~~Constitution.~~

13 ~~(B) Second, upon appropriation, as follows:~~

14 ~~(i) To the Franchise Tax Board, the California Educational~~
15 ~~Facilities Authority, the Controller, and the Student Aid~~
16 ~~Commission for reimbursement of all administrative costs incurred~~
17 ~~by those agencies in connection with their duties under this section,~~
18 ~~Section 23686, and Section 69432.7 of the Education Code.~~

19 ~~(ii) To the Student Aid Commission for purposes of awarding~~
20 ~~Cal Grants to students pursuant to Section 69431.7 of the Education~~
21 ~~Code.~~

22 ~~(2) The tax credit allowed by subdivision (a) of this section and~~
23 ~~subdivision (a) of Section 23686 for donations to the College~~
24 ~~Access Tax Credit Fund shall be known as the College Access~~
25 ~~Tax Credit.~~

26 ~~(e) This section shall remain in effect only until December 1,~~
27 ~~2018, and as of that date is repealed.~~

28 ~~SEC. 2. Section 23686 of the Revenue and Taxation Code is~~
29 ~~amended to read:~~

30 ~~23686. (a) (1) For each taxable year beginning on or after~~
31 ~~January 1, 2014, and before January 1, 2018, there shall be allowed~~
32 ~~as a credit against the "tax," as defined in Section 23036, an amount~~
33 ~~equal to the following:~~

34 ~~(A) For each taxable year beginning on and after January 1,~~
35 ~~2014, and before January 1, 2016, 60 percent of the amount~~
36 ~~contributed by the taxpayer for the 2014 or 2015 taxable year to~~
37 ~~the College Access Tax Credit Fund, as allocated and certified by~~
38 ~~the California Educational Facilities Authority.~~

39 ~~(B) For each taxable year beginning on and after January 1,~~
40 ~~2016, and before January 1, 2017, 55 percent of the amount~~

1 contributed by the taxpayer for the 2016 taxable year to the College
2 Access Tax Credit Fund, as allocated and certified by the California
3 Educational Facilities Authority:

4 (C) For each taxable year beginning on and after January 1,
5 2017, and before January 1, 2018, 50 percent of the amount
6 contributed by the taxpayer for the 2017 taxable year to the College
7 Access Tax Credit Fund, as allocated and certified by the California
8 Educational Facilities Authority:

9 (2) Contributions shall be made only in cash.

10 (b) (1) The aggregate amount of credit that may be allocated
11 and certified pursuant to this section and Section 17053.86 shall
12 be an amount equal to the sum of all of the following:

13 (A) Five hundred million dollars (\$500,000,000) in credits for
14 the 2014 calendar year and each calendar year thereafter.

15 (B) The amount of previously unallocated and uncertified
16 credits:

17 (2) (A) For purposes of this section, the California Educational
18 Facilities Authority shall do all of the following:

19 (i) On or after January 1, 2014, and before January 1, 2018,
20 allocate and certify tax credits to taxpayers under this section:

21 (ii) Establish a procedure for taxpayers to contribute to the
22 College Access Tax Credit Fund and to obtain from the California
23 Educational Facilities Authority a certification for the credit
24 allowed by this section. The procedure shall require the California
25 Educational Facilities Authority to certify the contribution amount
26 eligible for credit within 45 days following receipt of the
27 contribution:

28 (iii) Provide to the Franchise Tax Board a copy of each credit
29 certificate issued for the calendar year by March 1 of the calendar
30 year immediately following the year in which those certificates
31 are issued:

32 (B) (i) The California Educational Facilities Authority shall
33 adopt any regulations necessary to implement this paragraph:

34 (ii) Chapter 3.5 (commencing with Section 11340) of Part 1 of
35 Division 3 of Title 2 of the Government Code does not apply to
36 any regulation adopted by the California Educational Facilities
37 Authority pursuant to clause (i).

38 (e) (1) In the case where the credit allowed by this section
39 exceeds the "tax," the excess may be carried over to reduce the

1 “tax” in the following year, and succeeding five years if necessary;
2 until the credit is exhausted.

3 (2) A deduction shall not be allowed under this part for amounts
4 taken into account under this section in calculating the credit
5 allowed by this section.

6 (d) This section shall remain in effect only until December 1,
7 2018, and as of that date is repealed.

8 SEC. 3. This act provides for a tax levy within the meaning of
9 Article IV of the Constitution and shall go into immediate effect.

Senate Bill 295

Oil Pipeline Inspections

Senator Jackson

SUMMARY

SB 295 will help reduce the risk of oil spills from pipelines by:

1. Requiring the State Fire Marshall to annually inspect all intrastate pipeline operators.
2. Instructing the State Fire Marshall to enter into an agreement with the Pipeline and Hazardous Materials Safety Administration in order to inspect federally regulated interstate pipelines.
3. Increasing the frequency of hydrostatic (pressure) pipeline inspections.
4. Requiring the State Fire Marshall to increase the fees assessed on pipeline operators in order to pay for increased inspections.

BACKGROUND

In 1969, the then-largest known oil spill blackened the pristine Santa Barbara coastline. That spill spawned Earth Day, giving birth to the environmental movement.

On May 19 of this year tragedy struck again when an onshore pipeline carrying crude oil ruptured and spilled over 100,000 gallons of oil, over 20,000 gallons of which ended up in the ocean off the Santa Barbara Coastline. To date this spill has caused significant negative impacts to the ocean, local beaches, wildlife, and the local economy. Although the investigation into the response and the oil spill is ongoing, we do know that corrosion was responsible for the rupture. Before the spill, the last completed inspection was in 2013. The pipeline was again inspected in 2015, but at the time of the accident the results of the inspection had not been analyzed.

SOLUTION

The pipeline that ruptured—line 901—was being inspected every other year. If line 901 had been inspected annually the corrosion would likely have been detected before it ruptured and this disaster would have been avoided. Because line 901 is federally regulated, SB 295 addresses these shortcomings by directing the State Fire Marshall to seek the authority to inspect federally regulated pipelines and to inspect all pipelines annually.

Increasing the frequency of hydrostatic testing will also help reduce the risk of oil spills caused by pipeline failure. Hydrostatic tests are performed by pressurizing pipelines beyond their operating pressure. It has been reported that the operating pressure of line 901 was 650 pounds per square inch (psi); the failure occurred when the pressure spiked to 700 psi, or 107.7 percent of its operating pressure. The State Fire Marshall pressurizes pipelines to 125 percent during hydrostatic testing, well above the 107.7 percent that caused line 901 to fail. A hydrostatic test would likely have ruptured line 901, spilling nothing.

Most importantly, oil pipeline owners should be financially responsible to ensure their pipelines operate safely and meet applicable laws and regulations, not taxpayers, which is why SB 295 requires fee increases on pipeline owners to pay for more inspections.

SUPPORT

Asian Pacific Environmental Network
Audubon California
Azul
California Coastal Protection Network
California League of Conservation Voters
Center for Biological Diversity
Clean Water Action
Defenders of Wildlife
Environment California
Environmental Action Committee of West Marin
Environmental Defense Center
Environmental Working Group
Heal the Bay
National Parks Conservation Association
Natural Resources Defense Council
Santa Barbara Channelkeeper
Surfrider Foundation
Surfrider Foundation Santa Barbara Chapter
Surfrider Foundation South Bay Chapter
Wildcoast

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AMENDED IN ASSEMBLY JULY 2, 2015
AMENDED IN ASSEMBLY JUNE 19, 2015
AMENDED IN ASSEMBLY JUNE 3, 2015
AMENDED IN SENATE APRIL 14, 2015

SENATE BILL

No. 414

Introduced by Senator Jackson
(Principal coauthor: Assembly Member Williams)

February 25, 2015

An act to amend Sections ~~8670.8.5~~, 8670.12, 8670.13, 8670.28, and 8670.67.5 of, and to add Sections 8670.11, 8670.12.1, ~~8670.13.3~~, ~~8670.31.5~~, and ~~8670.43~~ and 8670.13.3 to, the Government Code, relating to oil spill response.

LEGISLATIVE COUNSEL'S DIGEST

SB 414, as amended, Jackson. Oil spill response.

(1) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup. The act authorizes the administrator to use volunteer workers in response, containment, restoration, wildlife rehabilitation, and cleanup efforts for oil spills in waters of the state. Existing law requires the administrator to evaluate the feasibility of using commercial fishermen and other mariners for oil spill containment and cleanup. ~~Existing law authorizes oil spill response organizations to apply to the administrator for a rating for that organization's response capabilities.~~

This bill would require the administrator, in cooperation with the United States Coast Guard, to conduct an independent vessel traffic assessment for all deepwater ports that may inform an area rescue towing plan for the approaches to the ports and to establish a schedule of drills and exercises that are required under the federal Salvage and Marine Firefighting regulations. The bill would require the administrator to develop and implement regulations ~~for oil spill response organizations and guidelines requiring operators~~ to allow immediate response to an oil spill by contracted fishing vessels and fishing crews. ~~The bill would require the administrator, by regulation, to require oil spill response organizations to have specified oil spill response equipment: crews and providing for emergency drills and training.~~ The bill would require the administrator, on or before July 1, 2016, to submit to the Legislature a report assessing the best ~~available~~ *achievable* technology ~~and for equipment based on the estimated system recovery potential~~ for oil spill prevention and ~~response: response, as provided, and to update regulations based on the report before July 1, 2017.~~

~~(2) The act requires operators of specified vessels and facilities to submit to the administrator an oil spill contingency plan to determine whether the plan meets applicable requirements. The act requires an operator to resubmit the plan to the administrator every 5 years.~~

~~This bill would require the administrator to adopt, by regulation, methodology to rate the oil spill prevention and response equipment listed in the plan to maintain the best achievable protection standards through the use of equipment that is the best available technology. The bill would require the administrator, every 5 years, to provide to the Legislature a report that justifies the regulations and methodology.~~

~~(3)~~

~~(2) The act requires the administrator to license oil spill cleanup agents for use in response to oil spills. The federal Coastal Zone Management Act of 1972 (federal act) requires federal agency activities to be carried out in a manner that is consistent, to the maximum extent practicable, with an approved state management plan. Existing federal law authorizes the California Coastal Commission, the designated state agency, to conduct federal consistency review to ensure federal agency activities are consistent with the California Coastal Management Program.~~

~~This bill would prohibit the use of chemical oil spill cleanup agents in the waters of the state.~~

~~(4)~~

(3) The act makes a person who causes or permits a spill or inland spill strictly liable for specified penalties for the spill on a per-gallon-released basis. The act provides that the amount of penalty is reduced by the amount of released oil that is recovered and properly disposed of.

This bill would provide that the above reduction in the penalty for spills, including inland spills, of greater than 500 gallons, is only applicable to the amount of oil recovered and properly disposed of within 2 weeks of the start of the spill.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 8670.8.5 of the Government Code is~~
2 ~~amended to read:~~

3 ~~8670.8.5. (a) The administrator may use volunteer workers in~~
4 ~~response, containment, restoration, wildlife rehabilitation, and~~
5 ~~cleanup efforts for oil spills in waters of the state. The volunteers~~
6 ~~shall be deemed employees of the state for the purpose of workers’~~
7 ~~compensation under Article 2 (commencing with Section 3350)~~
8 ~~of Chapter 2 of Part 1 of Division 4 of the Labor Code. Any~~
9 ~~payments for workers’ compensation pursuant to this section shall~~
10 ~~be made from the Oil Spill Response Trust Fund created pursuant~~
11 ~~to Section 8670.46.~~

12 ~~(b) (1) The administrator shall develop and implement~~
13 ~~regulations for oil spill response organizations to allow immediate~~
14 ~~response to an oil spill by contracted fishing vessels and fishing~~
15 ~~crews and that shall provide for regularly scheduled emergency~~
16 ~~drills and training in areas that include the following:~~

17 ~~(A) Shoreline protection.~~

18 ~~(B) Towing boom and skimmers.~~

19 ~~(C) Working with minibarges.~~

20 ~~(D) Loading and unloading equipment from response barges.~~

21 ~~(2) In developing the regulations, the administrator shall~~
22 ~~consider the fishing vessel training program funded and maintained~~
23 ~~by Alyeska’s Ship Escort/Response Vessel System, with regard~~
24 ~~to training, liability, insurance, compensation, and post response~~
25 ~~vessel cleanup.~~

1 ~~SEC. 2.~~

2 ~~SECTION 1.~~ Section 8670.11 is added to the Government Code,
3 to read:

4 8670.11. In addition to Section 8670.10, the administrator, in
5 cooperation with the United States Coast Guard, shall establish a
6 schedule of drills and exercises required pursuant to Section
7 155.4052 of Title 33 of the Code of Federal Regulations. The
8 administrator shall make publicly available the established
9 schedule.

10 ~~SEC. 3.~~

11 ~~SEC. 2.~~ Section 8670.12 of the Government Code is amended
12 to read:

13 8670.12. (a) The administrator shall conduct studies and
14 evaluations necessary for improving oil spill response, containment,
15 and cleanup and oil spill wildlife rehabilitation in waters of the
16 state and oil transportation systems. The administrator may expend
17 moneys from the Oil Spill Prevention and Administration Fund
18 created pursuant to Section 8670.38, enter into consultation
19 agreements, and acquire necessary equipment and services for the
20 purpose of carrying out these studies and evaluations.

21 (b) The administrator shall study the use and effects of
22 dispersants, incineration, bioremediation, and any other methods
23 used to respond to a spill. The study shall periodically be updated
24 to ensure the best achievable protection from the use of those
25 methods. Based upon substantial evidence in the record, the
26 administrator may determine in individual cases that best
27 achievable protection is provided by establishing requirements
28 that provide the greatest degree of protection achievable without
29 imposing costs that significantly outweigh the incremental
30 protection that would otherwise be provided. The studies shall do
31 all of the following:

32 (1) Evaluate the effectiveness of dispersants and other chemical,
33 bioremediation, and biological agents in oil spill response under
34 varying environmental conditions.

35 (2) Evaluate potential adverse impacts on the environment and
36 public health including, but not limited to, adverse toxic impacts
37 on water quality, fisheries, and wildlife with consideration to
38 bioaccumulation and synergistic impacts, and the potential for
39 human exposure, including skin contact and consumption of
40 contaminated seafood.

1 (3) Recommend appropriate uses and limitations on the use of
2 dispersants and other chemical, bioremediation, and biological
3 agents to ensure they are used only in situations where the
4 administrator determines they are effective and safe.

5 (c) The studies shall be performed in conjunction with any
6 studies performed by federal, state, and international entities. The
7 administrator may enter into contracts for the studies.

8 ~~SEC. 4.~~

9 *SEC. 3.* Section 8670.12.1 is added to the Government Code,
10 to read:

11 8670.12.1. The administrator, in cooperation with the United
12 States Coast Guard, shall conduct an independent vessel traffic
13 risk assessment for all deepwater ports that may inform an area
14 rescue towing plan for the approaches to the ports.

15 ~~SEC. 5.~~

16 *SEC. 4.* Section 8670.13 of the Government Code is amended
17 to read:

18 8670.13. (a) The administrator shall periodically evaluate the
19 feasibility of requiring new technologies to aid prevention,
20 response, containment, cleanup, and wildlife rehabilitation.

21 (b) (1) On or before July 1, 2016, the administrator shall submit
22 a report to the Legislature, pursuant to Section 9795, assessing the
23 ~~best available~~ *achievable* technology ~~and of equipment based on~~
24 ~~the estimated system recovery potential~~ for oil spill prevention
25 and response, including, but not limited to, prevention and response
26 tugs, tractor tugs, ~~salve~~ *salvage* and marine firefighting tugs, oil
27 spill skimmers and barges, and protective in-water boom
28 equipment. *The assessment shall include all of the following:*

29 (A) *Evaluation of equipment based on its estimated system*
30 *recovery potential.*

31 (B) *Updating the methodology for rating equipment, such as*
32 *oil containment, skimming, storage and oil and water separation*
33 *technologies, and an explanation of why the new methodology*
34 *provides the best achievable protection.*

35 (C) *Evaluation of the most current oil spill and response*
36 *equipment for increase capability, including, but not limited to,*
37 *new generation, high-efficiency disc skimmers, including*
38 *high-efficiency skimming NOFI Current Busters, or their*
39 *equivalent, and Elastec grooved disc skimmers, or their equivalent.*

1 (D) Consideration of whether a purpose-built, prepositioned
2 prevention and response tug with appropriate size, bollard pull,
3 horsepower, propulsion, seakeeping, and maneuverability to meet
4 Det Norske Veritas criteria for emergency towing would lead to
5 increased capability to provide best achievable protection.

6 (2) In conducting the assessment, the administrator shall consult
7 the most recent peer-reviewed research on oil spill prevention and
8 response, including, but not limited to, research performed by the
9 Prince William Sound Regional Citizens’ Advisory Council as
10 well as estimated system recovery potential research done at
11 Genwest Systems, Inc., and Spiltec.

12 (3) Pursuant to Section 10231.5, this subdivision is inoperative
13 on July 1, 2020.

14 (c) (1) Based on the report prepared pursuant to subdivision
15 (b), the administrator shall ~~establish standards~~ update regulations
16 governing the adequacy of oil spill contingency plans for best
17 achievable technologies for oil spill prevention and response no
18 later than July 1, 2017.

19 (2) The updated regulations shall enhance the capabilities for
20 prevention, response, containment, cleanup, and wildlife
21 rehabilitation.

22 ~~SEC. 6.~~

23 SEC. 5. Section 8670.13.3 is added to the Government Code,
24 to read:

25 8670.13.3. (a) Notwithstanding any law, chemical oil spill
26 cleanup agents shall not be used in response to an oil spill within
27 the waters of the state.

28 (b) For purposes of this section, “waters of the state” means any
29 surface water, including saline water, within the boundary of the
30 state.

31 SEC. 6. Section 8670.28 of the Government Code is amended
32 to read:

33 8670.28. (a) The administrator, taking into consideration the
34 facility or vessel contingency plan requirements of the State Lands
35 Commission, the Office of the State Fire Marshal, the California
36 Coastal Commission, and other state and federal agencies, shall
37 adopt and implement regulations governing the adequacy of oil
38 spill contingency plans to be prepared and implemented under this
39 article. All regulations shall be developed in consultation with the
40 Oil Spill Technical Advisory Committee, and shall be consistent

1 with the California oil spill contingency plan and not in conflict
2 with the National Contingency Plan. The regulations shall provide
3 for the best achievable protection of waters and natural resources
4 of the state. The regulations shall permit the development,
5 application, and use of an oil spill contingency plan for similar
6 vessels, pipelines, terminals, and facilities within a single company
7 or organization, and across companies and organizations. The
8 regulations shall, at a minimum, ensure all of the following:

9 (1) All areas of state waters are at all times protected by
10 prevention, response, containment, and cleanup equipment and
11 operations.

12 (2) Standards set for response, containment, and cleanup
13 equipment and operations are maintained and regularly improved
14 to protect the resources of the state.

15 (3) All appropriate personnel employed by operators required
16 to have a contingency plan receive training in oil spill response
17 and cleanup equipment usage and operations.

18 (4) Each oil spill contingency plan provides for appropriate
19 financial or contractual arrangements for all necessary equipment
20 and services for the response, containment, and cleanup of a
21 reasonable worst case oil spill scenario for each area the plan
22 addresses.

23 (5) Each oil spill contingency plan demonstrates that all
24 protection measures are being taken to reduce the possibility of
25 an oil spill occurring as a result of the operation of the facility or
26 vessel. The protection measures shall include, but not be limited
27 to, response to disabled vessels and an identification of those
28 measures taken to comply with requirements of Division 7.8
29 (commencing with Section 8750) of the Public Resources Code.

30 (6) Each oil spill contingency plan identifies the types of
31 equipment that can be used, the location of the equipment, and the
32 time taken to deliver the equipment.

33 (7) Each facility, as determined by the administrator, conducts
34 a hazard and operability study to identify the hazards associated
35 with the operation of the facility, including the use of the facility
36 by vessels, due to operating error, equipment failure, and external
37 events. For the hazards identified in the hazard and operability
38 studies, the facility shall conduct an offsite consequence analysis
39 that, for the most likely hazards, assumes pessimistic water and
40 air dispersion and other adverse environmental conditions.

1 (8) Each oil spill contingency plan contains a list of contacts to
2 call in the event of a drill, threatened discharge of oil, or discharge
3 of oil.

4 (9) Each oil spill contingency plan identifies the measures to
5 be taken to protect the recreational and environmentally sensitive
6 areas that would be threatened by a reasonable worst case oil spill
7 scenario.

8 (10) Standards for determining a reasonable worst case oil spill.
9 However, for a nontank vessel, the reasonable worst case is a spill
10 of the total volume of the largest fuel tank on the nontank vessel.

11 (11) Each oil spill contingency plan specifies an agent for service
12 of process. The agent shall be located in this state.

13 (b) The regulations and guidelines adopted pursuant to this
14 section shall also include provisions to provide public review and
15 comment on submitted oil spill contingency plans.

16 (c) The regulations adopted pursuant to this section shall
17 specifically address the types of equipment that will be necessary,
18 the maximum time that will be allowed for deployment, the
19 maximum distance to cooperating response entities, the amounts
20 of dispersant, and the maximum time required for application,
21 should the use of dispersants be approved. Upon a determination
22 by the administrator that booming is appropriate at the site and
23 necessary to provide best achievable protection, the regulations
24 shall require that vessels engaged in lightering operations be
25 boomed prior to the commencement of operations.

26 (d) The administrator shall adopt regulations and guidelines for
27 oil spill contingency plans with regard to mobile transfer units,
28 small marine fueling facilities, and vessels carrying oil as secondary
29 cargo that acknowledge the reduced risk of damage from oil spills
30 from those units, facilities, and vessels while maintaining the best
31 achievable protection for the public health and safety and the
32 environment.

33 (e) The regulations adopted pursuant to subdivision (d) shall be
34 exempt from review by the Office of Administrative Law.
35 Subsequent amendments and changes to the regulations shall not
36 be exempt from review by the Office of Administrative Law.

37 (f) (1) *The administrator shall develop and implement*
38 *regulations and guidelines requiring operators to allow immediate*
39 *response to an oil spill by contracted fishing vessels and fishing*

1 crews and providing for regularly scheduled emergency drills and
2 training in areas that include all of the following:

- 3 (A) Shoreline protection.
 - 4 (B) Towing boom and skimmers.
 - 5 (C) Working with minibarges.
 - 6 (D) Loading and unloading equipment from response barges.
- 7 (2) In developing the regulations, the administrator shall
8 consider the fishing vessel training program funded and maintained
9 by Alyeska's Ship Escort/Response Vessel System, with regard to
10 training, liability, insurance, compensation, and post response
11 vessel cleanup.

12 ~~SEC. 7. Section 8670.31.5 is added to the Government Code,~~
13 ~~to read:~~

14 ~~8670.31.5. (a) For offshore oil spill response, the administrator~~
15 ~~shall, by regulation, establish a methodology for rating equipment,~~
16 ~~such as oil containment, skimming, storage, and oil/water~~
17 ~~separation technologies, listed in an oil spill contingency plan to~~
18 ~~maintain the best achievable protection standards through the use~~
19 ~~of equipment that is the best available technology.~~

20 ~~(b) The administrator shall provide a report to the Legislature~~
21 ~~every five years that justifies the regulations adopted and~~
22 ~~methodologies established pursuant to subdivision (a). The report~~
23 ~~to the Legislature shall be delivered as provided in Section 9795~~
24 ~~of the Government Code.~~

25 ~~SEC. 8. Section 8670.43 is added to the Government Code, to~~
26 ~~read:~~

27 ~~8670.43. Pursuant to paragraph (4) of subdivision (c) of Section~~
28 ~~8670.40, the administrator shall require, by regulation, all oil spill~~
29 ~~response organizations to have in their response fleets both of the~~
30 ~~following:~~

31 ~~(a) At least two new-generation, high-efficiency disc skimmers.~~
32 ~~This equipment shall include high-efficiency skimming NOFI~~
33 ~~Current Busters, or their equivalent, and Elastec grooved disc~~
34 ~~skimmers, or their equivalent.~~

35 ~~(b) A purpose-built, prepositioned prevention and response tug~~
36 ~~with appropriate size, bollard pull, horsepower, propulsion,~~
37 ~~seakeeping, and maneuverability to meet Det Norske Veritas~~
38 ~~criteria for emergency towing.~~

1 ~~SEC. 9.~~

2 *SEC. 7.* Section 8670.67.5 of the Government Code is amended
3 to read:

4 8670.67.5. (a) Regardless of intent or negligence, any person
5 who causes or permits a spill shall be strictly liable civilly in
6 accordance with subdivision (b) or (c).

