

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2295 (Bloom) – As Amended April 21, 2022

SUBJECT: Local educational agencies: housing development projects.

SUMMARY: Requires a housing development project to be deemed an allowable use on any real property owned by a local educational agency (LEA) if it meets specified affordability criteria and planning standards. Specifically, **this bill:**

- 1) Requires a housing development project to be deemed an allowable use on any real property owned by a LEA if the housing development satisfies all of the following:
 - a) The housing development consists of at least 10 housing units.
 - b) The housing development has a recorded deed restriction that ensures, for a period of at least 55 years, that the majority of the units of the housing development shall be set at an affordable rent to lower income or moderate-income households. However, at least 30 percent of the units shall be affordable to lower income households.
 - c) One hundred percent of the units of the housing development shall be rented by LEA employees, local public employees, and general members of the public pursuant to the following procedures:
 - i) A LEA shall first offer the units to its employees.
 - ii) If the LEA receives an insufficient number of LEA employees to apply for and occupy the units, the unoccupied units may be offered to local public employees who work for a local agency within the jurisdiction of the LEA.
 - iii) If the LEA receives an insufficient number of local public employees to apply for and occupy the units, the unoccupied units may be offered to general members of the public.
 - iv) When units in the housing development become unoccupied and available for rent, a LEA shall first offer the units to its employees.
 - d) The residential density for the housing development, as measured on the development footprint, shall be the greater of the following:
 - i) The residential density allowed on the parcel by the city or county, as applicable.
 - ii) The applicable density deemed appropriate to accommodate housing for lower income households in that jurisdiction, as specified in existing law for calculating the jurisdiction's regional housing need for lower income households.
 - e) The height limit for the housing development shall be the greater of the following:

- i) The height limit allowed on the parcel by the city or county, as applicable.
 - ii) Thirty feet.
- f) The property is adjacent to a property that permits residential uses.
- g) The housing development shall satisfy other local objective zoning standards, objective subdivision standards, and objective design review standards that do not preclude the housing development from achieving the residential density or the height permitted by this bill.
- 2) Requires a housing development that meets the requirements of this bill to be deemed consistent, compliant, and in conformity with local development standards, zoning codes or maps, and the general plan.
- 3) Requires the LEA to maintain ownership of a housing development that meets the requirements of this bill for the length of the 55-year affordability requirement described in this bill.
- 4) Allows any land used for the development of a housing development that meets the requirements of this bill to be jointly used or jointly occupied by the LEA and any other party, as specified.
- 5) Exempts any land used for the development of a housing development that meets the requirements of this bill from the requirements of all of the following:
- a) The Surplus Lands Act (SLA) (Government Code Section 54220 et seq).
 - b) Specified requirements in existing law regarding the disposal of school sites (Education Code Section 17230 et seq.)
 - c) Specified requirements in existing law regarding the sale or lease of real property owned by school districts (Education Code Section 17455 et seq.)
- 6) Provides the following definitions for its purposes:
- a) “Affordable rent” has the same meaning as in Section 50053 of the Health and Safety Code.
 - b) “Development footprint” means the portion of the property that is developed for the housing development, inclusive of parking and roadways developed internal to the site to serve the housing development, and other aboveground improvements developed to serve the housing development.
 - c) “Local agency” means a city, county, city and county, charter city, charter county, charter city and county, special district, or any combination thereof.
 - d) “Local educational agency” means a school district or county office of education.

- e) “Local educational agency employee” has the same meaning as “teacher or school district employee,” as defined in subdivision (c) of Section 53572 of the Health and Safety Code.
 - f) “Local public employee” has the same meaning as defined in subdivision (b) of Section 53572 of the Health and Safety Code (employees of a city, county, city and county, charter city, charter county, charter city and county, special district, or any combination thereof).
 - g) “Lower income households” has the same meaning as in Section 50079.5 of the Health and Safety Code.
 - h) “Moderate-income households” has the same meaning as in Section 50093 of the Health and Safety Code.
- 7) Provides, for purposes of this bill, the terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by the city or county, as applicable, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.
- 8) Finds and declares that this bill addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this bill applies to all cities, including charter cities.
- 9) Provides that no reimbursement is required by the provisions of this bill because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill.