7 (b) A penalty may be administratively imposed by the
8 administrator in accordance with Section 8670.68 in an amount
9 not to exceed twenty dollars (\$20) per gallon for a spill. Except as
10 provided in subdivision (d), the amount of the penalty shall be
11 reduced for every gallon of released oil that is recovered and
12 properly disposed of in accordance with applicable law.

13 (c) Whenever the release of oil resulted from gross negligence
14 or reckless conduct, the administrator shall, in accordance with
15 Section 8670.68, impose a penalty in an amount not to exceed
16 sixty dollars (\$60) per gallon for a spill. Except as provided in
17 subdivision (d), the amount of the penalty shall be reduced for
18 every gallon of released oil that is recovered and properly disposed
19 of in accordance with applicable law.

20 (d) (1) For a spill of greater than 500 gallons, the penalty
21 assessed pursuant to subdivision (b) or (c) shall only be reduced
22 for every gallon of released oil that is recovered and properly
23 disposed of in accordance with applicable law within two weeks
24 of the start of the spill.

25 (2) Notwithstanding Section 8670.69.7, any increase in the
26 amount of a penalty assessed for an inland spill resulting from the
27 operation of paragraph (1) shall be deposited in the Environmental
28 Enhancement Fund pursuant to Section 8670.70.

29 (e) The administrator shall adopt regulations governing the
30 method for determining the amount of oil that is cleaned up.

Senate Bill 414*

Rapid Oil Spill Response Act

Senator Jackson

SUMMARY

SB 414 will help make oil spill response faster, more effective, and more environmentally friendly by:

1. Requiring pipeline operators to contract with local fishing vessels and crews for immediate oil spill response.
2. Requiring the Office of Spill Prevention and Response (OSPR) to report to the Legislature the BAT for oil spill prevention and response and to implement standards based on that report.
3. Incentivizing faster oil spill cleanup by only allowing penalty offsets for oil recovered within the first two weeks of a spill.
4. Placing a ban on the use of chemical dispersants in state waters.

BACKGROUND

In 1969, the then-largest known oil spill blackened the pristine Santa Barbara coastline. That spill spawned Earth Day, giving birth to the environmental movement.

On May 19 of this year tragedy struck again when an onshore pipeline carrying crude oil ruptured and spilled over 100,000 gallons of oil, over 20,000 gallons of which ended up in the ocean off the Santa Barbara Coastline. To date this spill has caused significant negative impacts to the ocean, local beaches, wildlife, and the local economy. Although the investigation into the response and the oil spill—dubbed the Refugio Oil Spill—is ongoing, several deficiencies in our ability to immediately respond to these disasters and act quickly to protect our environment have been highlighted.

SOLUTION

In the wake of the Exxon Valdez spill, a very effective program was created for Prince William Sound that enables local fishing vessels and crews to immediately respond to oil spills. Local fishermen are the best suited to immediately respond to an oil spill since they are onsite, know the water and currents, and are interested in protecting their economic interests in the ocean. It

took six hours for state resources to travel from the Los Angeles to Refugio Beach and even longer for cleanup activities to commence; if California had a program similar to the one in Prince William Sound then a more comprehensive response could have started at least six hours sooner, which would have reduced the negative impacts on our ocean, beaches, wildlife, and the economy.

SB 414 also specifies that penalty offsets for spilled oil may only be received for oil recovered within the first two weeks of a spill (currently offsets are allowed for all oil collected regardless of when it gets cleaned up). This policy shift will create an incentive for oil companies to clean up oil spills faster.

Finally, a National Academy of Science review in 2005 concluded that little to no evidence exists for the claims that dispersants “reduce the impact of oil on shorelines,” or “reduce the impact to birds and mammals on the water surface.” Indeed, spilled oil combined with dispersants is significantly more toxic than oil left to physically disperse on its own and is why Prince William Sound has banned their use. Although dispersants could not be used for this spill, SB 414 calls for a ban on the use of dispersants in response to oil spills due to their ineffectiveness and the environmental harm they cause.

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SUPPORT

*Environmental Action Committee of West Marin

*Environmental Defense Center

Audubon California

Azul

Black Surfers Collective

California Coastal Protection Network

California Coastkeeper Alliance

California Environmental Justice Alliance

California League of Conservation Voters

Center for Biological Diversity

Clean Water Action

Coastal Environmental Rights Foundation

Defenders of Wildlife

Environment California

Friends of the Earth

Heal the Bay

Humboldt Baykeeper

National Parks Conservation Association

Natural Resources Defense Council

Ocean Conservancy

Planning & Conservation League

Santa Barbara Channelkeeper

Santa Barbara Chapter of Surfrider

Sierra Club California

Surfrider Foundation

Surfrider Foundation South Bay Chapter

The Wildlands Conservancy

Trust for Public Land



AMENDED IN SENATE JULY 13, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 806

**Introduced by Assembly Member Dodd
(~~Coauthor: Assembly Member Atkins~~)**

February 26, 2015

~~An act to amend Sections 34179, 34191.4, and 34191.5 of the Health and Safety Code, relating to redevelopment. An act to add Section 65964.5 to the Government Code, relating to local government.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 806, as amended, Dodd. ~~Redevelopment: successor agencies to redevelopment agencies. Planning and zoning: permits: strand-mounted antenna.~~

The Permit Streamlining Act governs the approval process that a city, county, or city and county is required to follow when approving, among other things, a project that is located within a flood hazard zone, a permit for a hazardous waste facility project, and a permit for construction or reconstruction for a development project for a wireless telecommunications facility.

This bill would require state and local agencies to encourage the installation of broadband by eliminating barriers that restrict broadband deployment. The bill would also require that strand-mounted antennas, as defined, that were previously in accordance with state or local government permitting requirements be exempt from additional permit

requirements. The bill would make findings and declarations in this regard including that this constitutes a matter of statewide concern.

~~(1) Existing law dissolved redevelopment agencies and community development agencies as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies, subject to review by oversight boards, and to, among other things, make payments due for enforceable obligations and to perform obligations required pursuant to any enforceable obligation. Existing law requires the Department of Finance to issue a finding of completion to a successor agency upon confirmation by the county auditor-controller that specified payments have been fully made by the successor agency. Existing law prohibits a successor agency from entering into contracts with, incurring obligations or making commitments to, any entity, as specified; or from amending or modifying existing agreements, obligations, or commitments with any entity, for any purpose.~~

~~This bill would authorize a successor agency, if the successor agency has received a finding of completion, to amend or modify existing contracts and agreements, or otherwise administer projects in connection with enforceable obligations, if the contract, agreement, or project will not commit new property tax funds or otherwise adversely affect the flow of specified tax revenues or payments to the taxing agencies, as specified.~~

~~(2) Existing law requires each successor agency to have an oversight board composed of 7 members and requires each member to be appointed by a specified authority.~~

~~This bill would allow each appointing authority to appoint alternate representatives to serve on the oversight board as may be necessary. This bill would provide that an alternate representative has the same participatory and voting rights as all other attending members of the oversight board, and would require the successor agency to promptly notify the Department of Finance regarding the appointment of any alternate representatives.~~

~~(3) Existing law requires the disposition of assets and properties of the former redevelopment agency as directed by the oversight board, as specified, and suspends these requirements until the Department of Finance has approved a long-range property management plan, as specified. Upon approval of a long-range property management plan, the plan governs and supersedes all other provisions relating to the disposition and use of the real property assets of the former~~

redevelopment agency. Existing law requires the property of a former redevelopment agency to be disposed of according to law if the department has not approved a long-range property management plan by January 1, 2016.

~~This bill would authorize the department to require a compensation agreement or agreements, but would specify that the compensation agreement or agreements may be developed and executed subsequent to the approval of a long-range property management plan. The bill would describe the criteria and standard to be applied by the department in approving a long-range property management plan. The bill would require the department to approve long-range property management plans as expeditiously as possible. This bill would also provide that actions relating to the disposition of property after approval of a long-range property management plan do not require review by the department.~~

Vote: majority. Appropriation: no. Fiscal committee: *yes-no*. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65964.5 is added to the Government Code,
2 to read:

3 65964.5. (a) (1) *The Legislature hereby finds and declares*
4 *that communications technology and services, particularly*
5 *broadband, are critical the the economic success of this state in*
6 *the 21st century. Broadband can drive local and state economic*
7 *growth, as well as improve education, business services, public*
8 *safety, health care, and energy efficiency.*

9 (2) *The Legislature finds and declares that the implementation*
10 *of consistent statewide policies to achieve timely and cost-effective*
11 *deployment of broadband is a matter of statewide concern and*
12 *that this section shall apply to charter cities and charter counties.*
13 *The provisions of this section shall supersede any inconsistent*
14 *provisions in the charter of any city, county, or city and county.*

15 (b) *It is the intent of the Legislature that state and local agencies*
16 *not adopt ordinances, resolutions, or regulations that create*
17 *unreasonable barriers to the installation of broadband. State and*
18 *local agencies shall encourage the installation of broadband by*
19 *eliminating barriers that restrict broadband deployment.*

1 (c) (1) A strand-mounted antenna used for the provision of
 2 video, voice, or data service that is attached to communications
 3 infrastructure that were previously constructed in accordance with
 4 state or local permitting requirements shall be exempt from
 5 additional permitting requirements.

6 (2) For the purposes of this section, “strand-mounted antenna”
 7 means a low-powered antenna embedded in or attached to
 8 communications cables that are part of a pole-supported overhead
 9 communications infrastructure. “Strand-mounted antenna” shall not
 10 include a commercial mobile radio services (CMRS) antenna.

11 SECTION 1. Section 34179 of the Health and Safety Code is
 12 amended to read:

13 ~~34179. (a) Each successor agency shall have an oversight~~
 14 ~~board composed of seven members. The members shall elect one~~
 15 ~~of their members as the chairperson and shall report the name of~~
 16 ~~the chairperson and other members to the Department of Finance~~
 17 ~~on or before May 1, 2012. Members shall be selected as follows:~~

18 ~~(1) One member appointed by the county board of supervisors.~~

19 ~~(2) One member appointed by the mayor for the city that formed~~
 20 ~~the redevelopment agency.~~

21 ~~(3) (A) One member appointed by the largest special district,~~
 22 ~~by property tax share, with territory in the territorial jurisdiction~~
 23 ~~of the former redevelopment agency, which is of the type of special~~
 24 ~~district that is eligible to receive property tax revenues pursuant~~
 25 ~~to Section 34188.~~

26 ~~(B) On or after the effective date of this subparagraph, the~~
 27 ~~county auditor-controller may determine which is the largest special~~
 28 ~~district for purposes of this section.~~

29 ~~(4) One member appointed by the county superintendent of~~
 30 ~~education to represent schools if the superintendent is elected. If~~
 31 ~~the county superintendent of education is appointed, then the~~
 32 ~~appointment made pursuant to this paragraph shall be made by the~~
 33 ~~county board of education.~~

34 ~~(5) One member appointed by the Chancellor of the California~~
 35 ~~Community Colleges to represent community college districts in~~
 36 ~~the county.~~

37 ~~(6) One member of the public appointed by the county board~~
 38 ~~of supervisors.~~

39 ~~(7) One member representing the employees of the former~~
 40 ~~redevelopment agency appointed by the mayor or chair of the~~

1 board of supervisors, as the case may be, from the recognized
2 employee organization representing the largest number of former
3 redevelopment agency employees employed by the successor
4 agency at that time. In the case where city or county employees
5 performed administrative duties of the former redevelopment
6 agency, the appointment shall be made from the recognized
7 employee organization representing those employees. If a
8 recognized employee organization does not exist for either the
9 employees of the former redevelopment agency or the city or
10 county employees performing administrative duties of the former
11 redevelopment agency, the appointment shall be made from among
12 the employees of the successor agency. In voting to approve a
13 contract as an enforceable obligation, a member appointed pursuant
14 to this paragraph shall not be deemed to be interested in the contract
15 by virtue of being an employee of the successor agency or
16 community for purposes of Section 1090 of the Government Code.

17 (8) ~~If the county or a joint powers agency formed the~~
18 ~~redevelopment agency, then the largest city by acreage in the~~
19 ~~territorial jurisdiction of the former redevelopment agency may~~
20 ~~select one member. If there are no cities with territory in a project~~
21 ~~area of the redevelopment agency, the county superintendent of~~
22 ~~education may appoint an additional member to represent the~~
23 ~~public.~~

24 (9) ~~If there are no special districts of the type that are eligible~~
25 ~~to receive property tax pursuant to Section 34188, within the~~
26 ~~territorial jurisdiction of the former redevelopment agency, then~~
27 ~~the county may appoint one member to represent the public.~~

28 (10) ~~If a redevelopment agency was formed by an entity that is~~
29 ~~both a charter city and a county, the oversight board shall be~~
30 ~~composed of seven members selected as follows: three members~~
31 ~~appointed by the mayor of the city, if that appointment is subject~~
32 ~~to confirmation by the county board of supervisors, one member~~
33 ~~appointed by the largest special district, by property tax share, with~~
34 ~~territory in the territorial jurisdiction of the former redevelopment~~
35 ~~agency, which is the type of special district that is eligible to~~
36 ~~receive property tax revenues pursuant to Section 34188, one~~
37 ~~member appointed by the county superintendent of education to~~
38 ~~represent schools, one member appointed by the Chancellor of the~~
39 ~~California Community Colleges to represent community college~~
40 ~~districts, and one member representing employees of the former~~

1 redevelopment agency appointed by the mayor of the city if that
2 appointment is subject to confirmation by the county board of
3 supervisors, to represent the largest number of former
4 redevelopment agency employees employed by the successor
5 agency at that time.

6 ~~(11) Each appointing authority identified in this subdivision~~
7 ~~may, but is not required to, appoint alternate representatives to~~
8 ~~serve on the oversight board as may be necessary to attend any~~
9 ~~meeting of the oversight board in the event that the appointing~~
10 ~~authority's primary representative is unable to attend any meeting~~
11 ~~for any reason. If an alternate representative attends any meeting~~
12 ~~in place of the primary representative, the alternate representative~~
13 ~~shall have the same participatory and voting rights as all other~~
14 ~~attending members of the oversight board. The successor agency~~
15 ~~shall promptly notify the department regarding the appointment~~
16 ~~of alternate representatives to the oversight board.~~

17 ~~(b) The Governor may appoint individuals to fill any oversight~~
18 ~~board member position described in subdivision (a) that has not~~
19 ~~been filled by May 15, 2012, or any member position that remains~~
20 ~~vacant for more than 60 days.~~

21 ~~(c) The oversight board may direct the staff of the successor~~
22 ~~agency to perform work in furtherance of the oversight board's~~
23 ~~duties and responsibilities under this part. The successor agency~~
24 ~~shall pay for all of the costs of meetings of the oversight board~~
25 ~~and may include such costs in its administrative budget. Oversight~~
26 ~~board members shall serve without compensation or reimbursement~~
27 ~~for expenses.~~

28 ~~(d) Oversight board members are protected by the immunities~~
29 ~~applicable to public entities and public employees governed by~~
30 ~~Part 1 (commencing with Section 810) and Part 2 (commencing~~
31 ~~with Section 814) of Division 3.6 of Title 1 of the Government~~
32 ~~Code.~~

33 ~~(e) A majority of the total membership of the oversight board~~
34 ~~shall constitute a quorum for the transaction of business. A majority~~
35 ~~vote of the total membership of the oversight board is required for~~
36 ~~the oversight board to take action. The oversight board shall be~~
37 ~~deemed to be a local entity for purposes of the Ralph M. Brown~~
38 ~~Act, the California Public Records Act, and the Political Reform~~
39 ~~Act of 1974. All actions taken by the oversight board shall be~~
40 ~~adopted by resolution.~~

1 ~~(f) All notices required by law for proposed oversight board~~
2 ~~actions shall also be posted on the successor agency's Internet~~
3 ~~Web site or the oversight board's Internet Web site.~~
4 ~~(g) Each member of an oversight board shall serve at the~~
5 ~~pleasure of the entity that appointed such member.~~
6 ~~(h) The Department of Finance may review an oversight board~~
7 ~~action taken pursuant to this part. Written notice and information~~
8 ~~about all actions taken by an oversight board shall be provided to~~
9 ~~the department by electronic means and in a manner of the~~
10 ~~department's choosing. An action shall become effective five~~
11 ~~business days after notice in the manner specified by the~~
12 ~~department is provided unless the department requests a review.~~
13 ~~Each oversight board shall designate an official to whom the~~
14 ~~department may make those requests and who shall provide the~~
15 ~~department with the telephone number and email contact~~
16 ~~information for the purpose of communicating with the department~~
17 ~~pursuant to this subdivision. Except as otherwise provided in this~~
18 ~~part, in the event that the department requests a review of a given~~
19 ~~oversight board action, it shall have 40 days from the date of its~~
20 ~~request to approve the oversight board action or return it to the~~
21 ~~oversight board for reconsideration and the oversight board action~~
22 ~~shall not be effective until approved by the department. In the~~
23 ~~event that the department returns the oversight board action to the~~
24 ~~oversight board for reconsideration, the oversight board shall~~
25 ~~resubmit the modified action for department approval and the~~
26 ~~modified oversight board action shall not become effective until~~
27 ~~approved by the department. If the department reviews a~~
28 ~~Recognized Obligation Payment Schedule, the department may~~
29 ~~eliminate or modify any item on that schedule prior to its approval.~~
30 ~~The county auditor-controller shall reflect the actions of the~~
31 ~~department in determining the amount of property tax revenues to~~
32 ~~allocate to the successor agency. The department shall provide~~
33 ~~notice to the successor agency and the county auditor-controller~~
34 ~~as to the reasons for its actions. To the extent that an oversight~~
35 ~~board continues to dispute a determination with the department,~~
36 ~~one or more future recognized obligation schedules may reflect~~
37 ~~any resolution of that dispute. The department may also agree to~~
38 ~~an amendment to a Recognized Obligation Payment Schedule to~~
39 ~~reflect a resolution of a disputed item; however, this shall not affect~~

1 a past allocation of property tax or create a liability for any affected
2 taxing entity.

3 ~~(i) Oversight boards shall have fiduciary responsibilities to~~
4 ~~holders of enforceable obligations and the taxing entities that~~
5 ~~benefit from distributions of property tax and other revenues~~
6 ~~pursuant to Section 34188. Further, the provisions of Division 4~~
7 ~~(commencing with Section 1000) of the Government Code shall~~
8 ~~apply to oversight boards. Notwithstanding Section 1099 of the~~
9 ~~Government Code, or any other law, any individual may~~
10 ~~simultaneously be appointed to up to five oversight boards and~~
11 ~~may hold an office in a city, county, city and county, special~~
12 ~~district, school district, or community college district.~~

13 ~~(j) Commencing on and after July 1, 2016, in each county where~~
14 ~~more than one oversight board was created by operation of the act~~
15 ~~adding this part, there shall be only one oversight board appointed~~
16 ~~as follows:~~

17 ~~(1) One member may be appointed by the county board of~~
18 ~~supervisors.~~

19 ~~(2) One member may be appointed by the city selection~~
20 ~~committee established pursuant to Section 50270 of the~~
21 ~~Government Code. In a city and county, the mayor may appoint~~
22 ~~one member.~~

23 ~~(3) One member may be appointed by the independent special~~
24 ~~district selection committee established pursuant to Section 56332~~
25 ~~of the Government Code, for the types of special districts that are~~
26 ~~eligible to receive property tax revenues pursuant to Section 34188.~~

27 ~~(4) One member may be appointed by the county superintendent~~
28 ~~of education to represent schools if the superintendent is elected.~~
29 ~~If the county superintendent of education is appointed, then the~~
30 ~~appointment made pursuant to this paragraph shall be made by the~~
31 ~~county board of education.~~

32 ~~(5) One member may be appointed by the Chancellor of the~~
33 ~~California Community Colleges to represent community college~~
34 ~~districts in the county.~~

35 ~~(6) One member of the public may be appointed by the county~~
36 ~~board of supervisors.~~

37 ~~(7) One member may be appointed by the recognized employee~~
38 ~~organization representing the largest number of successor agency~~
39 ~~employees in the county.~~

1 ~~(k) The Governor may appoint individuals to fill any oversight~~
2 ~~board member position described in subdivision (j) that has not~~
3 ~~been filled by July 15, 2016, or any member position that remains~~
4 ~~vacant for more than 60 days.~~

5 ~~(l) Commencing on and after July 1, 2016, in each county where~~
6 ~~only one oversight board was created by operation of the act adding~~
7 ~~this part, then there will be no change to the composition of that~~
8 ~~oversight board as a result of the operation of subdivision (b).~~

9 ~~(m) Any oversight board for a given successor agency shall~~
10 ~~cease to exist when all of the indebtedness of the dissolved~~
11 ~~redevelopment agency has been repaid.~~

12 ~~(n) An oversight board may direct a successor agency to provide~~
13 ~~additional legal or financial advice than what was given by agency~~
14 ~~staff.~~

15 ~~(o) An oversight board is authorized to contract with the county~~
16 ~~or other public or private agencies for administrative support.~~

17 ~~(p) On matters within the purview of the oversight board,~~
18 ~~decisions made by the oversight board supersede those made by~~
19 ~~the successor agency or the staff of the successor agency.~~

20 ~~SEC. 2. Section 34191.4 of the Health and Safety Code is~~
21 ~~amended to read:~~

22 ~~34191.4. The following provisions shall apply to any successor~~
23 ~~agency that has been issued a finding of completion by the~~
24 ~~Department of Finance:~~

25 ~~(a) All real property and interests in real property identified in~~
26 ~~subparagraph (C) of paragraph (5) of subdivision (e) of Section~~
27 ~~34179.5 shall be transferred to the Community Redevelopment~~
28 ~~Property Trust Fund of the successor agency upon approval by the~~
29 ~~Department of Finance of the long-range property management~~
30 ~~plan submitted by the successor agency pursuant to subdivision~~
31 ~~(b) of Section 34191.5 unless that property is subject to the~~
32 ~~requirements of any existing enforceable obligation.~~

33 ~~(b) (1) Notwithstanding subdivision (d) of Section 34171, upon~~
34 ~~application by the successor agency and approval by the oversight~~
35 ~~board, loan agreements entered into between the redevelopment~~
36 ~~agency and the city, county, or city and county that created the~~
37 ~~redevelopment agency shall be deemed to be enforceable~~
38 ~~obligations provided that the oversight board makes a finding that~~
39 ~~the loan was for legitimate redevelopment purposes.~~

1 ~~(2) If the oversight board finds that the loan is an enforceable~~
2 ~~obligation, the accumulated interest on the remaining principal~~
3 ~~amount of the loan shall be recalculated from origination at the~~
4 ~~interest rate earned by funds deposited into the Local Agency~~
5 ~~Investment Fund. The loan shall be repaid to the city, county, or~~
6 ~~city and county in accordance with a defined schedule over a~~
7 ~~reasonable term of years at an interest rate not to exceed the interest~~
8 ~~rate earned by funds deposited into the Local Agency Investment~~
9 ~~Fund. The annual loan repayments provided for in the recognized~~
10 ~~obligation payment schedules shall be subject to all of the following~~
11 ~~limitations:~~

12 ~~(A) Loan repayments shall not be made prior to the 2013–14~~
13 ~~fiscal year. Beginning in the 2013–14 fiscal year, the maximum~~
14 ~~repayment amount authorized each fiscal year for repayments~~
15 ~~made pursuant to this subdivision and paragraph (7) of subdivision~~
16 ~~(e) of Section 34176 combined shall be equal to one-half of the~~
17 ~~increase between the amount distributed to the taxing entities~~
18 ~~pursuant to paragraph (4) of subdivision (a) of Section 34183 in~~
19 ~~that fiscal year and the amount distributed to taxing entities~~
20 ~~pursuant to that paragraph in the 2012–13 base year, provided,~~
21 ~~however, that calculation of the amount distributed to taxing~~
22 ~~entities during the 2012–13 base year shall not include any amounts~~
23 ~~distributed to taxing entities pursuant to the due diligence review~~
24 ~~process established in Sections 34179.5 to 34179.8, inclusive.~~
25 ~~Loan or deferral repayments made pursuant to this subdivision~~
26 ~~shall be second in priority to amounts to be repaid pursuant to~~
27 ~~paragraph (7) of subdivision (e) of Section 34176.~~

28 ~~(B) Repayments received by the city, county, or city and county~~
29 ~~that formed the redevelopment agency shall first be used to retire~~
30 ~~any outstanding amounts borrowed and owed to the Low and~~
31 ~~Moderate Income Housing Fund of the former redevelopment~~
32 ~~agency for purposes of the Supplemental Educational Revenue~~
33 ~~Augmentation Fund and shall be distributed to the Low and~~
34 ~~Moderate Income Housing Asset Fund established by subdivision~~
35 ~~(d) of Section 34176.~~

36 ~~(C) Twenty percent of any loan repayment shall be deducted~~
37 ~~from the loan repayment amount and shall be transferred to the~~
38 ~~Low and Moderate Income Housing Asset Fund, after all~~
39 ~~outstanding loans from the Low and Moderate Income Housing~~

1 Fund for purposes of the Supplemental Educational Revenue
2 Augmentation Fund have been paid.

3 (e) (1) Bond proceeds derived from bonds issued on or before
4 December 31, 2010, shall be used for the purposes for which the
5 bonds were sold.

6 (2) (A) Notwithstanding Section 34177.3 or any other
7 conflicting provision of law, bond proceeds in excess of the
8 amounts needed to satisfy approved enforceable obligations shall
9 thereafter be expended in a manner consistent with the original
10 bond covenants. Enforceable obligations may be satisfied by the
11 creation of reserves for projects that are the subject of the
12 enforceable obligation and that are consistent with the contractual
13 obligations for those projects, or by expending funds to complete
14 the projects. An expenditure made pursuant to this paragraph shall
15 constitute the creation of excess bond proceeds obligations to be
16 paid from the excess proceeds. Excess bond proceeds obligations
17 shall be listed separately on the Recognized Obligation Payment
18 Schedule submitted by the successor agency.

19 (B) If remaining bond proceeds cannot be spent in a manner
20 consistent with the bond covenants pursuant to subparagraph (A),
21 the proceeds shall be used to defease the bonds or to purchase
22 those same outstanding bonds on the open market for cancellation.

23 (d) Notwithstanding subdivision (b) of Section 34163, if a
24 successor agency has received a finding of completion, with the
25 approval of the successor agency's oversight board, the successor
26 agency may amend or modify existing contracts and agreements,
27 or otherwise administer projects in connection with enforceable
28 obligations approved pursuant to subdivision (m) of Section 34177,
29 including the substitution of private developer capital in a
30 disposition and development agreement that has been deemed an
31 enforceable obligation, if the contract, agreement, or project will
32 not commit new property tax funds, and will not otherwise directly
33 or indirectly reduce property tax revenues or payments made
34 pursuant to paragraph (4) of subdivision (a) of Section 34183 to
35 the taxing agencies.

36 SEC. 3. Section 34191.5 of the Health and Safety Code is
37 amended to read:

38 34191.5. (a) There is hereby established a Community
39 Redevelopment Property Trust Fund, administered by the successor
40 agency, to serve as the repository of the former redevelopment

1 agency's real properties identified in subparagraph (C) of paragraph
2 (5) of subdivision (e) of Section 34179.5.

3 (b) ~~The successor agency shall prepare a long-range property
4 management plan that addresses the disposition and use of the real
5 properties of the former redevelopment agency. The report shall
6 be submitted to the oversight board and the Department of Finance
7 for approval no later than six months following the issuance to the
8 successor agency of the finding of completion.~~

9 (c) ~~The long-range property management plan shall do all of
10 the following:~~

11 (1) ~~Include an inventory of all properties in the trust. The
12 inventory shall consist of all of the following information:~~

13 (A) ~~The date of the acquisition of the property and the value of
14 the property at that time, and an estimate of the current value of
15 the property.~~

16 (B) ~~The purpose for which the property was acquired.~~

17 (C) ~~Parcel data, including address, lot size, and current zoning
18 in the former agency redevelopment plan or specific, community,
19 or general plan.~~

20 (D) ~~An estimate of the current value of the parcel including, if
21 available, any appraisal information.~~

22 (E) ~~An estimate of any lease, rental, or any other revenues
23 generated by the property, and a description of the contractual
24 requirements for the disposition of those funds.~~

25 (F) ~~The history of environmental contamination, including
26 designation as a brownfield site, any related environmental studies,
27 and history of any remediation efforts.~~

28 (G) ~~A description of the property's potential for transit-oriented
29 development and the advancement of the planning objectives of
30 the successor agency.~~

31 (H) ~~A brief history of previous development proposals and
32 activity, including the rental or lease of property.~~

33 (2) ~~Address the use or disposition of all of the properties in the
34 trust. Permissible uses include the retention of the property for
35 governmental use pursuant to subdivision (a) of Section 34181,
36 the retention of the property for future development, the sale of
37 the property, or the use of the property to fulfill an enforceable
38 obligation. The plan shall separately identify and list properties in
39 the trust dedicated to governmental use purposes and properties
40 retained for purposes of fulfilling an enforceable obligation. With~~

1 respect to the use or disposition of all other properties, all of the
2 following shall apply:

3 (A) (i) If the plan directs the use or liquidation of the property
4 for a project identified in an approved redevelopment plan, the
5 property shall transfer to the city, county, or city and county.

6 (ii) For purposes of this subparagraph, the term “identified in
7 an approved redevelopment plan” includes properties listed in a
8 community plan or a five-year implementation plan.

9 (iii) The department or an oversight board may require approval
10 of a compensation agreement or agreements, as described in
11 subdivision (f) of Section 34180, prior to any transfer of property
12 pursuant to this subparagraph, provided, however, that a
13 compensation agreement or agreements may be developed and
14 executed subsequent to the approval process of a long-range
15 property management plan.

16 (B) If the plan directs the liquidation of the property or the use
17 of revenues generated from the property, such as lease or parking
18 revenues, for any purpose other than to fulfill an enforceable
19 obligation or other than that specified in subparagraph (A), the
20 proceeds from the sale shall be distributed as property tax to the
21 taxing entities.

22 (C) Property shall not be transferred to a successor agency, city,
23 county, or city and county, unless the long-range property
24 management plan has been approved by the oversight board and
25 the Department of Finance.

26 (d) The department shall only consider whether the long-range
27 property management plan makes a good faith effort to address
28 the requirements set forth in subdivision (e).

29 (e) The department shall approve long-range property
30 management plans as expeditiously as possible.

31 (f) Actions relating to the disposition of property after approval
32 of a long-range property management plan shall not require review
33 by the department.



ASSEMBLY MEMBER

Bill Dodd

DISTRICT 4

FACT SHEET

AB 806 – Dodd (as amended 7-13-2015) Wi-Fi Antennas

Summary

Assembly Bill 806, as amended 7-13-15, would exempt strand-mounted antennas used for the provision of video, voice, or data service from additional permitting requirements as long as those strand-mounted antennas are attached to communications infrastructure constructed in accordance with state or local permitting requirements.

Background

Local government permit cable operators to install overhead and underground wireline facilities. Low-powered Wi-Fi network upgrades that attach to authorized, previously permitted broadband wireline facilities have not been considered a material change to those permitted facilities and customarily have not required any additional local government permits. However, some local governments are now considering adopting regulations to require additional permits for these strand-mounted facilities.

The increased bureaucracy of requiring additional permits for Wi-Fi attachments to permitted broadband infrastructure (strands of cable) would slow or stop the installation of tens of thousands of future Wi-Fi cable hotspots planned for deployment and would not provide any greater level of safety – at the very time California is looking to Wi-Fi to enhance public safety.

Wi-Fi is a technological innovation that has vastly enhanced the ability of the public to send and receive information. The California Legislature has recognized that Wi-Fi is an essential part of our developing public safety broadband network that will include text-to-911 and other Next-Gen 911 capabilities.

In the event of catastrophic events, the availability of universal Wi-Fi provides additional opportunities for emergency response authorities to communicate with residents/citizens.

As a recent example, following the 2014

Napa-Sonoma earthquake, Comcast opened its Xfinity Wi-Fi network for free to non-customers in Napa, Vallejo, Fairfield, Saint Helena and other North Bay communities to help residents and emergency crews recover from the earthquake.

In another example, during last year's San Diego County fires, Cox Communications provided wireless and wired connectivity to the Cal Fire assembly area around Lake O'Neil on Camp Pendleton.

Wi-Fi and connected devices are growing at an explosive rate, inside the home and outside, enriching our digital connection. In 2014, more data was carried over Wi-Fi in the United States than any other platform. In fact, 64 percent of mobile users connect to Wi-Fi networks outside of their home at least once a day. It is estimated that by 2017, the average person will have five Wi-Fi devices. Nationally, the cable industry has built more than 400,000 out-of-home public Wi-Fi hotspots.

Existing Law

The California Constitution allows a city to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws, known as the police power of cities." It is from this fundamental power that local governments derive their authority to regulate land through planning, zoning, and building ordinances, thereby protecting public health, safety and welfare.

Existing law:

- Prohibits a city or county from unreasonably limiting the duration of any permit for a wireless telecommunications facility. (Government Code 65964).
- Prohibits a city or county from requiring that all wireless telecommunications facilities be limited to sites owned by particular parties within the jurisdiction of the city or county. (Government Code 65964)

The Federal Communications Commission (FCC) has primary regulatory authority over the video, voice and data services provided by the cable industry. However, cable and video providers are also required to obtain a state or local franchise to provide video service and pay significant fees and taxes to access the public right-of-way.

Cable operators must also obtain and pay local government encroachment permits for the initial installation of overhead and underground facilities placed on or in regulated or municipal utility infrastructure.

To ensure that telephone companies, electric utilities and local governments would not stifle the growth of the then-fledgling cable television industry by charging excessive rates for essential pole

attachments, Congress enacted the Pole Attachment Act of 1978 (Act). In California, the Legislature and the Public Utilities Commission require regulated utilities to grant the cable industry access to their utility poles and to set the rates, terms, and conditions for that access.

In 2011, the Legislature extended comparable requirements on California municipal utilities. Also, in 2011, the FCC reformed its pole attachment rules to "streamline access and reduce costs for attaching broadband lines and wireless antennas to utility poles.

While federal and state law provides for cable attachments to utility infrastructure, these attachments must also comply with the safety standards set by the California Public Utilities Commissions' (CPUC) General Order (GO) 95 (overhead pole attachment) including GO 95, Rule 94 (antennas) and General Order 128 (underground attachments).

This Bill

AB 806 would prevent unnecessary barriers to expediting the deployment of broadband via Wi-Fi by providing that antennas used for the provision of video, voice or data service that are attached to communications facilities (strands of cable) constructed in accordance with state or local government permitting requirements, shall be exempt from additional permitting requirements.

FOR MORE INFORMATION – Contact Les Spahnn, Office of Assemblymember Bill Dodd (916) 319-2004

Support

Calif. Cable and Telecommunications Association
Charter Communications
Comcast
Cox Communications
Time Warner Cable

Opposition

Contact

Les Spahnn: Leslie.Spahnn@asm.ca.gov;
916-319-2004

AMENDED IN ASSEMBLY MAY 20, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

AMENDED IN ASSEMBLY MARCH 2, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 35

**Introduced by Assembly Members Chiu and Atkins
(Principal coauthor: Assembly Member Wilk)
(Coauthors: Assembly Members Chau and Steinorth)**

December 1, 2014

An act to amend Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 35, as amended, Chiu. Income taxes: credits: low-income housing: allocation increase.

Existing law establishes a low-income housing tax credit program pursuant to which the California Tax Credit Allocation Committee provides procedures and requirements for the allocation of state insurance, personal income, and corporation income tax credit amounts among low-income housing projects based on federal law. Existing law, in modified conformity to federal income tax law, allows the credit based upon the applicable percentage, as defined, of the qualified basis of each qualified low-income building. Existing law limits the total annual amount of the credit that the committee may allocate to \$70 million per year, as specified.

This bill, for calendar years beginning ~~2015~~, 2016, would increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects by \$300,000,000, as specified. The bill, under the insurance taxation law, the Personal Income Tax Law, and the Corporation Tax Law, would modify the definition of applicable percentage relating to qualified low-income buildings that meet specified criteria.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12206 of the Revenue and Taxation Code
2 is amended to read:
3 12206. (a) (1) There shall be allowed as a credit against the
4 “tax,” as described by Section 12201, a state low-income housing
5 tax credit in an amount equal to the amount determined in
6 subdivision (c), computed in accordance with Section 42 of the
7 Internal Revenue Code except as otherwise provided in this section.
8 (2) “Taxpayer,” for purposes of this section, means the sole
9 owner in the case of a “C” corporation, the partners in the case of
10 a partnership, members in the case of a limited liability company,
11 and the shareholders in the case of an “S” corporation.
12 (3) “Housing sponsor,” for purposes of this section, means the
13 sole owner in the case of a “C” corporation, the partnership in the
14 case of a partnership, the limited liability company in the case of
15 a limited liability company, and the “S” corporation in the case of
16 an “S” corporation.
17 (4) “Extremely low-income” has the same meaning as in Section
18 50053 of the Health and Safety Code.
19 ~~(5) “Rural area” means a rural area as defined in Section~~
20 ~~50199.21 of the Health and Safety Code.~~
21 ~~(6) “Special needs housing” has the meaning as in paragraph~~
22 ~~(4) of subdivision (g) of Section 10325 of Title 4 of the California~~
23 ~~Code of Regulations.~~
24 ~~(7) “SRO” means single room occupancy.~~
25 ~~(8)~~
26 (5) “Very low-income” has the same meaning as in Section
27 50053 of the Health and Safety Code.” Code.

1 (b) (1) The amount of the credit allocated to any housing
2 sponsor shall be authorized by the California Tax Credit Allocation
3 Committee, or any successor thereof, based on a project's need
4 for the credit for economic feasibility in accordance with the
5 requirements of this section.

6 (A) Except for projects to provide farmworker housing, as
7 defined in subdivision (h) of Section 50199.7 of the Health and
8 Safety Code, that are allocated credits solely under the set-aside
9 described in subdivision (c) of Section 50199.20 of the Health and
10 Safety Code, the low-income housing project shall be located in
11 California and shall meet either of the following requirements:

12 (i) The project's housing sponsor has been allocated by the
13 California Tax Credit Allocation Committee a credit for federal
14 income tax purposes under Section 42 of the Internal Revenue
15 Code.

16 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
17 Internal Revenue Code.

18 (B) The California Tax Credit Allocation Committee shall not
19 require fees for the credit under this section in addition to those
20 fees required for applications for the tax credit pursuant to Section
21 42 of the Internal Revenue Code. The committee may require a
22 fee if the application for the credit under this section is submitted
23 in a calendar year after the year the application is submitted for
24 the federal tax credit.

25 (C) (i) For a project that receives a preliminary reservation of
26 the state low-income housing tax credit, allowed pursuant to
27 subdivision (a), on or after January 1, 2009, and before January 1,
28 2016, the credit shall be allocated to the partners of a partnership
29 owning the project in accordance with the partnership agreement,
30 regardless of how the federal low-income housing tax credit with
31 respect to the project is allocated to the partners, or whether the
32 allocation of the credit under the terms of the agreement has
33 substantial economic effect, within the meaning of Section 704(b)
34 of the Internal Revenue Code.

35 (ii) This subparagraph shall not apply to a project that receives
36 a preliminary reservation of state low-income housing tax credits
37 under the set-aside described in subdivision (c) of Section 50199.20
38 of the Health and Safety Code unless the project also receives a
39 preliminary reservation of federal low-income housing tax credits.

1 (iii) This subparagraph shall cease to be operative with respect
2 to any project that receives a preliminary reservation of a credit
3 on or after January 1, 2016.

4 (2) (A) The California Tax Credit Allocation Committee shall
5 certify to the housing sponsor the amount of tax credit under this
6 section allocated to the housing sponsor for each credit period.

7 (B) In the case of a partnership or an “S” corporation, the
8 housing sponsor shall provide a copy of the California Tax Credit
9 Allocation Committee certification to the taxpayer.

10 (C) The taxpayer shall attach a copy of the certification to any
11 return upon which a tax credit is claimed under this section.

12 (D) In the case of a failure to attach a copy of the certification
13 for the year to the return in which a tax credit is claimed under this
14 section, no credit under this section shall be allowed for that year
15 until a copy of that certification is provided.

16 (E) All elections made by the taxpayer pursuant to Section 42
17 of the Internal Revenue Code shall apply to this section.

18 (F) (i) The California Tax Credit Allocation Committee may
19 allocate a credit under this section in exchange for a credit allocated
20 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in
21 amounts up to 30 percent of the eligible basis of a building if the
22 credits allowed under Section 42 of the Internal Revenue Code are
23 reduced by an equivalent amount.

24 (ii) An equivalent amount shall be determined by the California
25 Tax Credit Allocation Committee based upon the relative amount
26 required to produce an equivalent state tax credit to the taxpayer.

27 (c) Section 42(b) of the Internal Revenue Code shall be modified
28 as follows:

29 (1) In the case of any qualified low-income building that is a
30 ~~new-building~~ *building, as defined in Section 42 of the Internal*
31 *Revenue Code and the regulations promulgated thereunder, and*
32 *not federally subsidized, the term “applicable percentage” means*
33 *the following:*

34 (A) For each of the first three years, the percentage prescribed
35 by the Secretary of the Treasury for new buildings that are not
36 federally subsidized for the taxable year, determined in accordance
37 with the requirements of Section 42(b)(1) of the Internal Revenue
38 Code in lieu of the percentage prescribed in Section 42(b)(1)(A)
39 of the Internal Revenue Code.

1 (B) For the fourth year, the difference between 30 percent and
2 the sum of the applicable percentages for the first three years.

3 (2) In the case of any qualified low-income building that (i) is
4 a new building, *as defined in Section 42 of the Internal Revenue*
5 *Code and the regulations promulgated thereunder*, (ii) not located
6 in designated difficult development areas (DDAs) or qualified
7 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the
8 Internal Revenue Code, and (iii) is federally subsidized, the term
9 “applicable percentage” means for the first three years, 15 percent
10 of the qualified basis of the building, and for the fourth year, 5
11 percent of the qualified basis of the building.

12 (3) In the case of any qualified low-income building that is (i)
13 an existing building, *as defined in Section 42 of the Internal*
14 *Revenue Code and the regulations promulgated thereunder*, (ii)
15 not located in designated difficult development areas (DDAs) or
16 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)
17 of the Internal Revenue Code, and (iii) is federally subsidized, the
18 term applicable percentage means the following:

19 (A) For each of the first three years, the percentage prescribed
20 by the Secretary of the Treasury for new buildings that are federally
21 subsidized for the taxable year.

22 (B) For the fourth year, the difference between 13 percent and
23 the sum of the applicable percentages for the first three years.

24 (4) In the case of any qualified low-income building that is (i)
25 a new or an existing building, (ii) located in designated difficult
26 development areas (DDAs) or qualified census tracts (QCTs) as
27 defined in Section 42(d)(5)(B) of the Internal Revenue Code, and
28 (iii) federally subsidized, the California Tax Credit Allocation
29 Committee shall ~~determine~~ *reduce* the amount of *California* credit
30 to be allocated under ~~subparagraph (F) of paragraph (2) of~~
31 ~~subdivision (b) required to produce an equivalent state tax credit~~
32 ~~to the taxpayer, as produced in paragraph (2), paragraph (2) and~~
33 ~~(3) by taking into account the increased federal credit received~~
34 *due to* the basis boost provided under Section 42(d)(5)(B) of the
35 Internal Revenue Code.

36 (5) In the case of any qualified low-income building that meets
37 all of the requirements of subparagraphs (A) through (D), inclusive,
38 the term “applicable percentage” means 30 percent for each of the
39 first three years and 5 percent for the fourth year. *A qualified*

1 *low-income building receiving an allocation under this paragraph*
 2 *is ineligible to also receive an allocation under paragraph (3).*

3 (A) The qualified low-income building is at least 15 years old.

4 ~~(B) The qualified low-income building is a SRO, special needs~~
 5 ~~housing, is in a rural area, or serves households with very~~
 6 ~~low-income or extremely low-income residents.~~

7 ~~(C) The qualified low-income building is serving households~~
 8 ~~of very low-income or extremely low-income provided that the~~
 9 ~~average income at time admission is not more than 45 percent of~~
 10 ~~the median gross income, as determined under Section 42 of the~~
 11 ~~Internal Revenue Code, adjusted by household size.~~

12 (B) *The qualified low-income building is serving households of*
 13 *very low-income or extremely low-income such that the average*
 14 *maximum household income as restricted, pursuant to an existing*
 15 *regulatory agreement with a federal, state, county, local, or other*
 16 *governmental agency, is not more than 45 percent of the area*
 17 *median gross income, as determined under Section 42 of the*
 18 *Internal Revenue Code, adjusted by household size, and a tax*
 19 *credit regulatory agreement is entered into for a period of not less*
 20 *than 55 years restricting the average targeted household income*
 21 *to no more than 45 percent of the area median income.*

22 ~~(D)~~

23 (C) The qualified low-income building would have insufficient
 24 credits under paragraphs ~~(1) and (2) and (3)~~ to complete substantial
 25 rehabilitation due to a low appraised value.

26 (D) *The qualified low-income building will complete the*
 27 *substantial rehabilitation in connection with the credit allocation*
 28 *herein.*

29 (d) The term “qualified low-income housing project” as defined
 30 in Section 42(c)(2) of the Internal Revenue Code is modified by
 31 adding the following requirements:

32 (1) The taxpayer shall be entitled to receive a cash distribution
 33 from the operations of the project, after funding required reserves,
 34 that, at the election of the taxpayer, is equal to:

35 (A) An amount not to exceed 8 percent of the lesser of:

36 (i) The owner equity that shall include the amount of the capital
 37 contributions actually paid to the housing sponsor and shall not
 38 include any amounts until they are paid on an investor note.

39 (ii) Twenty percent of the adjusted basis of the building as of
 40 the close of the first taxable year of the credit period.

1 (B) The amount of the cashflow from those units in the building
2 that are not low-income units. For purposes of computing cashflow
3 under this subparagraph, operating costs shall be allocated to the
4 low-income units using the “floor space fraction,” as defined in
5 Section 42 of the Internal Revenue Code.

6 (C) Any amount allowed to be distributed under subparagraph
7 (A) that is not available for distribution during the first five years
8 of the compliance period may be accumulated and distributed any
9 time during the first 15 years of the compliance period but not
10 thereafter.

11 (2) The limitation on return shall apply in the aggregate to the
12 partners if the housing sponsor is a partnership and in the aggregate
13 to the shareholders if the housing sponsor is an “S” corporation.

14 (3) The housing sponsor shall apply any cash available for
15 distribution in excess of the amount eligible to be distributed under
16 paragraph (1) to reduce the rent on rent-restricted units or to
17 increase the number of rent-restricted units subject to the tests of
18 Section 42(g)(1) of the Internal Revenue Code.