EXISTING LAW:

- 1) Allows a city or county to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including land use authority (Section 7 of Article XI of the California Constitution).
- 2) Establishes the Teacher Housing Act of 2016 (Health and Safety Code 53570 et seq), which established that:
 - a) It is state policy to support housing for teachers and school district employees.
 - b) School districts and developers in receipt of local or state funds or tax credits designated for affordable rental housing may restrict occupancy to teachers and school district employees on land owned by school districts.

- c) School districts may allow local public employees or other members of the public to occupy housing created through the Teacher Housing Act.
- d) A majority of the units must be rented at an affordable rent to lower income or moderate-income households.

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Author's Statement.** According to the author, "School districts in California own 10,900 properties with over 150,000 acres of land, half of which are potentially suitable for housing. By easing the administrative and bureaucratic hurdles, AB 2295 will help LEAs feasibly construct enough housing to meet the current demand and help address teaching shortages—ultimately helping keep quality teachers and staff in the classroom."
- 2) **State Housing Crisis.** California faces a severe housing shortage. In its most recent statewide housing assessment, HCD estimated that California needs to build an additional 100,000 units per year over recent averages of 80,000 units per year to meet the projected need for housing in the state. A variety of causes contribute to the lack of housing production. Recent reports by the Legislative Analyst's Office and others point to local approval processes as a major factor. They argue that local agencies control most of the decisions about where, when, and how to build new housing, and those agencies are quick to respond to vocal community members that may not want new neighbors. The building industry also points to the review required by the California Environmental Quality Act (CEQA) as an impediment, and housing advocates note a lack of a dedicated source of funds for affordable housing.
- 3) **Housing on School District Land.** According to *Education Workforce Housing in California: Developing the 21st Century Campus* (issued by cityLAB-UCLA et al. in December 2021) there are more than 1,000 LEAs in California. Collectively, they own more than 150,000 acres of land. According to recent research, of land owned by LEAs, there are 7,068 properties with potentially developable land of one acre or more, totaling 75,000 acres statewide. At a density of 30 dwelling units per acre, such properties could contain 2.3 million units of housing – more than enough to house the state's 300,000 teachers and 350,000 other LEA employees.

Despite the potential for development, there is very little housing on LEA property. This is understandable, given that the primary function of this land is for educational purposes. It is also because there are myriad impediments to completion of employee housing on LEA property, including:

- a) **Lack of expertise.** The core competency of LEAs is education. To the degree there is expertise in new construction or facilities management, it is focused on educational facilities, not on building and managing housing.
- b) **Lack of funding.** Given exceedingly high construction costs, the price of new housing exceeds what is affordable to most LEA staff. As such, to develop employee housing, LEAs will need to identify public sources of funding.

- c) Lack of permission. Getting housing approved in California is often a laborious and risky process, reflecting the complexity of government review, public processes, and required analysis under the California Environmental Quality Act (CEQA). LEA properties typically face the additional hurdle of not having zoning that allows housing or specified development standards for housing projects. As such, if an LEA wanted to build housing for its employees, the LEA would need to seek permission from a local government to establish the right to build housing and identify objective standards for the project to conform with.

Despite the impediments, state and local officials are increasingly exploring ways to facilitate housing on LEA property, as a way to help LEAs recruit and retain employees. The Teacher Housing Act of 2016 (SB 1413, Leno, Chapter 732, Statutes of 2016), created a state policy to support housing for teachers and school district employees, and specified that projects can receive local or state funds or tax credits if developments are restricted to school district employees. Since June 2018, eight California LEAs have put a proposition or measure before local voters to fund education workforce housing development, with six of these measures passing. Recent research identified 46 LEAs pursuing housing projects on 83 different sites. However, to date, California is home to just four completed education workforce housing developments by Los Angeles Unified School District and Santa Clara Unified School District.

- 4) **Bill Summary.** This bill requires a housing development project to be deemed an allowable use on any real property owned by a LEA if the development:
 - a) Consists of at least 10 units.
 - b) Has a recorded deed restriction for at least 55 years that requires the majority of the units to be affordable to lower- or moderate-income households. At least 30% of the units must be affordable to lower-income households.
 - c) Units must be rented by employees of the LEA or local governments, or the general public. Units must first be offered to LEA employees, then to employees of a local government located in the LEA's jurisdiction if insufficient numbers of LEA employees apply for and occupy the units. The general public may be offered units only after insufficient numbers of local government employees apply for and occupy the units. If a unit becomes vacant, an LEA must offer it first to its employees.
 - d) The residential density is the greater of: the density allowed on the parcel by the city or county; or, the applicable density deemed appropriate to accommodate the jurisdiction's regional housing need for lower income households, as specified.
 - e) The height limit is the greater of: the limit allowed on the parcel by the city or county; or, 30 feet.
 - f) The property is adjacent to property that permits residential uses.