19 (e) The provisions of Section 42(f) of the Internal Revenue Code
20 shall be modified as follows:

21 (1) The term “credit period” as defined in Section 42(f)(1) of
22 the Internal Revenue Code is modified by substituting “four taxable
23 years” for “10 taxable years.”

24 (2) The special rule for the first taxable year of the credit period
25 under Section 42(f)(2) of the Internal Revenue Code shall not apply
26 to the tax credit under this section.

27 (3) Section 42(f)(3) of the Internal Revenue Code is modified
28 to read:

29 If, as of the close of any taxable year in the compliance period,
30 after the first year of the credit period, the qualified basis of any
31 building exceeds the qualified basis of that building as of the close
32 of the first year of the credit period, the housing sponsor, to the
33 extent of its tax credit allocation, shall be eligible for a credit on
34 the excess in an amount equal to the applicable percentage
35 determined pursuant to subdivision (c) for the four-year period
36 beginning with the taxable year in which the increase in
37 qualified basis occurs.

38 (f) The provisions of Section 42(h) of the Internal Revenue
39 Code shall be modified as follows:

1 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
2 applicable and instead the following provisions shall be applicable:

3 The total amount for the four-year credit period of the housing
4 credit dollars allocated in a calendar year to any building shall
5 reduce the aggregate housing credit dollar amount of the California
6 Tax Credit Allocation Committee for the calendar year in which
7 the allocation is made.

8 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
9 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
10 not be applicable.

11 (g) The aggregate housing credit dollar amount that may be
12 allocated annually by the California Tax Credit Allocation
13 Committee pursuant to this section, Section 17058, and Section
14 23610.5 shall be an amount equal to the sum of all the following:

15 (1) (A) Seventy million dollars (\$70,000,000) for the 2001
16 calendar year, and, for the 2002 calendar year and each calendar
17 year thereafter, seventy million dollars (\$70,000,000) increased
18 by the percentage, if any, by which the Consumer Price Index for
19 the preceding calendar year exceeds the Consumer Price Index for
20 the 2001 calendar year. For the purposes of this paragraph, the
21 term “Consumer Price Index” means the last Consumer Price Index
22 for All Urban Consumers published by the federal Department of
23 Labor.

24 (B) An additional three hundred million dollars (\$300,000,000)
25 for the ~~2015~~ 2016 calendar year, and, for the ~~2016~~ 2017 calendar
26 year and each calendar year thereafter, three hundred million
27 dollars (\$300,000,000) increased by the percentage, if any, by
28 which the Consumer Price Index for the preceding calendar year
29 exceeds the Consumer Price Index for the ~~2015~~ 2016 calendar
30 year. For the purposes of this paragraph, the term “Consumer Price
31 Index” means the last Consumer Price Index for All Urban
32 Consumers published by the federal Department of Labor. A
33 housing sponsor receiving an allocation under paragraph (1) of
34 subdivision (c) shall not be eligible for receipt of the housing credit
35 allocated from the increased amount under this subparagraph. A
36 housing sponsor receiving an allocation under paragraph (1) of
37 subdivision (c) shall remain eligible for receipt of the housing
38 credit allocated from the credit ceiling amount under subparagraph
39 (A).

1 (2) The unused housing credit ceiling, if any, for the preceding
2 calendar years.

3 (3) The amount of housing credit ceiling returned in the calendar
4 year. For purposes of this paragraph, the amount of housing credit
5 dollar amount returned in the calendar year equals the housing
6 credit dollar amount previously allocated to any project that does
7 not become a qualified low-income housing project within the
8 period required by this section or to any project with respect to
9 which an allocation is canceled by mutual consent of the California
10 Tax Credit Allocation Committee and the allocation recipient.

11 (4) Five hundred thousand dollars (\$500,000) per calendar year
12 for projects to provide farmworker housing, as defined in
13 subdivision (h) of Section 50199.7 of the Health and Safety Code.

14 (5) The amount of any unallocated or returned credits under
15 former Sections 17053.14, 23608.2, and 23608.3, as those sections
16 read prior to January 1, 2009, until fully exhausted for projects to
17 provide farmworker housing, as defined in subdivision (h) of
18 Section 50199.7 of the Health and Safety Code.

19 (h) The term “compliance period” as defined in Section 42(i)(1)
20 of the Internal Revenue Code is modified to mean, with respect to
21 any building, the period of 30 consecutive taxable years beginning
22 with the first taxable year of the credit period with respect thereto.

23 (i) (1) Section 42(j) of the Internal Revenue Code shall not be
24 applicable and the provisions in paragraph (2) shall be substituted
25 in its place.

26 (2) The requirements of this section shall be set forth in a
27 regulatory agreement between the California Tax Credit Allocation
28 Committee and the housing sponsor, and the regulatory agreement
29 shall be subordinated, when required, to any lien or encumbrance
30 of any banks or other institutional lenders to the project. The
31 regulatory agreement entered into pursuant to subdivision (f) of
32 Section 50199.14 of the Health and Safety Code, shall apply,
33 provided that the agreement includes all of the following
34 provisions:

35 (A) A term not less than the compliance period.

36 (B) A requirement that the agreement be recorded in the official
37 records of the county in which the qualified low-income housing
38 project is located.

1 (C) A provision stating which state and local agencies can
2 enforce the regulatory agreement in the event the housing sponsor
3 fails to satisfy any of the requirements of this section.

4 (D) A provision that the regulatory agreement shall be deemed
5 a contract enforceable by tenants as third-party beneficiaries thereto
6 and that allows individuals, whether prospective, present, or former
7 occupants of the building, who meet the income limitation
8 applicable to the building, the right to enforce the regulatory
9 agreement in any state court.

10 (E) A provision incorporating the requirements of Section 42
11 of the Internal Revenue Code as modified by this section.

12 (F) A requirement that the housing sponsor notify the California
13 Tax Credit Allocation Committee or its designee and the local
14 agency that can enforce the regulatory agreement if there is a
15 determination by the Internal Revenue Service that the project is
16 not in compliance with Section 42(g) of the Internal Revenue Code.

17 (G) A requirement that the housing sponsor, as security for the
18 performance of the housing sponsor's obligations under the
19 regulatory agreement, assign the housing sponsor's interest in rents
20 that it receives from the project, provided that until there is a
21 default under the regulatory agreement, the housing sponsor is
22 entitled to collect and retain the rents.

23 (H) The remedies available in the event of a default under the
24 regulatory agreement that is not cured within a reasonable cure
25 period, include, but are not limited to, allowing any of the parties
26 designated to enforce the regulatory agreement to collect all rents
27 with respect to the project; taking possession of the project and
28 operating the project in accordance with the regulatory agreement
29 until the enforcer determines the housing sponsor is in a position
30 to operate the project in accordance with the regulatory agreement;
31 applying to any court for specific performance; securing the
32 appointment of a receiver to operate the project; or any other relief
33 as may be appropriate.

34 (j) (1) The committee shall allocate the housing credit on a
35 regular basis consisting of two or more periods in each calendar
36 year during which applications may be filed and considered. The
37 committee shall establish application filing deadlines, the maximum
38 percentage of federal and state low-income housing tax credit
39 ceiling that may be allocated by the committee in that period, and
40 the approximate date on which allocations shall be made. If the

1 enactment of federal or state law, the adoption of rules or
2 regulations, or other similar events prevent the use of two allocation
3 periods, the committee may reduce the number of periods and
4 adjust the filing deadlines, maximum percentage of credit allocated,
5 and allocation dates.

6 (2) The committee shall adopt a qualified allocation plan, as
7 provided in Section 42(m)(1) of the Internal Revenue Code. In
8 adopting this plan, the committee shall comply with the provisions
9 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
10 Code, respectively.

11 (3) Notwithstanding Section 42(m) of the Internal Revenue
12 Code the California Tax Credit Allocation Committee shall allocate
13 housing credits in accordance with the qualified allocation plan
14 and regulations, which shall include the following provisions:

15 (A) All housing sponsors, as defined by paragraph (3) of
16 subdivision (a), shall demonstrate at the time the application is
17 filed with the committee that the project meets the following
18 threshold requirements:

19 (i) The housing sponsor shall demonstrate there is a need and
20 demand for low-income housing in the community or region for
21 which it is proposed.

22 (ii) The project's proposed financing, including tax credit
23 proceeds, shall be sufficient to complete the project and that the
24 proposed operating income shall be adequate to operate the project
25 for the extended use period.

26 (iii) The project shall have enforceable financing commitments,
27 either construction or permanent financing, for at least 50 percent
28 of the total estimated financing of the project.

29 (iv) The housing sponsor shall have and maintain control of the
30 site for the project.

31 (v) The housing sponsor shall demonstrate that the project
32 complies with all applicable local land use and zoning ordinances.

33 (vi) The housing sponsor shall demonstrate that the project
34 development team has the experience and the financial capacity
35 to ensure project completion and operation for the extended use
36 period.

37 (vii) The housing sponsor shall demonstrate the amount of tax
38 credit that is necessary for the financial feasibility of the project
39 and its viability as a qualified low-income housing project
40 throughout the extended use period, taking into account operating

1 expenses, a supportable debt service, reserves, funds set aside for
2 rental subsidies, and required equity, and a development fee that
3 does not exceed a specified percentage of the eligible basis of the
4 project prior to inclusion of the development fee in the eligible
5 basis, as determined by the committee.

6 (B) The committee shall give a preference to those projects
7 satisfying all of the threshold requirements of subparagraph (A)
8 if both of the following apply:

9 (i) The project serves the lowest income tenants at rents
10 affordable to those tenants.

11 (ii) The project is obligated to serve qualified tenants for the
12 longest period.

13 (C) In addition to the provisions of subparagraphs (A) and (B),
14 the committee shall use the following criteria in allocating housing
15 credits:

16 (i) Projects serving large families in which a substantial number,
17 as defined by the committee, of all residential units are low-income
18 units with three ~~and~~ *or* more bedrooms.

19 (ii) Projects providing single-room occupancy units serving
20 very low income tenants.

21 (iii) (I) Existing projects that are “at risk of conversion.”

22 (II) For purposes of this section, the term “at risk of conversion,”
23 with respect to an existing property means a property that satisfies
24 all of the following criteria:

25 (ia) The property is a multifamily rental housing development
26 in which at least 50 percent of the units receive governmental
27 assistance pursuant to any of the following:

28 (Ia) New construction, substantial rehabilitation, moderate
29 rehabilitation, property disposition, and loan management set-aside
30 programs, or any other program providing project-based assistance
31 pursuant to Section 8 of the United States Housing Act of 1937,
32 Section 1437f of Title 42 of the United States Code, as amended.

33 (Ib) The Below-Market-Interest-Rate Program pursuant to
34 Section 221(d)(3) of the National Housing Act, Sections
35 1715l(d)(3) and (5) of Title 12 of the United States Code.

36 (Ic) Section 236 of the National Housing Act, Section 1715z-1
37 of Title 12 of the United States Code.

38 (Id) Programs for rent supplement assistance pursuant to Section
39 18 101 of the Housing and Urban Development Act of 1965,
40 Section 1701s of Title 12 of the United States Code, as amended.

1 (Ie) Programs pursuant to Section 515 of the Housing Act of
2 1949, Section 1485 of Title 42 of the United States Code, as
3 amended.

4 (If) The low-income housing credit program set forth in Section
5 42 of the Internal Revenue Code.

6 (ib) The restrictions on rent and income levels will terminate
7 or the federal insured mortgage on the property is eligible for
8 prepayment any time within five years before or after the date of
9 application to the California Tax Credit Allocation Committee.

10 (ic) The entity acquiring the property enters into a regulatory
11 agreement that requires the property to be operated in accordance
12 with the requirements of this section for a period equal to the
13 greater of 55 years or the life of the property.

14 (id) The property satisfies the requirements of Section 42(e) of
15 the Internal Revenue Code, regarding rehabilitation expenditures
16 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
17 apply.

18 (iv) Projects for which a public agency provides direct or indirect
19 long-term financial support for at least 15 percent of the total
20 project development costs or projects for which the owner's equity
21 constitutes at least 30 percent of the total project development
22 costs.

23 (v) Projects that provide tenant amenities not generally available
24 to residents of low-income housing projects.

25 (4) For purposes of allocating credits pursuant to this section,
26 the committee shall not give preference to any project by virtue
27 of the date of submission of its application except to break a tie
28 when two or more of the projects have an equal rating.

29 (k) Section 42(l) of the Internal Revenue Code shall be modified
30 as follows:

31 The term "secretary" shall be replaced by the term "California
32 Franchise Tax Board."

33 (l) In the case where the credit allowed under this section
34 exceeds the "tax," the excess may be carried over to reduce the
35 "tax" in the following year, and succeeding years if necessary,
36 until the credit has been exhausted.

37 (m) The provisions of Section 11407(a) of Public Law 101-508,
38 relating to the effective date of the extension of the low-income
39 housing credit, shall apply to calendar years after 1993.

1 (n) The provisions of Section 11407(c) of Public Law 101-508,
2 relating to election to accelerate credit, shall not apply.

3 (o) This section shall remain in effect for as long as Section 42
4 of the Internal Revenue Code, relating to low-income housing
5 credit, remains in effect.

6 SEC. 2. Section 17058 of the Revenue and Taxation Code is
7 amended to read:

8 17058. (a) (1) There shall be allowed as a credit against the
9 “net tax,” as defined in Section 17039, a state low-income housing
10 tax credit in an amount equal to the amount determined in
11 subdivision (c), computed in accordance with Section 42 of the
12 Internal Revenue Code except as otherwise provided in this section.

13 (2) “Taxpayer” for purposes of this section means the sole owner
14 in the case of an individual, the partners in the case of a partnership,
15 members in the case of a limited liability company, and the
16 shareholders in the case of an “S” corporation.

17 (3) “Housing sponsor” for purposes of this section means the
18 sole owner in the case of an individual, the partnership in the case
19 of a partnership, the limited liability company in the case of a
20 limited liability company, and the “S” corporation in the case of
21 an “S” corporation.

22 (4) “Extremely low-income” has the same meaning as in Section
23 50053 of the Health and Safety Code.

24 ~~(5) “Rural area” means a rural area as defined in Section~~
25 ~~50199.21 of the Health and Safety Code.~~

26 ~~(6) “Special needs housing” has the meaning as in paragraph~~
27 ~~(4) of subdivision (g) of Section 10325 of Title 4 of the California~~
28 ~~Code of Regulations.~~

29 ~~(7) “SRO” means single room occupancy.~~

30 ~~(8)~~

31 (5) “Very low-income” has the same meaning as in Section
32 50053 of the Health and Safety Code.” *Code.*

33 (b) (1) The amount of the credit allocated to any housing
34 sponsor shall be authorized by the California Tax Credit Allocation
35 Committee, or any successor thereof, based on a project’s need
36 for the credit for economic feasibility in accordance with the
37 requirements of this section.

38 (A) The low-income housing project shall be located in
39 California and shall meet either of the following requirements:

1 (i) Except for projects to provide farmworker housing, as defined
2 in subdivision (h) of Section 50199.7 of the Health and Safety
3 Code, that are allocated credits solely under the set-aside described
4 in subdivision (c) of Section 50199.20 of the Health and Safety
5 Code, the project's housing sponsor has been allocated by the
6 California Tax Credit Allocation Committee a credit for federal
7 income tax purposes under Section 42 of the Internal Revenue
8 Code.

9 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
10 Internal Revenue Code.

11 (B) The California Tax Credit Allocation Committee shall not
12 require fees for the credit under this section in addition to those
13 fees required for applications for the tax credit pursuant to Section
14 42 of the Internal Revenue Code. The committee may require a
15 fee if the application for the credit under this section is submitted
16 in a calendar year after the year the application is submitted for
17 the federal tax credit.

18 (C) (i) For a project that receives a preliminary reservation of
19 the state low-income housing tax credit, allowed pursuant to
20 subdivision (a), on or after January 1, 2009, and before January 1,
21 2016, the credit shall be allocated to the partners of a partnership
22 owning the project in accordance with the partnership agreement,
23 regardless of how the federal low-income housing tax credit with
24 respect to the project is allocated to the partners, or whether the
25 allocation of the credit under the terms of the agreement has
26 substantial economic effect, within the meaning of Section 704(b)
27 of the Internal Revenue Code.

28 (ii) To the extent the allocation of the credit to a partner under
29 this section lacks substantial economic effect, any loss or deduction
30 otherwise allowable under this part that is attributable to the sale
31 or other disposition of that partner's partnership interest made prior
32 to the expiration of the federal credit shall not be allowed in the
33 taxable year in which the sale or other disposition occurs, but shall
34 instead be deferred until and treated as if it occurred in the first
35 taxable year immediately following the taxable year in which the
36 federal credit period expires for the project described in clause (i).

37 (iii) This subparagraph shall not apply to a project that receives
38 a preliminary reservation of state low-income housing tax credits
39 under the set-aside described in subdivision (c) of Section 50199.20

1 of the Health and Safety Code unless the project also receives a
2 preliminary reservation of federal low-income housing tax credits.

3 (iv) This subparagraph shall cease to be operative with respect
4 to any project that receives a preliminary reservation of a credit
5 on or after January 1, 2016.

6 (2) (A) The California Tax Credit Allocation Committee shall
7 certify to the housing sponsor the amount of tax credit under this
8 section allocated to the housing sponsor for each credit period.

9 (B) In the case of a partnership, limited liability company, or
10 an “S” corporation, the housing sponsor shall provide a copy of
11 the California Tax Credit Allocation Committee certification to
12 the taxpayer.

13 (C) The taxpayer shall, upon request, provide a copy of the
14 certification to the Franchise Tax Board.

15 (D) All elections made by the taxpayer pursuant to Section 42
16 of the Internal Revenue Code shall apply to this section.

17 (E) (i) The California Tax Credit Allocation Committee may
18 allocate a credit under this section in exchange for a credit allocated
19 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in
20 amounts up to 30 percent of the eligible basis of a building if the
21 credits allowed under Section 42 of the Internal Revenue Code are
22 reduced by an equivalent amount.

23 (ii) An equivalent amount shall be determined by the California
24 Tax Credit Allocation Committee based upon the relative amount
25 required to produce an equivalent state tax credit to the taxpayer.

26 (c) Section 42(b) of the Internal Revenue Code shall be modified
27 as follows:

28 (1) In the case of any qualified low-income building that is a
29 new ~~building~~ *building, as defined in Section 42 of the Internal*
30 *Revenue Code and the regulations promulgated thereunder, and*
31 *not federally subsidized, the term “applicable percentage” means*
32 *the following:*

33 (A) For each of the first three years, the percentage prescribed
34 by the Secretary of the Treasury for new buildings that are not
35 federally subsidized for the taxable year, determined in accordance
36 with the requirements of Section 42(b)(1) of the Internal Revenue
37 Code in lieu of the percentage prescribed in Section 42(b)(1)(A)
38 of the Internal Revenue Code.

39 (B) For the fourth year, the difference between 30 percent and
40 the sum of the applicable percentages for the first three years.

1 (2) In the case of any qualified low-income building that (i) is
2 a new building, *as defined in Section 42 of the Internal Revenue*
3 *Code and the regulations promulgated thereunder*, (ii) not located
4 in designated difficult development areas (DDAs) or qualified
5 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the
6 Internal Revenue Code, and (iii) is federally subsidized, the term
7 “applicable percentage” means for the first three years, 15 percent
8 of the qualified basis of the building, and for the fourth year, 5
9 percent of the qualified basis of the building.

10 (3) In the case of any qualified low-income building that is (i)
11 an existing building, *as defined in Section 42 of the Internal*
12 *Revenue Code and the regulations promulgated thereunder*, (ii)
13 not located in designated difficult development areas (DDAs) or
14 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)
15 of the Internal Revenue Code, and (iii) is federally subsidized, the
16 term applicable percentage means the following:

17 (A) For each of the first three years, the percentage prescribed
18 by the Secretary of the Treasury for new buildings that are federally
19 subsidized for the taxable year.

20 (B) For the fourth year, the difference between 13 percent and
21 the sum of the applicable percentages for the first three years.

22 (4) In the case of any qualified low-income building that is (i)
23 a new or an existing building, (ii) located in designated difficult
24 development areas (DDAs) or qualified census tracts (QCTs) as
25 defined in Section 42(d)(5)(B) of the Internal Revenue Code, and
26 (iii) federally subsidized, the California Tax Credit Allocation
27 Committee shall ~~determine~~ *reduce* the amount of *California* credit
28 to be allocated under ~~subparagraph (E) of paragraph (2) of~~
29 ~~subdivision (b) required to produce an equivalent state tax credit~~
30 ~~to the taxpayer, as produced in paragraph (2), subparagraph (2)~~
31 ~~and (3) by taking into account the increased federal credit received~~
32 *due to the basis boost provided under Section 42(d)(5)(B) of the*
33 *Internal Revenue Code.*

34 (5) In the case of any qualified low-income building that meets
35 all of the requirements of subparagraphs (A) through (D), inclusive,
36 the term “applicable percentage” means 30 percent for each of the
37 first three years and 5 percent for the fourth year. *A qualified*
38 *low-income building receiving an allocation under this paragraph*
39 *is ineligible to also receive an allocation under paragraph (3).*

40 (A) The qualified low-income building is at least 15 years old.

1 ~~(B) The qualified low-income building is a SRO, special needs~~
 2 ~~housing, is in a rural area, or serves households with very~~
 3 ~~low-income or extremely low-income residents.~~

4 ~~(C) The qualified low-income building is serving households~~
 5 ~~of very low-income or extremely low-income provided that the~~
 6 ~~average income at time admission is not more than 45 percent of~~
 7 ~~the median gross income, as determined under Section 42 of the~~
 8 ~~Internal Revenue Code, adjusted by household size.~~

9 ~~(D)~~
 10 *(B) The qualified low-income building is serving households of*
 11 *very low-income or extremely low-income such that the average*
 12 *maximum household income as restricted, pursuant to an existing*
 13 *regulatory agreement with a federal, state, county, local, or other*
 14 *governmental agency, is not more than 45 percent of the area*
 15 *median gross income, as determined under Section 42 of the*
 16 *Internal Revenue Code, adjusted by household size, and a tax*
 17 *credit regulatory agreement is entered into for a period of not less*
 18 *than 55 years restricting the average targeted household income*
 19 *to no more than 45 percent of the area median income.*

20 ~~(C) The qualified low-income building would have insufficient~~
 21 ~~credits under paragraphs (1) and (2) and (3) to complete substantial~~
 22 ~~rehabilitation due to a low appraised value.~~

23 ~~(D) The qualified low-income building will complete the~~
 24 ~~substantial rehabilitation in connection with the credit allocation~~
 25 ~~herein.~~

26 (d) The term “qualified low-income housing project” as defined
 27 in Section 42(c)(2) of the Internal Revenue Code is modified by
 28 adding the following requirements:

29 (1) The taxpayer shall be entitled to receive a cash distribution
 30 from the operations of the project, after funding required reserves,
 31 that, at the election of the taxpayer, is equal to:

32 (A) An amount not to exceed 8 percent of the lesser of:

33 (i) The owner equity that shall include the amount of the capital
 34 contributions actually paid to the housing sponsor and shall not
 35 include any amounts until they are paid on an investor note.

36 (ii) Twenty percent of the adjusted basis of the building as of
 37 the close of the first taxable year of the credit period.

38 (B) The amount of the cashflow from those units in the building
 39 that are not low-income units. For purposes of computing cashflow
 40 under this subparagraph, operating costs shall be allocated to the

1 low-income units using the “floor space fraction,” as defined in
2 Section 42 of the Internal Revenue Code.

3 (C) Any amount allowed to be distributed under subparagraph
4 (A) that is not available for distribution during the first five years
5 of the compliance period may be accumulated and distributed any
6 time during the first 15 years of the compliance period but not
7 thereafter.

8 (2) The limitation on return shall apply in the aggregate to the
9 partners if the housing sponsor is a partnership and in the aggregate
10 to the shareholders if the housing sponsor is an “S” corporation.

11 (3) The housing sponsor shall apply any cash available for
12 distribution in excess of the amount eligible to be distributed under
13 paragraph (1) to reduce the rent on rent-restricted units or to
14 increase the number of rent-restricted units subject to the tests of
15 Section 42(g)(1) of the Internal Revenue Code.

16 (e) The provisions of Section 42(f) of the Internal Revenue Code
17 shall be modified as follows:

18 (1) The term “credit period” as defined in Section 42(f)(1) of
19 the Internal Revenue Code is modified by substituting “four taxable
20 years” for “10 taxable years.”

21 (2) The special rule for the first taxable year of the credit period
22 under Section 42(f)(2) of the Internal Revenue Code shall not apply
23 to the tax credit under this section.

24 (3) Section 42(f)(3) of the Internal Revenue Code is modified
25 to read:

26 If, as of the close of any taxable year in the compliance period,
27 after the first year of the credit period, the qualified basis of any
28 building exceeds the qualified basis of that building as of the close
29 of the first year of the credit period, the housing sponsor, to the
30 extent of its tax credit allocation, shall be eligible for a credit on
31 the excess in an amount equal to the applicable percentage
32 determined pursuant to subdivision (c) for the four-year period
33 beginning with the taxable year in which the increase in qualified
34 basis occurs.

35 (f) The provisions of Section 42(h) of the Internal Revenue
36 Code shall be modified as follows:

37 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
38 applicable and instead the following provisions shall be applicable:

39 The total amount for the four-year credit period of the housing
40 credit dollars allocated in a calendar year to any building shall

1 reduce the aggregate housing credit dollar amount of the California
2 Tax Credit Allocation Committee for the calendar year in which
3 the allocation is made.

4 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
5 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
6 not be applicable.

7 (g) The aggregate housing credit dollar amount that may be
8 allocated annually by the California Tax Credit Allocation
9 Committee pursuant to this section, Section 12206, and Section
10 23610.5 shall be an amount equal to the sum of all the following:

11 (1) (A) Seventy million dollars (\$70,000,000) for the 2001
12 calendar year, and, for the 2002 calendar year and each calendar
13 year thereafter, seventy million dollars (\$70,000,000) increased
14 by the percentage, if any, by which the Consumer Price Index for
15 the preceding calendar year exceeds the Consumer Price Index for
16 the 2001 calendar year. For the purposes of this paragraph, the
17 term “Consumer Price Index” means the last Consumer Price Index
18 for All Urban Consumers published by the federal Department of
19 Labor.

20 (B) An additional three hundred million dollars (\$300,000,000)
21 for the ~~2015~~ 2016 calendar year, and, for the ~~2016~~ 2017 calendar
22 year and each calendar year thereafter, three hundred million
23 dollars (\$300,000,000) increased by the percentage, if any, by
24 which the Consumer Price Index for the preceding calendar year
25 exceeds the Consumer Price Index for the ~~2015~~ 2016 calendar
26 year. For the purposes of this paragraph, the term “Consumer Price
27 Index” means the last Consumer Price Index for All Urban
28 Consumers published by the federal Department of Labor. A
29 housing sponsor receiving an allocation under paragraph (1) of
30 subdivision (c) shall not be eligible for receipt of the housing credit
31 allocated from the increased amount under this subparagraph. A
32 housing sponsor receiving an allocation under paragraph (1) of
33 subdivision (c) shall remain eligible for receipt of the housing
34 credit allocated from the credit ceiling amount under subparagraph
35 (A).

36 (2) The unused housing credit ceiling, if any, for the preceding
37 calendar years.

38 (3) The amount of housing credit ceiling returned in the calendar
39 year. For purposes of this paragraph, the amount of housing credit
40 dollar amount returned in the calendar year equals the housing

1 credit dollar amount previously allocated to any project that does
2 not become a qualified low-income housing project within the
3 period required by this section or to any project with respect to
4 which an allocation is canceled by mutual consent of the California
5 Tax Credit Allocation Committee and the allocation recipient.

6 (4) Five hundred thousand dollars (\$500,000) per calendar year
7 for projects to provide farmworker housing, as defined in
8 subdivision (h) of Section 50199.7 of the Health and Safety Code.

9 (5) The amount of any unallocated or returned credits under
10 former Sections 17053.14, 23608.2, and 23608.3, as those sections
11 read prior to January 1, 2009, until fully exhausted for projects to
12 provide farmworker housing, as defined in subdivision (h) of
13 Section 50199.7 of the Health and Safety Code.

14 (h) The term “compliance period” as defined in Section 42(i)(1)
15 of the Internal Revenue Code is modified to mean, with respect to
16 any building, the period of 30 consecutive taxable years beginning
17 with the first taxable year of the credit period with respect thereto.

18 (i) Section 42(j) of the Internal Revenue Code shall not be
19 applicable and the following requirements of this section shall be
20 set forth in a regulatory agreement between the California Tax
21 Credit Allocation Committee and the housing sponsor, and the
22 regulatory agreement shall be subordinated, when required, to any
23 lien or encumbrance of any banks or other institutional lenders to
24 the project. The regulatory agreement entered into pursuant to
25 subdivision (f) of Section 50199.14 of the Health and Safety Code
26 shall apply, provided that the agreement includes all of the
27 following provisions:

28 (1) A term not less than the compliance period.

29 (2) A requirement that the agreement be recorded in the official
30 records of the county in which the qualified low-income housing
31 project is located.

32 (3) A provision stating which state and local agencies can
33 enforce the regulatory agreement in the event the housing sponsor
34 fails to satisfy any of the requirements of this section.

35 (4) A provision that the regulatory agreement shall be deemed
36 a contract enforceable by tenants as third-party beneficiaries thereto
37 and that allows individuals, whether prospective, present, or former
38 occupants of the building, who meet the income limitation
39 applicable to the building, the right to enforce the regulatory
40 agreement in any state court.

1 (5) A provision incorporating the requirements of Section 42
2 of the Internal Revenue Code as modified by this section.

3 (6) A requirement that the housing sponsor notify the California
4 Tax Credit Allocation Committee or its designee if there is a
5 determination by the Internal Revenue Service that the project is
6 not in compliance with Section 42(g) of the Internal Revenue Code.

7 (7) A requirement that the housing sponsor, as security for the
8 performance of the housing sponsor's obligations under the
9 regulatory agreement, assign the housing sponsor's interest in rents
10 that it receives from the project, provided that until there is a
11 default under the regulatory agreement, the housing sponsor is
12 entitled to collect and retain the rents.

13 (8) The remedies available in the event of a default under the
14 regulatory agreement that is not cured within a reasonable cure
15 period, include, but are not limited to, allowing any of the parties
16 designated to enforce the regulatory agreement to collect all rents
17 with respect to the project; taking possession of the project and
18 operating the project in accordance with the regulatory agreement
19 until the enforcer determines the housing sponsor is in a position
20 to operate the project in accordance with the regulatory agreement;
21 applying to any court for specific performance; securing the
22 appointment of a receiver to operate the project; or any other relief
23 as may be appropriate.

24 (j) (1) The committee shall allocate the housing credit on a
25 regular basis consisting of two or more periods in each calendar
26 year during which applications may be filed and considered. The
27 committee shall establish application filing deadlines, the maximum
28 percentage of federal and state low-income housing tax credit
29 ceiling that may be allocated by the committee in that period, and
30 the approximate date on which allocations shall be made. If the
31 enactment of federal or state law, the adoption of rules or
32 regulations, or other similar events prevent the use of two allocation
33 periods, the committee may reduce the number of periods and
34 adjust the filing deadlines, maximum percentage of credit allocated,
35 and allocation dates.

36 (2) The committee shall adopt a qualified allocation plan, as
37 provided in Section 42(m)(1) of the Internal Revenue Code. In
38 adopting this plan, the committee shall comply with the provisions
39 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
40 Code, respectively.

1 (3) Notwithstanding Section 42(m) of the Internal Revenue
2 Code the California Tax Credit Allocation Committee shall allocate
3 housing credits in accordance with the qualified allocation plan
4 and regulations, which shall include the following provisions:

5 (A) All housing sponsors, as defined by paragraph (3) of
6 subdivision (a), shall demonstrate at the time the application is
7 filed with the committee that the project meets the following
8 threshold requirements:

9 (i) The housing sponsor shall demonstrate there is a need and
10 demand for low-income housing in the community or region for
11 which it is proposed.

12 (ii) The project's proposed financing, including tax credit
13 proceeds, shall be sufficient to complete the project and that the
14 proposed operating income shall be adequate to operate the project
15 for the extended use period.

16 (iii) The project shall have enforceable financing commitments,
17 either construction or permanent financing, for at least 50 percent
18 of the total estimated financing of the project.

19 (iv) The housing sponsor shall have and maintain control of the
20 site for the project.

21 (v) The housing sponsor shall demonstrate that the project
22 complies with all applicable local land use and zoning ordinances.

23 (vi) The housing sponsor shall demonstrate that the project
24 development team has the experience and the financial capacity
25 to ensure project completion and operation for the extended use
26 period.

27 (vii) The housing sponsor shall demonstrate the amount of tax
28 credit that is necessary for the financial feasibility of the project
29 and its viability as a qualified low-income housing project
30 throughout the extended use period, taking into account operating
31 expenses, a supportable debt service, reserves, funds set aside for
32 rental subsidies and required equity, and a development fee that
33 does not exceed a specified percentage of the eligible basis of the
34 project prior to inclusion of the development fee in the eligible
35 basis, as determined by the committee.

36 (B) The committee shall give a preference to those projects
37 satisfying all of the threshold requirements of subparagraph (A)
38 if both of the following apply:

39 (i) The project serves the lowest income tenants at rents
40 affordable to those tenants.

1 (ii) The project is obligated to serve qualified tenants for the
2 longest period.

3 (C) In addition to the provisions of subparagraphs (A) and (B),
4 the committee shall use the following criteria in allocating housing
5 credits:

6 (i) Projects serving large families in which a substantial number,
7 as defined by the committee, of all residential units are low-income
8 units with three ~~and~~ or more bedrooms.

9 (ii) Projects providing single-room occupancy units serving
10 very low income tenants.

11 (iii) (I) Existing projects that are “at risk of conversion.”

12 (II) For purposes of this section, the term “at risk of conversion,”
13 with respect to an existing property means a property that satisfies
14 all of the following criteria:

15 (ia) The property is a multifamily rental housing development
16 in which at least 50 percent of the units receive governmental
17 assistance pursuant to any of the following:

18 (Ia) New construction, substantial rehabilitation, moderate
19 rehabilitation, property disposition, and loan management set-aside
20 programs, or any other program providing project-based assistance
21 pursuant to Section 8 of the United States Housing Act of 1937,
22 Section 1437f of Title 42 of the United States Code, as amended.

23 (Ib) The Below-Market-Interest-Rate Program pursuant to
24 Section 221(d)(3) of the National Housing Act, Sections
25 1715l(d)(3) and (5) of Title 12 of the United States Code.

26 (Ic) Section 236 of the National Housing Act, Section 1715z-1
27 of Title 12 of the United States Code.

28 (Id) Programs for rent supplement assistance pursuant to Section
29 18 101 of the Housing and Urban Development Act of 1965,
30 Section 1701s of Title 12 of the United States Code, as amended.

31 (Ie) Programs pursuant to Section 515 of the Housing Act of
32 1949, Section 1485 of Title 42 of the United States Code, as
33 amended.

34 (If) The low-income housing credit program set forth in Section
35 42 of the Internal Revenue Code.

36 (ib) The restrictions on rent and income levels will terminate
37 or the federal insured mortgage on the property is eligible for
38 prepayment any time within five years before or after the date of
39 application to the California Tax Credit Allocation Committee.

1 (ic) The entity acquiring the property enters into a regulatory
2 agreement that requires the property to be operated in accordance
3 with the requirements of this section for a period equal to the
4 greater of 55 years or the life of the property.

5 (id) The property satisfies the requirements of Section 42(e) of
6 the Internal Revenue Code, regarding rehabilitation expenditures
7 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
8 apply.

9 (iv) Projects for which a public agency provides direct or indirect
10 long-term financial support for at least 15 percent of the total
11 project development costs or projects for which the owner's equity
12 constitutes at least 30 percent of the total project development
13 costs.

14 (v) Projects that provide tenant amenities not generally available
15 to residents of low-income housing projects.

16 (4) For purposes of allocating credits pursuant to this section,
17 the committee shall not give preference to any project by virtue
18 of the date of submission of its application.

19 (k) Section 42(l) of the Internal Revenue Code shall be modified
20 as follows:

21 The term "secretary" shall be replaced by the term "California
22 Franchise Tax Board."

23 (l) In the case where the credit allowed under this section
24 exceeds the net tax, the excess may be carried over to reduce the
25 net tax in the following year, and succeeding taxable years, if
26 necessary, until the credit has been exhausted.

27 (m) A project that received an allocation of a 1989 federal
28 housing credit dollar amount shall be eligible to receive an
29 allocation of a 1990 state housing credit dollar amount, subject to
30 all of the following conditions:

31 (1) The project was not placed in service prior to 1990.

32 (2) To the extent the amendments made to this section by the
33 Statutes of 1990 conflict with any provisions existing in this section
34 prior to those amendments, the prior provisions of law shall prevail.

35 (3) Notwithstanding paragraph (2), a project applying for an
36 allocation under this subdivision shall be subject to the
37 requirements of paragraph (3) of subdivision (j).

38 (n) The credit period with respect to an allocation of credit in
39 1989 by the California Tax Credit Allocation Committee of which

1 any amount is attributable to unallocated credit from 1987 or 1988
 2 shall not begin until after December 31, 1989.

3 (o) The provisions of Section 11407(a) of Public Law 101-508,
 4 relating to the effective date of the extension of the low-income
 5 housing credit, shall apply to calendar years after 1989.

6 (p) The provisions of Section 11407(c) of Public Law 101-508,
 7 relating to election to accelerate credit, shall not apply.

8 (q) Any unused credit may continue to be carried forward, as
 9 provided in subdivision (l), until the credit has been exhausted.

10 (r) This section shall remain in effect on and after December 1,
 11 1990, for as long as Section 42 of the Internal Revenue Code,
 12 relating to low-income housing credit, remains in effect.

13 (s) The amendments to this section made by Chapter 1222 of
 14 the Statutes of 1993 shall apply only to taxable years beginning
 15 on or after January 1, 1994.

16 SEC. 3. Section 23610.5 of the Revenue and Taxation Code
 17 is amended to read:

18 23610.5. (a) (1) There shall be allowed as a credit against the
 19 “tax,” as defined by Section 23036, a state low-income housing
 20 tax credit in an amount equal to the amount determined in
 21 subdivision (c), computed in accordance with Section 42 of the
 22 Internal Revenue Code except as otherwise provided in this section.

23 (2) “Taxpayer,” for purposes of this section, means the sole
 24 owner in the case of a “C” corporation, the partners in the case of
 25 a partnership, members in the case of a limited liability company,
 26 and the shareholders in the case of an “S” corporation.

27 (3) “Housing sponsor,” for purposes of this section, means the
 28 sole owner in the case of a “C” corporation, the partnership in the
 29 case of a partnership, the limited liability company in the case of
 30 a limited liability company, and the “S” corporation in the case of
 31 an “S” corporation.

32 (4) “Extremely low-income” has the same meaning as in Section
 33 50053 of the Health and Safety Code.

34 ~~(5) “Rural area” means a rural area as defined in Section~~
 35 ~~50199.21 of the Health and Safety Code.~~

36 ~~(6) “Special needs housing” has the meaning as in paragraph~~
 37 ~~(4) of subdivision (g) of Section 10325 of Title 4 of the California~~
 38 ~~Code of Regulations.~~

39 ~~(7) “SRO” means single room occupancy.~~

40 ~~(8)~~

1 (5) “Very low-income” has the same meaning as in Section
2 50053 of the Health and Safety Code.” Code.

3 (b) (1) The amount of the credit allocated to any housing
4 sponsor shall be authorized by the California Tax Credit Allocation
5 Committee, or any successor thereof, based on a project’s need
6 for the credit for economic feasibility in accordance with the
7 requirements of this section.

8 (A) The low-income housing project shall be located in
9 California and shall meet either of the following requirements:

10 (i) Except for projects to provide farmworker housing, as defined
11 in subdivision (h) of Section 50199.7 of the Health and Safety
12 Code, that are allocated credits solely under the set-aside described
13 in subdivision (c) of Section 50199.20 of the Health and Safety
14 Code, the project’s housing sponsor has been allocated by the
15 California Tax Credit Allocation Committee a credit for federal
16 income tax purposes under Section 42 of the Internal Revenue
17 Code.

18 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
19 Internal Revenue Code.

20 (B) The California Tax Credit Allocation Committee shall not
21 require fees for the credit under this section in addition to those
22 fees required for applications for the tax credit pursuant to Section
23 42 of the Internal Revenue Code. The committee may require a
24 fee if the application for the credit under this section is submitted
25 in a calendar year after the year the application is submitted for
26 the federal tax credit.

27 (C) (i) For a project that receives a preliminary reservation of
28 the state low-income housing tax credit, allowed pursuant to
29 subdivision (a), on or after January 1, 2009, and before January 1,
30 2016, the credit shall be allocated to the partners of a partnership
31 owning the project in accordance with the partnership agreement,
32 regardless of how the federal low-income housing tax credit with
33 respect to the project is allocated to the partners, or whether the
34 allocation of the credit under the terms of the agreement has
35 substantial economic effect, within the meaning of Section 704(b)
36 of the Internal Revenue Code.

37 (ii) To the extent the allocation of the credit to a partner under
38 this section lacks substantial economic effect, any loss or deduction
39 otherwise allowable under this part that is attributable to the sale
40 or other disposition of that partner’s partnership interest made prior

1 to the expiration of the federal credit shall not be allowed in the
2 taxable year in which the sale or other disposition occurs, but shall
3 instead be deferred until and treated as if it occurred in the first
4 taxable year immediately following the taxable year in which the
5 federal credit period expires for the project described in clause (i).

6 (iii) This subparagraph shall not apply to a project that receives
7 a preliminary reservation of state low-income housing tax credits
8 under the set-aside described in subdivision (c) of Section 50199.20
9 of the Health and Safety Code unless the project also receives a
10 preliminary reservation of federal low-income housing tax credits.

11 (iv) This subparagraph shall cease to be operative with respect
12 to any project that receives a preliminary reservation of a credit
13 on or after January 1, 2016.

14 (2) (A) The California Tax Credit Allocation Committee shall
15 certify to the housing sponsor the amount of tax credit under this
16 section allocated to the housing sponsor for each credit period.

17 (B) In the case of a partnership, limited liability company, or
18 an “S” corporation, the housing sponsor shall provide a copy of
19 the California Tax Credit Allocation Committee certification to
20 the taxpayer.

21 (C) The taxpayer shall, upon request, provide a copy of the
22 certification to the Franchise Tax Board.

23 (D) All elections made by the taxpayer pursuant to Section 42
24 of the Internal Revenue Code shall apply to this section.

25 (E) (i) The California Tax Credit Allocation Committee may
26 allocate a credit under this section in exchange for a credit allocated
27 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in
28 amounts up to 30 percent of the eligible basis of a building if the
29 credits allowed under Section 42 of the Internal Revenue Code are
30 reduced by an equivalent amount.

31 (ii) An equivalent amount shall be determined by the California
32 Tax Credit Allocation Committee based upon the relative amount
33 required to produce an equivalent state tax credit to the taxpayer.

34 (c) Section 42(b) of the Internal Revenue Code shall be modified
35 as follows:

36 (1) In the case of any qualified low-income building that is a
37 ~~new-building~~ *building, as defined in Section 42 of the Internal*
38 *Revenue Code and the regulations promulgated thereunder, and*
39 *not federally subsidized, the term “applicable percentage” means*
40 *the following:*

1 (A) For each of the first three years, the percentage prescribed
2 by the Secretary of the Treasury for new buildings that are not
3 federally subsidized for the taxable year, determined in accordance
4 with the requirements of Section 42(b)(1) of the Internal Revenue
5 Code in lieu of the percentage prescribed in Section 42(b)(1)(A)
6 of the Internal Revenue Code.

7 (B) For the fourth year, the difference between 30 percent and
8 the sum of the applicable percentages for the first three years.

9 (2) In the case of any qualified low-income building that (i) is
10 a new building, *as defined in Section 42 of the Internal Revenue*
11 *Code and the regulations promulgated thereunder*, (ii) not located
12 in designated difficult development areas (DDAs) or qualified
13 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the
14 Internal Revenue Code, and (iii) is federally subsidized, the term
15 “applicable percentage” means for the first three years, 15 percent
16 of the qualified basis of the building, and for the fourth year, 5
17 percent of the qualified basis of the building.

18 (3) In the case of any qualified low-income building that is (i)
19 an existing building, *as defined in Section 42 of the Internal*
20 *Revenue Code and the regulations promulgated thereunder*, (ii)
21 not located in designated difficult development areas (DDAs) or
22 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)
23 of the Internal Revenue Code, and (iii) is federally subsidized, the
24 term applicable percentage means the following:

25 (A) For each of the first three years, the percentage prescribed
26 by the Secretary of the Treasury for new buildings that are federally
27 subsidized for the taxable year.

28 (B) For the fourth year, the difference between 13 percent and
29 the sum of the applicable percentages for the first three years.

30 (4) In the case of any qualified low-income building that is (i)
31 a new or an existing building, (ii) located in designated difficult
32 development areas (DDAs) or qualified census tracts (QCTs) as
33 defined in Section 42(d)(5)(B) of the Internal Revenue Code, and
34 (iii) federally subsidized, the California Tax Credit Allocation
35 Committee shall determine the amount of credit to be allocated
36 under subparagraph (E) of paragraph (2) of subdivision (b) required
37 to produce an equivalent state tax credit to the taxpayer, as
38 produced in paragraph (2), taking into account the basis boost
39 provided under Section 42(d)(5)(B) of the Internal Revenue Code.

1 (5) In the case of any qualified low-income building that meets
 2 all of the requirements of subparagraphs (A) through (D), inclusive,
 3 the term “applicable percentage” means 30 percent for each of the
 4 first three years and 5 percent for the fourth year. *A qualified*
 5 *low-income building receiving an allocation under this paragraph*
 6 *is ineligible to also receive an allocation under paragraph (3).*

7 (A) The qualified low-income building is at least 15 years old.

8 ~~(B) The qualified low-income building is a SRO, special needs~~
 9 ~~housing, is in a rural area, or serves households with very~~
 10 ~~low-income or extremely low-income residents.~~

11 ~~(C) The qualified low-income building is serving households~~
 12 ~~of very low-income or extremely low-income provided that the~~
 13 ~~average income at time admission is not more than 45 percent of~~
 14 ~~the median gross income, as determined under Section 42 of the~~
 15 ~~Internal Revenue Code, adjusted by household size.~~

16 ~~(D)~~

17 *(B) The qualified low-income building is serving households of*
 18 *very low-income or extremely low-income such that the average*
 19 *maximum household income as restricted, pursuant to an existing*
 20 *regulatory agreement with a federal, state, county, local, or other*
 21 *governmental agency, is not more than 45 percent of the area*
 22 *median gross income, as determined under Section 42 of the*
 23 *Internal Revenue Code, adjusted by household size, and a tax*
 24 *credit regulatory agreement is entered into for a period of not less*
 25 *than 55 years restricting the average targeted household income*
 26 *to no more than 45 percent of the area median income.*

27 (C) The qualified low-income building would have insufficient
 28 credits under paragraphs ~~(1)~~ and (2) and (3) to complete substantial
 29 rehabilitation due to a low appraised value.

30 *(D) The qualified low-income building will complete the*
 31 *substantial rehabilitation in connection with the credit allocation*
 32 *herein.*

33 (d) The term “qualified low-income housing project” as defined
 34 in Section 42(c)(2) of the Internal Revenue Code is modified by
 35 adding the following requirements:

36 (1) The taxpayer shall be entitled to receive a cash distribution
 37 from the operations of the project, after funding required reserves,
 38 that at the election of the taxpayer, is equal to:

39 (A) An amount not to exceed 8 percent of the lesser of:

1 (i) The owner equity, that shall include the amount of the capital
2 contributions actually paid to the housing sponsor and shall not
3 include any amounts until they are paid on an investor note.

4 (ii) Twenty percent of the adjusted basis of the building as of
5 the close of the first taxable year of the credit period.

6 (B) The amount of the cashflow from those units in the building
7 that are not low-income units. For purposes of computing cashflow
8 under this subparagraph, operating costs shall be allocated to the
9 low-income units using the “floor space fraction,” as defined in
10 Section 42 of the Internal Revenue Code.

11 (C) Any amount allowed to be distributed under subparagraph
12 (A) that is not available for distribution during the first five years
13 of the compliance period may be accumulated and distributed any
14 time during the first 15 years of the compliance period but not
15 thereafter.

16 (2) The limitation on return shall apply in the aggregate to the
17 partners if the housing sponsor is a partnership and in the aggregate
18 to the shareholders if the housing sponsor is an “S” corporation.

19 (3) The housing sponsor shall apply any cash available for
20 distribution in excess of the amount eligible to be distributed under
21 paragraph (1) to reduce the rent on rent-restricted units or to
22 increase the number of rent-restricted units subject to the tests of
23 Section 42(g)(1) of the Internal Revenue Code.

24 (e) The provisions of Section 42(f) of the Internal Revenue Code
25 shall be modified as follows:

26 (1) The term “credit period” as defined in Section 42(f)(1) of
27 the Internal Revenue Code is modified by substituting “four taxable
28 years” for “10 taxable years.”

29 (2) The special rule for the first taxable year of the credit period
30 under Section 42(f)(2) of the Internal Revenue Code shall not apply
31 to the tax credit under this section.

32 (3) Section 42(f)(3) of the Internal Revenue Code is modified
33 to read:

34 If, as of the close of any taxable year in the compliance period,
35 after the first year of the credit period, the qualified basis of any
36 building exceeds the qualified basis of that building as of the close
37 of the first year of the credit period, the housing sponsor, to the
38 extent of its tax credit allocation, shall be eligible for a credit on
39 the excess in an amount equal to the applicable percentage
40 determined pursuant to subdivision (c) for the four-year period

1 beginning with the later of the taxable years in which the increase
2 in qualified basis occurs.

3 (f) The provisions of Section 42(h) of the Internal Revenue
4 Code shall be modified as follows:

5 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
6 applicable and instead the following provisions shall be applicable:

7 The total amount for the four-year credit period of the housing
8 credit dollars allocated in a calendar year to any building shall
9 reduce the aggregate housing credit dollar amount of the California
10 Tax Credit Allocation Committee for the calendar year in which
11 the allocation is made.

12 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
13 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
14 not be applicable.

15 (g) The aggregate housing credit dollar amount that may be
16 allocated annually by the California Tax Credit Allocation
17 Committee pursuant to this section, Section 12206, and Section
18 17058 shall be an amount equal to the sum of all the following:

19 (1) (A) Seventy million dollars (\$70,000,000) for the 2001
20 calendar year, and, for the 2002 calendar year and each calendar
21 year thereafter, seventy million dollars (\$70,000,000) increased
22 by the percentage, if any, by which the Consumer Price Index for
23 the preceding calendar year exceeds the Consumer Price Index for
24 the 2001 calendar year. For the purposes of this paragraph, the
25 term “Consumer Price Index” means the last Consumer Price Index
26 for All Urban Consumers published by the federal Department of
27 Labor.

28 (B) An additional three hundred million dollars (\$300,000,000)
29 for the ~~2015~~ 2016 calendar year, and, for the ~~2016~~ 2017 calendar
30 year and each calendar year thereafter, three hundred million
31 dollars (\$300,000,000) increased by the percentage, if any, by
32 which the Consumer Price Index for the preceding calendar year
33 exceeds the Consumer Price Index for the ~~2015~~ 2016 calendar
34 year. For the purposes of this paragraph, the term “Consumer Price
35 Index” means the last Consumer Price Index for All Urban
36 Consumers published by the federal Department of Labor. A
37 housing sponsor receiving an allocation under paragraph (1) of
38 subdivision (c) shall not be eligible for receipt of the housing credit
39 allocated from the increased amount under this subparagraph. A
40 housing sponsor receiving an allocation under paragraph (1) of

1 subdivision (c) shall remain eligible for receipt of the housing
2 credit allocated from the credit ceiling amount under subparagraph
3 (A).

4 (2) The unused housing credit ceiling, if any, for the preceding
5 calendar years.

6 (3) The amount of housing credit ceiling returned in the calendar
7 year. For purposes of this paragraph, the amount of housing credit
8 dollar amount returned in the calendar year equals the housing
9 credit dollar amount previously allocated to any project that does
10 not become a qualified low-income housing project within the
11 period required by this section or to any project with respect to
12 which an allocation is canceled by mutual consent of the California
13 Tax Credit Allocation Committee and the allocation recipient.

14 (4) Five hundred thousand dollars (\$500,000) per calendar year
15 for projects to provide farmworker housing, as defined in
16 subdivision (h) of Section 50199.7 of the Health and Safety Code.

17 (5) The amount of any unallocated or returned credits under
18 former Sections 17053.14, 23608.2, and 23608.3, as those sections
19 read prior to January 1, 2009, until fully exhausted for projects to
20 provide farmworker housing, as defined in subdivision (h) of
21 Section 50199.7 of the Health and Safety Code.

22 (h) The term “compliance period” as defined in Section 42(i)(1)
23 of the Internal Revenue Code is modified to mean, with respect to
24 any building, the period of 30 consecutive taxable years beginning
25 with the first taxable year of the credit period with respect thereto.

26 (i) Section 42(j) of the Internal Revenue Code shall not be
27 applicable and the following shall be substituted in its place:

28 The requirements of this section shall be set forth in a regulatory
29 agreement between the California Tax Credit Allocation Committee
30 and the housing sponsor, and the regulatory agreement shall be
31 subordinated, when required, to any lien or encumbrance of any
32 banks or other institutional lenders to the project. The regulatory
33 agreement entered into pursuant to subdivision (f) of Section
34 50199.14 of the Health and Safety Code shall apply, provided that
35 the agreement includes all of the following provisions:

36 (1) A term not less than the compliance period.

37 (2) A requirement that the agreement be recorded in the official
38 records of the county in which the qualified low-income housing
39 project is located.

1 (3) A provision stating which state and local agencies can
2 enforce the regulatory agreement in the event the housing sponsor
3 fails to satisfy any of the requirements of this section.

4 (4) A provision that the regulatory agreement shall be deemed
5 a contract enforceable by tenants as third-party beneficiaries
6 thereto, and that allows individuals, whether prospective, present,
7 or former occupants of the building, who meet the income
8 limitation applicable to the building, the right to enforce the
9 regulatory agreement in any state court.

10 (5) A provision incorporating the requirements of Section 42
11 of the Internal Revenue Code as modified by this section.

12 (6) A requirement that the housing sponsor notify the California
13 Tax Credit Allocation Committee or its designee if there is a
14 determination by the Internal Revenue Service that the project is
15 not in compliance with Section 42(g) of the Internal Revenue Code.

16 (7) A requirement that the housing sponsor, as security for the
17 performance of the housing sponsor’s obligations under the
18 regulatory agreement, assign the housing sponsor’s interest in rents
19 that it receives from the project, provided that until there is a
20 default under the regulatory agreement, the housing sponsor is
21 entitled to collect and retain the rents.

22 (8) The remedies available in the event of a default under the
23 regulatory agreement that is not cured within a reasonable cure
24 period include, but are not limited to, allowing any of the parties
25 designated to enforce the regulatory agreement to collect all rents
26 with respect to the project; taking possession of the project and
27 operating the project in accordance with the regulatory agreement
28 until the enforcer determines the housing sponsor is in a position
29 to operate the project in accordance with the regulatory agreement;
30 applying to any court for specific performance; securing the
31 appointment of a receiver to operate the project; or any other relief
32 as may be appropriate.

33 (j) (1) The committee shall allocate the housing credit on a
34 regular basis consisting of two or more periods in each calendar
35 year during which applications may be filed and considered. The
36 committee shall establish application filing deadlines, the maximum
37 percentage of federal and state low-income housing tax credit
38 ceiling that may be allocated by the committee in that period, and
39 the approximate date on which allocations shall be made. If the
40 enactment of federal or state law, the adoption of rules or

1 regulations, or other similar events prevent the use of two allocation
2 periods, the committee may reduce the number of periods and
3 adjust the filing deadlines, maximum percentage of credit allocated,
4 and allocation dates.

5 (2) The committee shall adopt a qualified allocation plan, as
6 provided in Section 42(m)(1) of the Internal Revenue Code. In
7 adopting this plan, the committee shall comply with the provisions
8 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
9 Code, respectively.

10 (3) Notwithstanding Section 42(m) of the Internal Revenue
11 Code the California Tax Credit Allocation Committee shall allocate
12 housing credits in accordance with the qualified allocation plan
13 and regulations, which shall include the following provisions:

14 (A) All housing sponsors, as defined by paragraph (3) of
15 subdivision (a), shall demonstrate at the time the application is
16 filed with the committee that the project meets the following
17 threshold requirements:

18 (i) The housing sponsor shall demonstrate there is a need for
19 low-income housing in the community or region for which it is
20 proposed.

21 (ii) The project's proposed financing, including tax credit
22 proceeds, shall be sufficient to complete the project and shall be
23 adequate to operate the project for the extended use period.

24 (iii) The project shall have enforceable financing commitments,
25 either construction or permanent financing, for at least 50 percent
26 of the total estimated financing of the project.

27 (iv) The housing sponsor shall have and maintain control of the
28 site for the project.

29 (v) The housing sponsor shall demonstrate that the project
30 complies with all applicable local land use and zoning ordinances.

31 (vi) The housing sponsor shall demonstrate that the project
32 development team has the experience and the financial capacity
33 to ensure project completion and operation for the extended use
34 period.

35 (vii) The housing sponsor shall demonstrate the amount of tax
36 credit that is necessary for the financial feasibility of the project
37 and its viability as a qualified low-income housing project
38 throughout the extended use period, taking into account operating
39 expenses, a supportable debt service, reserves, funds set aside for
40 rental subsidies and required equity, and a development fee that

1 does not exceed a specified percentage of the eligible basis of the
2 project prior to inclusion of the development fee in the eligible
3 basis, as determined by the committee.

4 (B) The committee shall give a preference to those projects
5 satisfying all of the threshold requirements of subparagraph (A)
6 if both of the following apply:

7 (i) The project serves the lowest income tenants at rents
8 affordable to those tenants.

9 (ii) The project is obligated to serve qualified tenants for the
10 longest period.

11 (C) In addition to the provisions of subparagraphs (A) and (B),
12 the committee shall use the following criteria in allocating housing
13 credits:

14 (i) Projects serving large families in which a substantial number,
15 as defined by the committee, of all residential units are low-income
16 units with three ~~and~~ *or* more bedrooms.

17 (ii) Projects providing single-room occupancy units serving
18 very low income tenants.

19 (iii) (I) Existing projects that are “at risk of conversion.”

20 (II) For purposes of this section, the term “at risk of conversion,”
21 with respect to an existing property means a property that satisfies
22 all of the following criteria:

23 (ia) The property is a multifamily rental housing development
24 in which at least 50 percent of the units receive governmental
25 assistance pursuant to any of the following:

26 (Ia) New construction, substantial rehabilitation, moderate
27 rehabilitation, property disposition, and loan management set-aside
28 programs, or any other program providing project-based assistance
29 pursuant to Section 8 of the United States Housing Act of 1937,
30 Section 1437f of Title 42 of the United States Code, as amended.

31 (Ib) The Below-Market-Interest-Rate Program pursuant to
32 Section 221(d)(3) of the National Housing Act, Sections
33 1715l(d)(3) and (5) of Title 12 of the United States Code.

34 (Ic) Section 236 of the National Housing Act, Section 1715z-1
35 of Title 12 of the United States Code.

36 (Id) Programs for rent supplement assistance pursuant to Section
37 18 101 of the Housing and Urban Development Act of 1965,
38 Section 1701s of Title 12 of the United States Code, as amended.

1 (Ie) Programs pursuant to Section 515 of the Housing Act of
2 1949, Section 1485 of Title 42 of the United States Code, as
3 amended.

4 (If) The low-income housing credit program set forth in Section
5 42 of the Internal Revenue Code.

6 (ib) The restrictions on rent and income levels will terminate
7 or the federal insured mortgage on the property is eligible for
8 prepayment any time within five years before or after the date of
9 application to the California Tax Credit Allocation Committee.

10 (ic) The entity acquiring the property enters into a regulatory
11 agreement that requires the property to be operated in accordance
12 with the requirements of this section for a period equal to the
13 greater of 55 years or the life of the property.

14 (id) The property satisfies the requirements of Section 42(e) of
15 the Internal Revenue Code, regarding rehabilitation expenditures
16 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
17 apply.

18 (iv) Projects for which a public agency provides direct or indirect
19 long-term financial support for at least 15 percent of the total
20 project development costs or projects for which the owner's equity
21 constitutes at least 30 percent of the total project development
22 costs.

23 (v) Projects that provide tenant amenities not generally available
24 to residents of low-income housing projects.

25 (4) For purposes of allocating credits pursuant to this section,
26 the committee shall not give preference to any project by virtue
27 of the date of submission of its application except to break a tie
28 when two or more of the projects have an equal rating.

29 (5) Not less than 20 percent of the low-income housing tax
30 credits available annually under this section, Section 12206, and
31 Section 17058 shall be set aside for allocation to rural areas as
32 defined in Section 50199.21 of the Health and Safety Code. Any
33 amount of credit set aside for rural areas remaining on or after
34 October 31 of any calendar year shall be available for allocation
35 to any eligible project. No amount of credit set aside for rural areas
36 shall be considered available for any eligible project so long as
37 there are eligible rural applications pending on October 31.

38 (k) Section 42(l) of the Internal Revenue Code shall be modified
39 as follows:

1 The term “secretary” shall be replaced by the term “California
2 Franchise Tax Board.”

3 (l) In the case where the credit allowed under this section
4 exceeds the “tax,” the excess may be carried over to reduce the
5 “tax” in the following year, and succeeding taxable years if
6 necessary, until the credit has been exhausted.

7 (m) A project that received an allocation of a 1989 federal
8 housing credit dollar amount shall be eligible to receive an
9 allocation of a 1990 state housing credit dollar amount, subject to
10 all of the following conditions:

11 (1) The project was not placed in service prior to 1990.

12 (2) To the extent the amendments made to this section by the
13 Statutes of 1990 conflict with any provisions existing in this section
14 prior to those amendments, the prior provisions of law shall prevail.

15 (3) Notwithstanding paragraph (2), a project applying for an
16 allocation under this subdivision shall be subject to the
17 requirements of paragraph (3) of subdivision (j).

18 (n) The credit period with respect to an allocation of credit in
19 1989 by the California Tax Credit Allocation Committee of which
20 any amount is attributable to unallocated credit from 1987 or 1988
21 shall not begin until after December 31, 1989.

22 (o) The provisions of Section 11407(a) of Public Law 101-508,
23 relating to the effective date of the extension of the low-income
24 housing credit, shall apply to calendar years after 1989.

25 (p) The provisions of Section 11407(c) of Public Law 101-508,
26 relating to election to accelerate credit, shall not apply.

27 (q) (1) A corporation may elect to assign any portion of any
28 credit allowed under this section to one or more affiliated
29 corporations for each taxable year in which the credit is allowed.
30 For purposes of this subdivision, “affiliated corporation” has the
31 meaning provided in subdivision (b) of Section 25110, as that
32 section was amended by Chapter 881 of the Statutes of 1993, as
33 of the last day of the taxable year in which the credit is allowed,
34 except that “100 percent” is substituted for “more than 50 percent”
35 wherever it appears in the section, as that section was amended by
36 Chapter 881 of the Statutes of 1993, and “voting common stock”
37 is substituted for “voting stock” wherever it appears in the section,
38 as that section was amended by Chapter 881 of the Statutes of
39 1993.

40 (2) The election provided in paragraph (1):

1 (A) May be based on any method selected by the corporation
2 that originally receives the credit.

3 (B) Shall be irrevocable for the taxable year the credit is allowed,
4 once made.

5 (C) May be changed for any subsequent taxable year if the
6 election to make the assignment is expressly shown on each of the
7 returns of the affiliated corporations that assign and receive the
8 credits.

9 (r) Any unused credit may continue to be carried forward, as
10 provided in subdivision (l), until the credit has been exhausted.

11 (s) This section shall remain in effect on and after December 1,
12 1990, for as long as Section 42 of the Internal Revenue Code,
13 relating to low-income housing credit, remains in effect.

14 (t) The amendments to this section made by Chapter 1222 of
15 the Statutes of 1993 shall apply only to taxable years beginning
16 on or after January 1, 1994, except that paragraph (1) of subdivision
17 (q), as amended, shall apply to taxable years beginning on or after
18 January 1, 1993.

19 SEC. 4. This act provides for a tax levy within the meaning of
20 Article IV of the Constitution and shall go into immediate effect.

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2015 - 2016 Regular

Bill No: AB 35 **Hearing Date:** 7/14/2015
Author: Chiu
Version: 5/20/2015
Urgency: Yes, Tax Levy **Fiscal:** Yes
Consultant: Alison Dinmore

SUBJECT: Income taxes: credits: low-income housing: allocation increase

DIGEST: This bill increases the amount of state tax credits the California Tax Credit Allocation Committee (TCAC) can allocate for low-income housing and makes other changes to the state low-income housing tax credit (LIHTC) program.

ANALYSIS:

Existing law:

- 1) Provides that a low-income housing development that is a new building and is receiving 9% federal LIHTC credits is eligible to receive state LIHTC over four years of 30% of the eligible basis of the building.
- 2) Provides that a low-income housing development that is a new building that is receiving federal LIHTC and is “at risk of conversion” to market rate is eligible to receive state LIHTC over four years of 13% of the eligible basis of the building.
- 3) Allows TCAC to award state LIHTCs to developments in a qualified census tract (QCT) or a difficult to designated difficult development area (DDA) if the project is also receiving federal LIHTC, under the following conditions:
 - a) Developments restrict at least 50% of the units to special needs households; and
 - b) The state credits do not exceed 130% of the eligible basis of the building.
- 4) Allows TCAC to replace federal LIHTC with state LIHTC of up to 130% of a project’s eligible basis if the federal LIHTC is reduced in an equivalent amount.

- 5) Defines a QCT as any census tract designated by the U.S. Department of Housing and Urban Development (HUD) in which either 50% or more of the households have an income that is less than 60% of the area median gross income or that has a poverty rate of at least 25%.
- 6) Defines a DDA as an area designated by HUD on an annual basis that has high construction, land, and utility costs relative to area median gross income.

This bill:

- 1) Modifies the allocation of state LIHTC that may be awarded to a federally subsidized low-income housing project receiving federal 4% LIHTC so that:
 - a) A *new* qualified low-income housing building is eligible for a cumulative state LIHTC over four years of 50% of the eligible basis of the building, provided that the building is not located in a DDA or a QCT.
 - b) An *existing* qualified low-income housing building that is not located in a DDA or a QCT is eligible for a cumulative state LIHTC over four years of 13% of the eligible basis of the building.
 - c) A new or existing low-income housing building that is located in a DDA or QCT may be awarded a cumulative state LIHTC in an amount not to exceed 50% of the eligible basis of the building, provided that the federal LIHTC is replaced with state LIHTC, as specified.
 - d) A qualified existing, low-income building that is at least 15 years old is eligible for a cumulative state LIHTC of 95% of the eligible basis over four years if it meets all of the following requirements:
 - The project serves households of very low and extremely low income such that its average maximum household income is not more than 45% of the area median gross income;
 - The project is subject to a regulatory agreement restricting the average maximum household income to the above standard for 55 years;
 - The project would have insufficient credits under current categories to complete substantial rehabilitation; and
 - The credit allocation results in the completion of the project.
- 2) Authorizes TCAC to allocate up to \$300 million in credits in the 2016-17 fiscal year, plus \$300 million each fiscal year thereafter plus an inflation adjustment for projects under the new category, or for projects only eligible

for the 4% credit. TCAC can allocate credits to developers eligible for the 9% credit from the current \$75 million authorization, but developers of these projects are ineligible for allocations from the new \$300 million.

- 3) Imports current definitions for “low-income” and “extremely low-income” and makes other conforming changes.
- 4) Takes effect immediately as a tax levy.

COMMENTS:

- 1) *Purpose of the bill.* According to the author, California’s shortfall of 1.5 million affordable rental units impedes its economic growth by slowing job creation and driving Californians into poverty. When housing costs are accounted for, the proportion of people unable to meet their basic needs — food, shelter, transportation — rises from 16% to 23%, the highest rate of poverty in the nation. Additionally, 21 of the nation’s least affordable cities are in California.

A recent report from the California Housing Partnership depicts a growing statewide crisis driven by a growing divide between incomes and rents. Statewide, median incomes have fallen 8% since 2000; meanwhile, rental prices have risen to 21% in the same timeframe. Further, no county in California has sufficient affordable rental units for low-income individuals.

With the loss of redevelopment and expenditure of the last voter-approved housing bonds, \$1.5 billion of annual state investment dedicated to housing has been eliminated. AB 35 would reverse that by increasing the California LIHTC, a proven public-private-partnership model, by \$300 million per year, and enable the state to attract \$600 million in additional federal funding.

- 2) *Background of the federal LIHTC program.* The LIHTC is an indirect federal subsidy developed in 1986 to incentivize the private development of affordable rental housing for low-income households. The federal LIHTC program enables low-income housing sponsors and developers to raise project equity through the allocation of tax benefits to investors. TCAC administers the program and awards credits to qualified developers who can then sell those credits to private investors who use the credits to reduce their federal tax liability. The developer in turn invests the capital into the affordable housing project.

Two types of federal tax credits are available: the 9% and 4% credits. These terms refer to the approximate percentage of a project's "eligible basis" a taxpayer may deduct from his/her annual federal tax liability in each of 10 years. "Eligible basis" means the cost of development excluding land, transaction costs, and costs incurred for work outside the property boundary. For projects that are not financed with a federal subsidy, the applicable rate is 9%. For projects that are federally subsidized (including projects financed more than 50% with tax-exempt bonds), the applicable rate is 4%. Although the credits are known as the "9% and 4% credits," the actual tax rates fluctuate every month, based on the determination made by the Internal Revenue Service on a monthly basis. Generally, the 9% tax credit amounts to 70% of a taxpayer's eligible basis and the 4% tax credit amounts to 30% of a taxpayer's eligible basis, spread over a 10-year period.

Each year, the federal government allocates funding to the states for LIHTCs on the basis of a per-resident formula. In California, TCAC is the entity that reviews proposals submitted by developers and selects projects based on a variety of prescribed criteria. Only rental housing buildings, which are either undergoing rehabilitation or newly constructed, are eligible for the LIHTC programs. In addition, the qualified low-income housing projects must comply with both rent and income restrictions.

Each state receives an annual ceiling of 9% federal tax credits and they are oversubscribed by a 3:1 ratio. Unlike 9% LIHTC, federal 4% tax credits are not capped; however, they must be used in conjunction with tax-exempt private activity mortgage revenue bonds which are capped and are administered by the California Debt Limit Allocation Committee. In 2015, the state ceiling for private activity bonds is set at \$5.61 billion.

The value of the 4% tax credits is less than half of the 9% tax credits and, as a result, 4% federal credits are generally used in conjunction with another funding source, like state housing bonds or local funding sources. In 2014, developers only used \$80.5 million in annual federal 4% tax credits, significantly less than prior years. This is because, unlike in prior years, there is little supplemental funding from housing bonds or local funding sources to fill the remaining financing gap. The loss of redevelopment funding and state housing bond funds, which were used in combination with 4% federal credits to achieve higher affordability, has made the 4% federal credits less effective.

- 3) *Background of the state LIHTC program.* In 1987, the Legislature authorized a state LIHTC program to augment the federal tax credit program. State tax credits can only be awarded to projects that have also received, or are

concurrently receiving, an allocation of the federal LIHTCs. The amount of state LIHTC that may be annually allocated by the TCAC is limited to \$70 million, adjusted for inflation. In 2014, the total credit amount available for allocation was \$103 million plus any unused or returned credit allocations from previous years. Current state tax law generally conforms to federal law with respect to the LIHTC, except that it is limited to projects located in California.

While the state LIHTC program is patterned after the federal LIHTC program, there are several differences. First, investors may claim the state LIHTC over four years rather than the 10-year federal allocation period. Second, the rates used to determine the total amount of the state tax credit (representing all four years of allocation) are 30% of the eligible basis of a project that is not federally subsidized and 13% of the eligible basis of a project that is federally subsidized, in contrast to 70% and 30% (representing all 10 years of allocation on a present-value basis), respectively, for purposes of the federal LIHTCs. Furthermore, state tax credits are not available for acquisition costs, except for previously subsidized projects that qualify as “at-risk” of being converted to market rate.

Combining federal 9% credits (which amounts to roughly 70%) with state credits (which amounts to 30%) generally equals 100% of a project’s eligible basis. Combining federal 4% credits (which amounts to roughly 30%) with state credits (which amounts to 13%), only results in 43% of a project’s eligible basis.

- 4) *Background of state credits in DDAs and QCTs.* Federal law also allows credits equal to 130% of eligible basis if the project is located in a QCT or a DDA, a so-called “basis boost” of 30%. QCTs are designated by the Secretary of HUD, in which either 50% or more of the households have an income that is less than 60% of the area median gross income or have a poverty rate of 25%. The Secretary of HUD also draws DDAs using a ratio of construction, land, and utility costs to area median gross income.

State law prohibits TCAC from allocating state credits in QCTs or DDAs unless TCAC swaps out federal credits willing to forgo the “basis boost,” so that the combined credit amount doesn’t exceed 130% of basis. The rationale for this prohibition is that projects in these areas can qualify for more federal tax credits through a basis boost and therefore are already advantaged.

State law was recently amended to authorize TCAC, in limited cases, to award state LIHTCs for use in DDAs or QCTs, in addition to the federal credits. To

qualify, a development must restrict at least 50% of the units to special-needs households. The change allows these projects to receive state credits of 30% of basis in addition to federal ones generated on 130% of basis.

- 5) *Increasing amount of state credits.* This bill would increase the state LIHTC allocation by \$300 million per year, in addition to the existing \$70 million cap, as adjusted for inflation. The increase in the amount of state LIHTC would allow the state to leverage an additional \$200 million in federal 4% LIHTC and at least \$400 million in federal tax-exempt bond authority annually. The increase would help fill the gap in funding that was created by the loss of redevelopment and the exhaustion of state voter-approved bonds.
- 6) *Filling the gap.* This bill also increases the amount of state tax credits awarded to each qualified low-income housing project from 13% to 50% of the eligible basis, provided the project is also receiving a 4% federal tax credit. Developers that receive federal 9% credits can combine them with a sufficient subsidy to construct a low-income housing project, but TCAC can only allocate those credits up to a federal cap. While the 4% credits are not subject to a cap, they do not have the same value because developers cannot generate sufficient capital needed to cover the cost of the project. This bill would increase the value of the state credits to secure more interest than the 4% to generate sufficient amounts to construct projects.

This increase would apply to new construction and rehabilitation costs of the project and would more than triple the amount of equity that an investor in the project would receive, which would bring the return on 4% credits in line with 9% credits and would likely result in greater affordability for the project. The costs of acquiring an existing low-income building would also be eligible for the state LIHTC allocated from the new additional funding of \$300 million, but the applicable percentage used to calculate the amount of that credit would be limited to 13% of the project's eligible basis.

- 7) *An extra boost.* Federal law gives projects an extra 30% boost on eligible basis if the project is located in a DDA or QCT. These areas have a higher poverty level and a higher concentration of extremely low-income individuals and families, so deep subsidy is required to make housing affordable. State law does not allow state credits to be awarded in DDAs or QCTs, except for housing developments where 50% of the units are for special-needs populations. The rationale for the prohibition is that projects in these areas can qualify for more federal tax credits and are already advantaged.

The bill allows TCAC to allocate state credits for new or existing buildings in QCTs and DDAs up to 50% of basis of a project receiving a 4% credit, but

must replace federal credits with state ones when doing so. In other words, the state would provide the percentage necessary so that the aggregate of the state credits and the federal boost equal 50% of basis. The main purpose of this change is to provide enough state tax credits to match the value of a 9% federal tax credit. As with the other provisions of the bill, this only changes the state tax credit for projects receiving 4% credits and does not affect projects receiving 9% tax credits.

- 8) *Rehabilitating existing housing stock.* Many low-income housing developments in the state are older and need significant rehabilitation. These projects, therefore, require more investment due to their age and level of repairs, combined with low rents. This bill will significantly increase an amount of state LIHTC — 95% of the eligible basis — that may be awarded to a qualified low-income housing building that houses very low-income or extremely low-income tenants and meets all specified requirements, including the building's location, age, and value.
- 9) *Costs and effects.* The increase in state LIHTCs is a tax credit, which means this is tax liability that would have otherwise gone to the general fund from corporations, which instead choose to invest in low-income housing tax credits. While it's possible that it could take \$300 million from the general fund, the idea is that investors would likely be seeking tax credits elsewhere and might, with the enactment of this bill, now build affordable housing. As previously noted, the increase in the amount of state LIHTC would allow the state to leverage an additional \$200 million in federal 4% LIHTC and at least \$400 million in federal tax-exempt bond authority annually. The sponsors also estimate that if this bill were enacted, 2,000 new rental homes would be created annually.

Further, there are economic impacts from the construction, job creation, and local tax benefits of building multifamily homes. The estimated one-year impacts of building 100 rental apartments in a typical local area include \$11.7 million in local income, \$2.2 million in taxes and other revenue for local governments, and 161 local jobs (1.62 jobs per apartment). The additional, annually recurring impacts of building 100 rental apartments in a typical local area include \$2.6 million in local income, \$503,000 in taxes and other revenue for local governments, and 44 local jobs (.44 jobs per apartment).

- 10) *Double-referred.* This bill was heard in the Senate Governance and Finance Committee on July 1, 2015, and approved 6-0.

Assembly Votes:

Floor: 78-0
Appr: 17-0
Rev&Tax: 9-0
H&CD: 7-0

RELATED LEGISLATION:

SB 377 (Beall, 2015) — allows a taxpayer who receives an allocation of state LIHTC from TCAC to sell all or any portion of the credit to one or more unrelated parties for each taxable year in which the credit is allowed for not less than 80% of the amount of the credit. *This bill is pending in the Assembly Revenue and Taxation Committee.*

AB 952 (Atkins, Chapter 771, Statutes of 2013) — authorizes TCAC to allocate a state LIHTC for buildings located in a DDA or QCT that have at least 50% special-needs occupants.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, July 8, 2015.)

SUPPORT:

California Housing Consortium (co-sponsor)
California Housing Partnership (co-sponsor)
Non-Profit Housing Association of Northern California (co-sponsor)
AARP California
Abode Communities
Apartment Association, California Southern Cities
Apartment Association of Orange County
Aspiranet
BRIDGE Housing
Burbank Housing Corporation
Burbank Housing Development Corporation
California Alliance for Retired Americans
California Apartment Association
California Bankers Association
California Building Industry Association
California Center for Cooperative Development

California Coalition for Youth
California Council for Affordable Housing
California Council of Community Mental Health Agencies
California Economic Summit
California Infill Builders Federation
California Special Districts Association
California State Association of Counties
California State Treasurer
Christian Church (Disciples of Christ) Pacific Southwest Region
City of Alameda
City of Burbank/Burbank Redevelopment Agency
City of Camarillo
City of Chowchilla
City of Concord
City of Culver City
City of Danville
City of Dublin
City of El Centro
City of Emeryville
City of Eureka
City of Fairfield
City of Fremont
City of Glendale
City of Lafayette
City of Lakeport
City of Lakewood
City of Livermore
City of Lodi
City of Los Angeles
City of Merced
City of Morgan Hill
City of Napa
City of Oakland
City of Rocklin
City of Sacramento
City of San Carlos
City of San Francisco
City of San Jose
City of Santa Barbara
City of Santa Monica
City of Santa Rosa
City of Taft

City of Thousand Oaks
City of Torrance
City of Tulare
City of Turlock
City of Union City
City of Ventura
City of Vista
City of West Hollywood
Community Economics, Inc.
Community Housing Opportunities Corporation
Community HousingWorks
Community Land Trust Association of West Marin
Contra Costa County
Contra Costa Interfaith Housing
Core Affordable Housing
County Welfare Directors Association of California
Disability Rights California
Domus Development
EAH Housing
East Bay Developmental Disabilities Legislative Coalition
East Bay Rental Housing Association
Elder Advocates for Community Health
The Episcopal Diocese of Los Angeles
Goldfarb & Lipman LLP
Greenbelt Alliance
Highridge Costa Housing Partners, LLC
Highridge Costa Investors
HIP Housing, Inc.
HKIT Architects
Hollywood Adventist Church
Home Ownership for Personal Empowerment
Housing Authority of the City of San Buenaventura
Housing Authority of the City of Santa Barbara
Housing Authority of the County of Alameda
Housing Leadership Council of San Mateo County
Housing Trust Silicon Valley
Hudson Housing Capital
Irvine Community Land Trust
Islamic Shura Council of Northern California
Jamboree Housing Corporation
The Kennedy Commission
Korean Resource Center

Larkin Street Youth Services
Law Foundation of Silicon Valley
League of California Cities
LINC Housing
Lutheran Office of Public Policy — California
Many Mansions
Marin County Board of Supervisors
Mayor of Long Beach
Mayor of Los Angeles
Mayor of Santa Barbara
Mental Health America of California
Mercy Housing/Bennett House
MidPen Housing Corporation
Monterey County Board of Supervisors
Nancy Lewis Associates
Napa Valley Community Housing
National Association of Social Workers
Nelson Rental Consultant
Nor Cal Rental Property Association
North Los Angeles County Regional Center
North Valley Property Owners Association
Northern California Community Loan Fund
The Pacific Companies
Palm Communities
Peoples' Self-Help Housing
Powell & Partners,, Architects
Rural Communities Housing Development Corporation
Rural Community Assistance Corporation
Sacramento Loaves & Fishes
San Diego County Apartment Association
San Diego Housing Commission
San Francisco County
San Francisco Housing Action Coalition
San Francisco Unified School District
San Luis Obispo County Housing Trust Fund
San Mateo County
Santa Clara County Board of Supervisors
Satellite Affordable Housing Associates
Seventh-Day Adventist Church, Santa Clarita
SHELTER, Inc.
Shelter Partnership, Inc.
Silicon Valley Bank

Southwest California Legislative Council
Trinity Center
United Ways of California
Venice Community Housing Corporation
Ward Economic Development Corporation
Western Seniors Housing, Inc.
Women Organizing Resources, Knowledge and Services
Yolo Housing
17 individuals

OPPOSITION:

City of Banning

-- END --

AMENDED IN ASSEMBLY JUNE 3, 2015

AMENDED IN ASSEMBLY MAY 14, 2015

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1335

Introduced by Assembly Member Atkins

(Principal coauthors: Assembly Members Chau, Chiu, and Gordon)

(Coauthors: Assembly Members Alejo, Bloom, Bonilla, Bonta, Cooper, Gonzalez, Lopez, Low, McCarty, Mullin, Rendon, Santiago, Mark Stone, Ting, and Weber)

(Coauthor: Senator Hill)

February 27, 2015

An act to add Section 27388.1 to the Government Code, and to add Chapter 2.5 (commencing with Section 50470) to Part 2 of Division 31 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1335, as amended, Atkins. Building Homes and Jobs Act.

Under existing law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, ~~home ownership~~ *homeownership* for very low and low-income households, and downpayment assistance for first-time homebuyers. Existing law also authorizes the issuance of bonds in specified amounts pursuant to the State General Obligation Bond Law. Existing law requires that proceeds from the sale of these bonds be used

to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks.

This bill would enact the Building Homes and Jobs Act. The bill would make legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded, per each single transaction per single parcel of real property, not to exceed \$225. By imposing new duties on counties with respect to the imposition of the recording fee, the bill would create a state-mandated local program. The bill would require that revenues from this fee, after deduction of any actual and necessary administrative costs incurred by the county recorder, be sent quarterly to the Department of Housing and Community Development for deposit in the Building Homes and Jobs Fund, which the bill would create within the State Treasury. The bill would, upon appropriation by the Legislature, require that 20% of the moneys in the fund be expended for affordable owner-occupied workforce housing, 10% of the moneys for housing purposes related to agricultural workers and their families, and would authorize the remainder of the moneys in the fund to be expended to support affordable housing, ~~home ownership~~ *homeownership* opportunities, and other housing-related programs, ~~and administrative costs~~, as specified. The bill would impose certain auditing and reporting requirements and would establish the Building Homes and Jobs Trust Fund Governing Board that would, among other things, review and approve recommendations made by the Department of Housing and Community Development for the distribution of moneys from the fund.

This bill would state the intent of the Legislature to enact legislation that would create the Secretary of Housing within state government to oversee all activities related to housing in the state.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known as the Building Homes
2 and Jobs Act.

3 SEC. 2. (a) The Legislature finds and declares that having a
4 healthy housing market that provides an adequate supply of homes
5 affordable to Californians at all income levels is critical to the
6 economic prosperity and quality of life in the state.

7 (b) The Legislature further finds and declares all of the
8 following:

9 (1) Funding approved by the state's voters in 2002 and 2006,
10 as of June 2014, has financed the construction, rehabilitation, and
11 preservation of over 14,000 shelter spaces and 149,000 affordable
12 homes. These numbers include thousands of supportive homes for
13 people experiencing homelessness. In addition, these funds have
14 helped tens of thousands of families become or remain
15 homeowners. Nearly all of the voter-approved funding for
16 affordable housing was awarded by the beginning of 2015.

17 (2) The requirement in the Community Redevelopment Law
18 that redevelopment agencies set aside 20 percent of tax increment
19 for affordable housing generated roughly \$1 billion per year. With
20 the elimination of redevelopment agencies, this funding stream
21 has disappeared.

22 (3) In 2014, the Legislature committed 10 percent of ongoing
23 cap-and-trade funds for affordable housing that reduces greenhouse
24 gas emissions and dedicated \$100 million in one-time funding for
25 affordable multifamily and permanent supportive housing. In
26 addition, the people of California thoughtfully approved the
27 repurposing of \$600 million in already committed bond funds for
28 the creation of affordable rental and permanent supportive housing
29 for veterans through the passage of Proposition 41.

30 (4) Despite these investments, the need in the state of California
31 greatly exceeds the available resources, considering 36.2 percent
32 of mortgaged homeowners and 47.7 percent of all renters are
33 spending more than 35 percent of their household incomes on
34 housing.

1 (5) California has 12 percent of the United States population,
2 but 20 percent of its homeless population. California has the highest
3 percentage of unsheltered homeless in the nation, with 63 percent
4 of homeless Californians not having shelter. California has 24
5 percent of the nation's homeless veterans population and one-third
6 of the nations' chronically homeless population. California also
7 has the largest populations of unaccompanied homeless children
8 and youth, with 30 percent of the national total.

9 (6) Furthermore, four of the top 10 metropolitan areas in the
10 country with the highest rate of homelessness are in the following
11 metropolitan areas in California: San Jose-Sunnyvale-Santa Clara,
12 Los Angeles-Long Beach-Santa Ana, Fresno, and Stockton.

13 (7) California continues to have the second lowest
14 homeownership rate in the nation, and the Los Angeles
15 metropolitan area is now a majority renter area. In fact, five of the
16 eight lowest homeownership rates are in metropolitan areas in
17 California.

18 (8) Los Angeles and Orange Counties have been identified as
19 the epicenter of overcrowded housing, and numerous studies have
20 shown that children in crowded homes have poorer health, worse
21 scores on mathematics and reading tests, and higher rates of
22 depression and behavioral problems—even when poverty is taken
23 into account.

24 (9) Millions of Californians are affected by the state's chronic
25 housing shortage, including seniors, veterans, people experiencing
26 chronic homelessness, working families, people with mental,
27 physical, or developmental disabilities, agricultural workers, people
28 exiting jails, prisons, and other state institutions, survivors of
29 domestic violence, and former foster and transition-aged youth.

30 (10) Eight of the top 10 hardest hit cities by the foreclosure
31 crisis in the nation were in California. They include the Cities of
32 Stockton, Modesto, Vallejo, Riverside, San Bernardino, Merced,
33 Bakersfield, and Sacramento.

34 (11) California's workforce continues to experience longer
35 commute times as persons in the workforce seek affordable housing
36 outside the areas in which they work. If California is unable to
37 support the construction of affordable housing in these areas,
38 congestion problems will strain the state's transportation system
39 and exacerbate greenhouse gas emissions.

1 (12) Many economists agree that the state's higher than average
2 unemployment rate is due in large part to massive shrinkage in the
3 construction industry from 2005 to 2009, including losses of nearly
4 700,000 construction-related jobs, a 60-percent decline in
5 construction spending, and an 83-percent reduction in residential
6 permits. Restoration of a healthy construction sector will
7 significantly reduce the state's unemployment rate.

8 (13) The lack of sufficient housing impedes economic growth
9 and development by making it difficult for California employers
10 to attract and retain employees.

11 (14) To keep pace with continuing demand, the state should
12 identify and establish a permanent, ongoing source or sources of
13 funding dedicated to affordable housing development. Without a
14 reliable source of funding for housing affordable to the state's
15 workforce and most vulnerable residents, the state and its local
16 and private housing development partners will not be able to
17 continue increasing the supply of housing after existing housing
18 bond resources are depleted.

19 (15) The investment will leverage billions of dollars in private
20 investment, lessen demands on law enforcement and dwindling
21 health care resources as fewer people are forced to live on the
22 streets or in dangerous substandard buildings, and increase
23 businesses' ability to attract and retain skilled workers.

24 (16) In order to promote housing and homeownership
25 opportunities, the recording fee imposed by this act shall not be
26 applied to any recording made in connection with a sale of real
27 property. Purchasing a home is likely the largest purchase made
28 by Californians, and it is the intent of this act to not increase
29 transaction costs associated with these transfers.

30 SEC. 3. Section 27388.1 is added to the Government Code, to
31 read:

32 27388.1. (a) (1) Commencing January 1, 2016, and except as
33 provided in paragraph (2), in addition to any other recording fees
34 specified in this code, a fee of seventy-five dollars (\$75) shall be
35 paid at the time of recording of every real estate instrument, paper,
36 or notice required or permitted by law to be recorded, except those
37 expressly exempted from payment of recording fees, per each
38 single transaction per parcel of real property. The fee imposed by
39 this section shall not exceed two hundred twenty-five dollars
40 (\$225). "Real estate instrument, paper, or notice" means a

1 document relating to real property, including, but not limited to,
 2 the following: deed, grant deed, trustee’s deed, deed of trust,
 3 reconveyance, quit claim deed, fictitious deed of trust, assignment
 4 of deed of trust, request for notice of default, abstract of judgment,
 5 subordination agreement, declaration of homestead, abandonment
 6 of homestead, notice of default, release or discharge, easement,
 7 notice of trustee sale, notice of completion, UCC financing
 8 statement, mechanic’s lien, maps, and covenants, conditions, and
 9 restrictions.

10 (2) The fee described in paragraph (1) shall not be imposed on
 11 any real estate instrument, paper, or notice recorded in connection
 12 with a transfer subject to the imposition of a documentary transfer
 13 tax as defined in Section 11911 of the Revenue and Taxation Code
 14 or on any real estate instrument, paper, or notice recorded in
 15 connection with a transfer of real property that is a residential
 16 dwelling to an owner-occupier.

17 (b) The fees, after deduction of any actual and necessary
 18 administrative costs incurred by the county recorder in carrying
 19 out this section, shall be remitted quarterly, on or before the last
 20 day of the month next succeeding each calendar quarterly period,
 21 to the Department of Housing and Community Development for
 22 deposit in the California Homes and Jobs Trust Fund established
 23 by Section 50470 of the Health and Safety Code, to be expended
 24 for the purposes set forth in that section. In addition, the county
 25 shall pay to the Department of Housing and Community
 26 Development interest, at the legal rate, on any funds not paid to
 27 the Controller before the last day of the month next succeeding
 28 each quarterly period.

29 SEC. 4. Chapter 2.5 (commencing with Section 50470) is added
 30 to Part 2 of Division 31 of the Health and Safety Code, to read:

31
 32 CHAPTER 2.5. BUILDING HOMES AND JOBS ACT

33
 34 Article 1. General Provisions

35
 36 50470. (a) (1) There is hereby created in the State Treasury
 37 the Building Homes and Jobs Trust Fund. All interest or other
 38 increments resulting from the investment of moneys in the fund
 39 shall be deposited in the fund, notwithstanding Section 16305.7
 40 of the Government Code.

1 (2) Moneys in the Building Homes and Jobs Trust Fund shall
2 not be subject to transfer to any other fund pursuant to any
3 provision of Part 2 (commencing with Section 16300) of Division
4 4 of Title 2 of the Government Code, except to the Surplus Money
5 Investment Fund. Upon appropriation by the Legislature:

6 (A) Twenty percent of moneys in the fund shall be expended
7 for affordable owner-occupied workforce housing.

8 (B) *Ten percent of the moneys in the fund shall be expended to*
9 *address affordable homeownership and rental housing*
10 *opportunities for agricultural workers and their families.*

11 ~~(B)~~

12 (C) The remainder of the moneys in the fund may be expended
13 for the following purposes:

14 (i) The development, acquisition, rehabilitation, and preservation
15 of rental housing that is affordable to extremely low, very low,
16 low-, and moderate-income households, including necessary
17 operating subsidies.

18 (ii) Affordable rental and ownership housing that meets the
19 needs of a growing workforce up to 120 percent of area median
20 income.

21 (iii) Matching portions of funds placed into local or regional
22 housing trust funds.

23 (iv) Matching portions of funds available through the Low and
24 Moderate Income Housing Asset Fund pursuant to subdivision (d)
25 of Section 34176 of the Health and Safety Code.

26 (v) Capitalized reserves for services connected to the creation
27 of new permanent supportive housing, including, but not limited
28 to, developments funded through the Veterans Housing and
29 Homelessness Prevention Program.

30 (vi) Emergency shelters, transitional housing, and rapid
31 rehousing.

32 (vii) Accessibility modifications.

33 (viii) Efforts to acquire and rehabilitate foreclosed or vacant
34 homes.

35 ~~(xi)~~

36 (ix) Homeownership opportunities, including, but not limited
37 to, down payment assistance.

38 ~~(xii) To the department for the administration of housing~~
39 ~~programs that receive an appropriation from the fund. Moneys~~

1 ~~expended for this purpose shall not exceed 5 percent of the moneys~~
2 ~~in the fund.~~

3 *(3) A state or local entity that receives an appropriation or*
4 *allocation pursuant to this chapter shall use no more than 5 percent*
5 *of that appropriation or allocation for costs related to the*
6 *administration of the housing program for which the appropriation*
7 *or allocation was made.*

8 (b) Both of the following shall be paid and deposited in the
9 fund:

10 (1) Any moneys appropriated and made available by the
11 Legislature for purposes of the fund.

12 (2) Any other moneys that may be made available to the
13 department for the purposes of the fund from any other source or
14 sources.

15 *(c) If a local government does not expend the moneys allocated*
16 *to it, pursuant to this chapter, within five years of that allocation,*
17 *those moneys shall revert to and be paid and deposited in, the*
18 *fund.*

19 50470.5. For purposes of this chapter:

20 (a) “Department” means the Department of Housing and
21 Community Development.

22 (b) “Governing Board” means the Building Homes and Jobs
23 Trust Fund Governing Board.

24 50470.7. (a) The Building Homes and Jobs Trust Fund
25 Governing Board is hereby established. The governing board shall
26 include one representative from the department, one representative
27 from the California Housing Finance Agency, and one
28 representative from the Office of the Treasurer. The governing
29 board shall consist also include no fewer than two real estate
30 licensees, one from northern California and one from southern
31 California, each with not less than 10 years of real estate experience
32 and membership in a real estate trade organization with not less
33 than 20,000 licensees. The governing board shall include a local
34 government official from northern and southern California, and a
35 representative from the northern and southern California home
36 building industry, all of whom shall be appointed by the Governor.

37 (b) (1) The governing board also shall include six public
38 members. Two of the public members must be representative of
39 nonprofit affordable housing development, one appointed by the
40 Speaker of the Assembly and one appointed by the President pro

1 Tempore of the Senate. Two of the public members must be
2 representative of for-profit affordable housing development, one
3 appointed by the Speaker of the Assembly and one appointed by
4 the President pro Tempore of the Senate. The Speaker of the
5 Assembly and the President pro Tempore of the Senate shall each
6 appoint one additional public member who shall be representative
7 of, or have experience in, one or more of the following areas:

- 8 (A) Private sector lending.
- 9 (B) For-profit affordable housing development.
- 10 (C) Nonprofit affordable housing development.
- 11 (D) Working with special needs populations, including persons
12 experiencing homelessness.
- 13 (E) Architecture.
- 14 (F) Housing development consultation.
- 15 (G) Housing issues related academia.

16 (2) Overall public membership shall contribute to a balance
17 among geographic areas and between rural and urban interests.

18 50471. (a) In order to maximize efficiency and address
19 comprehensive needs, the department, in consultation with the
20 California Housing Finance Agency, the California Tax Credit
21 Allocation Committee, and the California Debt Limit Allocation
22 Committee, shall develop and submit to the Legislature, at the time
23 of the Department of Finance's adjustments to the proposed
24 2015–16 fiscal year budget pursuant to subdivision (e) of Section
25 13308 of the Government Code, the Building Homes and Jobs
26 Investment Strategy. Notwithstanding Section 10231.5 of the
27 Government Code, commencing with the 2020–21 fiscal year, and
28 every five years thereafter, concurrent with the release of the
29 Governor's proposed budget, the department shall update the
30 investment strategy and submit it to the Legislature. The governing
31 board shall review and advise the department regarding the
32 investment strategy prior to its submission to the Legislature. The
33 investment strategy shall do all of the following:

34 (1) Identify the statewide needs, goals, objectives, and outcomes
35 for housing for a five-year time period. Goals should include targets
36 of the total number of affordable homes created and preserved
37 with the funds.

38 (2) ~~Promote~~—(A) *Provide for* a geographically balanced
39 distribution of ~~funds funds~~, including ~~consideration of~~ a 50 percent
40 direct allocation of funds to local governments.

1 (B) In order to receive an allocation a local government shall:

2 (1) Submit a plan to the department detailing how allocated
3 funds will be used by the local government in manner consistent
4 with paragraph (2) of subdivision (a) of Section 50470.

5 (2) Have a compliant housing element with the state, submit
6 annual reports pursuant to Section 65400 of the Government Code,
7 and submit an annual report to the department that provides
8 ongoing tracking of the uses and expenditures of any allocated
9 funds.

10 (3) Emphasize investments that serve households that are at or
11 below 60 percent of area median income.

12 (4) Meet the following minimum objectives:

13 (A) Encourage economic development and job creation by
14 helping to meet the housing needs of a growing workforce up to
15 120 percent of area median income.

16 (B) Identify opportunities for coordination among state
17 departments and agencies to achieve greater efficiencies, increase
18 the amount of federal investment in production, services, and
19 operating costs of housing, and promote energy efficiency in
20 housing produced.

21 (C) Incentivize the use and coordination of nontraditional
22 funding sources including philanthropic funds, local realignment
23 funds, nonhousing tax increment, the federal Patient Protection
24 and Affordable Care Act, and other resources.

25 (D) Incentivize innovative approaches that produce cost savings
26 to local and state services by reducing the instability of housing
27 for frequent, high-cost users of hospitals, jails, detoxification
28 facilities, psychiatric hospitals, and emergency shelters.

29 (b) Before submitting the Building Homes and Jobs Investment
30 Strategy to the Legislature, the department shall hold at least four
31 public workshops in different regions of the state to further inform
32 the development of the investment strategy.

33 (c) Expenditure requests contained in the Governor's proposed
34 budget shall be consistent with the Building Homes and Jobs
35 Investment Strategy developed and submitted pursuant to this part.
36 Moneys in the Building Homes and Jobs Trust Fund shall be
37 appropriated through the annual Budget Act.

38 (d) The Building Homes and Jobs Investment Strategy and
39 updates required by this section shall be submitted pursuant to
40 Section 9795 of the Government Code.

1 (e) The governing board shall have the authority to review and
2 approve department recommendations for all funds distributed
3 from the Building Homes and Jobs Trust Fund.

4
5 Article 2. Audits and Reporting
6

7 50475. The California State Auditor's Office shall conduct
8 periodic audits to ensure that the annual allocation to individual
9 programs is awarded by the department in a timely fashion
10 consistent with the requirements of this chapter. The first audit
11 shall be conducted no later than 24 months from the effective date
12 of this section.

13 50476. (a) In its annual report to the Legislature pursuant to
14 Section 50408, the department shall report how funds that were
15 made available pursuant to this chapter and allocated in the prior
16 year were expended, including efforts to promote a geographically
17 balanced distribution of funds. The report shall also assess the
18 impact of the investment on job creation and the economy. With
19 respect to any awards made specifically to house or support persons
20 who are homeless or at-risk of homelessness, the report shall
21 include an analysis of the effectiveness of the funding in allowing
22 these households to retain permanent housing. The department
23 shall make the report available to the public on its Internet Web
24 site.

25 (b) (1) In the report, the department shall make a determination
26 of whether any of the moneys derived from fees collected pursuant
27 to Section 27388.1 of the Government Code are being allocated
28 by the state for any purpose not authorized by Section 50470 and
29 shall share the information with the county recorders.

30 (2) If the department determines that any moneys derived from
31 fees collected pursuant to Section 27388.1 of the Government
32 Code are being allocated by the state for a purpose not authorized
33 by Section 50470, the county recorders shall, upon notice of the
34 determination, immediately cease collection of the fees imposed
35 by Section 27388.1 of the Government Code, and shall resume
36 collection of those fees only upon notice that the moneys derived
37 from fees collected pursuant to Section 23788.1 of the Government
38 Code are being allocated by the state only for a purpose authorized
39 by Section 50470.

1 SEC. 5. (a) The Legislature finds and declares that the housing
2 market plays a critical role in the functioning of the California
3 economy.

4 (b) The Legislature further finds and declares all of the
5 following:

6 (1) The need for housing is something every Californian
7 encounters.

8 (2) Adequate and stable housing is a crucial component of all
9 Californians' quality of life.

10 (3) The expenditure for housing is one of the largest expenses
11 all Californians undertake in their day-to-day lives.

12 (4) Housing and housing-related activities are of such significant
13 importance to the state that it warrants a clear and unified voice
14 in state government.

15 (c) It is the intent of the Legislature to enact legislation that
16 would create a Secretary of Housing within state government to
17 oversee all activities related to housing in the state. In creating this
18 position, it is the intent of the Legislature that all professional
19 entities that play a role in the housing market would be authorized
20 to be incorporated in order to have a clearer and more unified
21 approach to housing in California.

22 SEC. 6. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 a local agency or school district has the authority to levy service
25 charges, fees, or assessments sufficient to pay for the program or
26 level of service mandated by this act, within the meaning of Section
27 17556 of the Government Code.

28 SEC. 7. This act is an urgency statute necessary for the
29 immediate preservation of the public peace, health, or safety within
30 the meaning of Article IV of the Constitution and shall go into
31 immediate effect. The facts constituting the necessity are:

32 In order to provide affordable housing opportunities at the earliest
33 possible time, it is necessary for this act to take effect immediately.



Assembly Speaker Toni G. Atkins, 78th Assembly District

AB 1335 – Building Homes and Jobs Act

IN BRIEF

The Building Homes and Jobs Act establishes a permanent funding source for affordable housing, through a fee on real estate transaction documents, excluding commercial and residential real-estate sales.

THE ISSUE

California has a housing affordability crisis.

- According to the Public Policy Institute of California (PPIC), as of February 2015, roughly 36% of mortgaged homeowners and approximately 48% of all renters are spending more than one-third of their household incomes on housing.
- California continues to have the second lowest homeownership rate in the nation and the Los Angeles metropolitan area is now a majority renter region. In fact, five of the eight lowest homeownership rates in the nation are in California metropolitan areas.
- California has 12% of the United States population, but 20% of its homeless population – 63% of these homeless Californians are unsheltered (the highest rate in the nation).
- At any given time, 134,000 Californians are homeless. California has 24% of the nation's homeless veterans and one-third of the nations' chronically homeless. The state also has the largest numbers of unaccompanied homeless children and youth, with 30% of the national total.
- For the first time, Standard and Poors Ratings Services cited California's "Persistently high cost of housing" as contributing to a relatively weaker business climate and a credit weakness in the rating of California General Obligation bonds.

BACKGROUND

Increasing the construction, building, and availability of affordable housing is good for the economy, the budget, job creation, and families:

- The Bay Area Council, the Los Angeles Area Chamber of Commerce, the Los Angeles Business Council, the Orange County Business Council, and the Silicon Valley Leadership Group agree that less affordable housing impedes California businesses from attracting and retaining workers.
- On average, a single homeless Californian incurs \$2,897 per month in county costs for emergency room visits and in-patient hospital stays, as well as the costs of arrests and incarceration. Roughly 79% of these costs are cut when that person has an affordable home.
- An estimated 29,000 jobs would be created annually for every \$500 million spent on affordable housing.

THE SOLUTION

Increased and ongoing funding for affordable housing is critical to stabilize the state's housing development and construction marketplace. If developers know that there is a sustainable source of funding available, they will take on the risk that comes with development — and create a reliable pipeline of well-paying construction jobs in the process.

The Building Homes and Jobs Act will utilize a pay as you go approach and generate hundreds of millions of dollars annually for affordable housing through a \$75 fee on real estate recorded documents, excluding those documents associated with real estate sales. The fee is capped at \$225 on a per parcel, per transaction basis. 50% of the funds will be distributed directly to local governments. 20% of the funds will be spent on affordable homeownership needs for a growing workforce and 10% of the funds will go to meet the affordable housing needs of agricultural workers and their families. The funds generated will leverage an additional \$2 to \$3 billion in federal, local, and bank investment.

FOR MORE INFORMATION

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SUPPORT

Abode Communities
Access to Independence
A Community of Friends
Adventist Health
Affirmed Housing
Alameda County Housing Authority
American Federation of State, County, and
Municipal Employees (AFSCME), AFL-
CIO
American Planning Association California Chapter
Apartment Association of Greater Los Angeles
Aspiranet
Association of Bay Area Governments
Association of Regional Center Agencies
Bay Area Council
Biocom
Bridge Housing
Building Industry Association of Southern
California
Burbank Housing Development Corp
Cabrillo Economic Development Corporation
California Apartment Association
California Association of Code Enforcement
Officers
California Association of Food Banks
California Association of Housing Authorities
California Association of Local Housing Finance
Agencies
California Association of Realtors
California Building Industry Association
California Coalition for Rural Housing
California Coalition for Youth
California College and University Police Chiefs
Association
California Community Foundation
California Council of Carpenters
California Council of Community Mental Health
Agencies
California Economic Summit
California Equity Leaders Network
California Housing Consortium
California Housing Partnership Corporation
California Infill Builders Federation
California Institute for Rural Studies
California Labor Federation
California Narcotics Officers Association
CA-NV Conference of Operating Engineers
California PACE Association (CalPACE)
California Partnership to End Domestic Violence
California Police Chiefs Association
California Rural Legal Assistance Foundation
California Special Districts Association
California State Association of Electrical Workers
California State Pipe Trades Council
California State Council of Service Employees
International Union (SEIU)
Californians for Safety and Justice
Capitol Area Development Authority
C&C Development Company
Center for Sustainable Neighborhoods
Central City Association
Charities Housing
Christian Church Homes
Circulate San Diego
Cities Association of Santa Clara County
City Heights Community Development Corporation
City of Alameda
City of Albany
City of Berkeley
City of Chowchilla
City of El Centro
City of Emeryville
City of Eureka
City of Fairfield
City of Fremont
City of Glendale
City of Goleta
City of Indian Wells
City of Lafayette
City of Lakeport
City of Lakewood
City of Lodi
City of Los Altos
City of Los Angeles
City of Merced
City of Modesto
City of Morgan Hill
City of Mountainview
City of Napa
City of National City
City of Oakland
City of Pasadena
City of Rocklin
City of Sacramento
City of San Carlos
City of San Diego
City of San Leandro
City of Santa Barbara
City of Santa Monica
City of Santa Rosa
City of South San Francisco
City of Sunnyvale

City of Taft
 City of Thousand Oaks
 City of Torrance
 City of Tulare
 City of Turlock
 City of Union City
 City of Walnut Creek
 City of West Hollywood
 Coalition for Economic Survival
 Community Action North Bay (CAN-B)
 Community Corporation of Santa Monica
 Community Economics, Inc.
 Community Housing Works
 Community Resource Center
 Congregations Organizing for Renewal (COR)
 Controller Betty Yee
 Corporation for Supportive Housing (CSH)
 County of Alameda
 County of Contra Costa
 County of Los Angeles
 County Welfare Directors Association
 Creswell Consulting
 Department of Housing and Community
 Development of Los Angeles
 Dignity Health
 Downtown Sacramento Partnership
 Downtown Women's Center
 EAH Housing
 East Bay Housing Organizations
 East LA Community Corporation
 Eden Housing
 Enterprise Community Partners
 Equity Community Builders
 EveryOne Home (Homeless Continuum of Care for
 Alameda County)
 Girls Think Tank
 Habitat for Humanity California
 Habitat for Humanity Greater San Francisco
 Hampstead Companies
 Heaven's Windows
 Hello Housing
 Highridge Costa Partners, LLC
 HOPE (Home Ownership for Personal
 Empowerment)
 House Farm Workers!
 Housing Authority of the City of Los Angeles
 Housing Authority of the County of San Bernardino
 Housing California
 Housing Choices Coalition
 Housing Consortium of the East Bay
 Housing Land Trust of Sonoma County
 Housing Leadership Council of San Mateo County
 Housing of Merit
 Hunger Advocacy Network
 Iglesia Adventista del Septimo Dia
 Individual Supporters (Mary Brooks, Greg Hoyte,
 Nancy Heastings, Jeanne Marie Coronado,
 Jean Hom)
 Inquilinos Unidos
 Interfaith Community Services
 Irvine Community Land Trust
 Jewish Family Services of San Diego
 Larkin Street Youth Services
 Laurin Associates
 Leadership Counsel for Justice & Accountability
 LeadingAge California
 League of California Cities
 League of Women Voters of California
 LINC Housing
 LISC San Diego
 Little Tokyo Service Center
 Loma Linda University Health
 Los Angeles Business Council
 Los Angeles Community Action Network
 Los Angeles Homeless Services Authority
 MAAC
 Many Mansions (Ventura County)
 Mayor, City of Fresno-Ashley Swearengin
 Mayor, City of Long Beach-Robert Garcia
 Mayor, City of Los Angeles-Eric Garcetti
 Mayor, City of Oakland-Libby Schaaf
 Mayor, City of Sacramento-Kevin Johnson
 Mayor, City of San Francisco-Ed Lee
 Mayor, City of San Jose-Sam Liccardo
 Mayor, City of Santa Ana-Miguel Pulido
 Mayor, City of Santa Barbara-Helene Schneider
 Mayor, City of Torrance-Patrick Furey
 Mental Health America of California
 Mercy Housing California
 MidPen Housing Corporation
 Mutual Housing California
 National Association of Social Workers, California
 Chapter
 National Community Renaissance
 National Council of La Raza
 Natural Resources Defense Council (NRDC)
 Non-Profit Housing Association of Northern
 California (NPH)
 North Bay Leadership Council
 Northern California Community Loan Fund
 Opportune Companies
 Orange County Employees Association
 Orange County Business Council
 Pacific West Communities

PATH
PATH Ventures
PEP Housing
PolicyLink
Private Essential Access Community Hospitals
(PEACH)
Promise Energy, Inc.
Public Interest Law Project
Related California
Rural Community Assistance Corporation (RCAC)
Rural Smart Growth Task Force
Sacramento City Councilmember Jeff Harris
Sacramento Homeless Organizing Committee
Sacramento Housing Alliance
Safe Alternatives to Violent Environments (SAVE)
San Diego Community Land Trust
San Diego Habitat for Humanity
San Diego Housing Commission
San Diego Housing Federation
San Diego Hunger Coalition
San Diego and Imperial Counties Labor Council,
AFL-CIO
San Diego Organizing Project
San Diego Regional Chamber of Commerce
San Francisco Chamber of Commerce
San Francisco Unified School District
Santa Clara County Board of Supervisors
Satellite Affordable Housing Associates
Self-Help Enterprises
s.f.citi (San Francisco Citizens Initiative for
Technology and Innovation)
Sierra Business Council
Silicon Valley Bank
Silicon Valley Leadership Group
Skid Row Housing Trust
Social Justice Alliance of the Interfaith Council of
Contra Costa County
South Bay Community Services
Southern California Association of Non Profit
Housing
St. Anthony Foundation
State Building and Construction Trades Council,
AFL-CIO
Strategic Actions for a Just Economy
Sutter Health
T.R.U.S.T. South LA
The ARC and United Cerebral Palsy California
Collaboration
Transform
Treasurer John Chiang
UCSF Benioff Children's Hospital Oakland
United Way of Greater Los Angeles

United Way of San Diego County
Valley Industry & Commerce Association (VICA)
Wakeland Housing and Development Corporation
Western Center on Law and Poverty
Western Regional Advocacy Project
Western States Council of Sheet Metal Workers
West Hollywood Community Housing Corporation
Winter Nights Shelter
Women Organizing Resources, Knowledge and
Services (WORKS)

OPPOSITION

American Resort Development Association
California Business Properties Association
California Escrow Association
California Land Title Association
California Mortgage Association
California Taxpayers Association
City of Banning
City of Camarillo
Community Associations Institute
Contra Costa County Clerk-Recorder-Elections
Department
County of Butte
County of Calaveras, Clerk Recorder
County of Glenn, Clerk-Recorder
County of Orange
County of Sacramento, County Clerk/Recorder
Department
County of Tuolumne, Office of Assessor-Recorder
County of Yuba, Clerk Recorder – Registrar of
Voters
County Recorders Association of California
Educational Community for Homeowners (ECHO)
Fresno County Assessor-Recorder
Howard Jarvis Taxpayers Association
Inyo County Clerk/Recorder Kammi Foote
Monterey County, Office of the County Recorder
National Federation of Independent Business
Orange County Clerk-Recorder Hugh Nguyen

2015 LEGISLATIVE PRINCIPLES

The Legislative Platform aligns with the County's legislative principles. These principles serve as a guide for the County in developing a position on any forthcoming federal and state legislation.

❖ **JOB GROWTH/ECONOMIC VITALITY:** Continue to support the development of employment opportunities, and support efforts to promote local business and job growth in an endeavor to decrease the unemployment rate and heighten individual and community economic vitality. Foster interaction and dialogue with public, private, and nonprofit sectors, with a focus on the pursuit of and advocacy for economic vitality and innovation. Support necessary infrastructure development projects as a job creator and economic engine which increases economic vitality across multiple industries and markets.

❖ **EFFICIENT SERVICE DELIVERY/OPERATIONS:** Striving to balance the diversity of needs countywide, support efforts to streamline processes and promote operational enhancements relevant to County departments' missions and core services by thoroughly evaluating legislation, and if warranted, consider opposition to legislation that creates undue fiscal and operation burdens on individual departments.

❖ **FISCAL STABILITY:** Support efforts to generate new intergovernmental revenue and/or enhance existing revenue/reimbursement levels and oppose the loss of, or redirecting of, existing revenue and/or the creation of additional unfunded mandates to the County. Such efforts also include supporting a majority state budget vote requirement and a timely adoption of the state budget before the new fiscal year begins.

❖ **INTER-AGENCY COLLABORATION:** Partner with neighboring cities on infrastructure and other large-scale projects when possible. Support the advocacy efforts of such organizations as the: California State Association of Counties (CSAC), National Association of Counties (NACO), Santa Barbara County Association of Governments (SBCAG), First 5 Santa Barbara, and other local and regional agencies. Collaborate with other institutions and entities on mutually beneficial issues such as transportation, housing, protection of children, the elderly and other "at risk" populations while upholding the principles of efficient service delivery and operations, fiscal stability and local control.

❖ **LOCAL CONTROL:** Ensure local authority and control over governance issues, land use policies and the delivery of services, including flexibility and customization in designing and implementing policies and services that are responsive to the community's preferences. Secure where appropriate, direct distribution of federal funds to local governments rather than state pass-throughs. Support efforts to maximize local control to ensure safe and effective speed limits.

❖ **HEALTH AND HUMAN SERVICES:** Support efforts to maintain and enhance "safety net" services that protect the most vulnerable within a community, including children, the elderly and other "at risk" populations. Such services in the area of health and human assistance include, but are not limited to, preventive and emergency health care to the uninsured and underinsured; HIV/AIDS programs; maternal and children health; adult protective services; dependent care; child welfare services; adoptions and foster care; food stamps and unemployment assistance and workforce development. The County supports collaboration between the federal, state and local governments in the delivery and funding of such services. The County opposes the further erosion in federal and state funding of these vital services.

❖ **COMMUNITY SUSTAINABILITY:** Support efforts to foster communitywide sustainability by promoting economic stability and environmental stewardship through participation in the growing green economy. Continue to engage in federal and state deliberations to ensure that local government receives the economic and financial benefits associated with new policies. Support efforts to catalyze community renewal, redevelopment and reinvestment, incubate and support innovative businesses, reduce greenhouse gas emissions, and incentivize energy efficiency, water conservation, and the use of renewable energy. Recognize the need to promote mutually beneficial partnerships with public, private, and nonprofit sectors to maintain and protect agricultural and rural resources, housing, coastal areas, and bio-diversity. These collective efforts aim to engender healthy communities by balancing social well-being, economic prosperity, and environmental responsibility. Support actions to secure sustainable water supplies throughout the region through ensuring both reliable quality and quantity, and promoting best practices for water conservation measures.

2016 Legislative Platform Development Plan

August 3, 2015
LPC Meeting

- Review timeline, principles & identify any needed planks.

September 14, 2015
LPC Meeting

- Review all submitted planks.

October 5, 2015
LPC Meeting

- Review & Comment on LPC Draft 2016 Legislative Platform

November 3, 2015
BOS Hearing

- Review & comment on Draft 2016 Legislative Platform

December 7, 2015
LPC Meeting

- Incorporate BOS comments and Finalize 2016 Legislative Platform for BOS Consideration

January 12, 2016
BOS Hearing

- Consider & approve 2016 Legislative Platform.