- g) The development satisfies other local objective zoning, subdivision, and design review standards that do not preclude the development from achieving the density or height allowed in the bill.

This bill requires an LEA to maintain ownership of the development for the length of the 55-year deed restriction required by the bill. Land used for a development under the bill is exempt from the SLA and specified provisions of the Education Code governing the disposal of sites and the sale or lease of real property owned by school districts.

This bill is sponsored by cityLAB-UCLA.

- 5) **Policy Considerations.** The Committee may wish to consider the following:
 - a) **LEA's as Housing Developers/Landlords.** As noted above, the primary mission of LEAs is education. The degree to which LEAs should or should not get involved in the business of developing housing projects is an open question. It is clear many LEAs desire to do so in an effort to help house their own employees. However, this bill could inadvertently entice LEAs to purchase additional land specifically for the purpose of building and owning housing developments. The Committee may wish to consider if the provisions of this bill should apply only to land LEA's own as of the bill's effective date.
 - b) **Legislative Review of Significant Changes.** This bill is a new and substantial change to the allowable use of LEA properties. When authorizing changes of this magnitude, this Committee often includes a sunset date as a mechanism for legislative review. The Committee may wish to consider if a sunset provision should be added to this bill.
- 6) **Committee Amendments.** The Committee may wish to amend this bill to address the policy considerations, above, as follows:
 - a) Limit its provisions to housing development projects on land an LEA owns as of January 1, 2023.
 - b) Add a sunset date of January 1, 2033.
- 7) **Previous Legislation.** AB 780 (Ting) would have allowed a school district to render a zoning ordinance inapplicable if the proposed use of property by the school district is to offer school district employee housing. AB 780 was held in this Committee.

AB 3308 (Gabriel), Chapter 199, Statutes of 2020, expanded allowed occupancy under the Teacher Housing Act of 2016 to local public employees and other members of the public, while maintaining the right for school districts to prioritize their own employees.

SB 1413 (Leno), Chapter 732, Statutes of 2016, established the Teacher Housing Act of 2016 to facilitate the acquisition, construction, rehabilitation, and preservation of affordable housing restricted to teachers or school district employees.
- 8) **Arguments in Support.** cityLAB-UCLA, the sponsor of this measure, writes, "California's longstanding and deepening housing crisis has particularly affected the hundreds of thousands of teachers and other employees working in California's public schools. Among

the 300,000 public school teachers in California, many cannot afford to live in the communities where they work. The rising cost of housing is the greatest expense and challenge in recruiting and retaining qualified public school teachers, and yet the clearest measure of our children's education success is the quality of their teaching staff... Despite the availability of developable land, there have been only four completed education workforce housing developments in California. Nearly twenty times more education workforce housing projects are being considered than those that have already been built, but the development process is complex. The four projects took on average 7 years to complete, all offer apartments to teachers and school employees at affordable rents, and have long waiting lists.

"There is widespread interest throughout the state in building housing for teachers and employees, yet our research uncovered major barriers to development. AB2295 removes many of the administrative hurdles that have made it nearly impossible to build affordable housing on land already owned by school districts. The legislation eliminates simple and unnecessary barriers, such as lengthy zoning changes, surplus land protocols, and a requirement for the state's architect to review and approve residential buildings on school land, when local jurisdictions are more than adequately experienced in approving housing projects...

"LEAs throughout the state own developable land and have the desire to build housing for their teachers and employees. Planning, designing, and completing a housing project successfully is an inherently complex process that requires LEAs to bring in consultants who need some certainty and guideposts to undertake such development on school land. Our research shows that taking steps to enhance certainty, increase flexibility, and streamlining of the housing approval process for LEAs will help address recruitment and retention challenges as well as racial disparities in both educational quality and housing access."

- 9) **Arguments in Opposition.** The State Building and Construction Trades Council, in opposition to a prior version of the bill, states, "Section 17506 (a) and (b) of the bill would significantly limit the opportunity for public review by making housing by right on any property owned by a local educational agency. Furthermore, Section 17506(c) of the bill exempts housing from complying with the Field Act which requires school buildings be constructed in accordance with seismic safety standards. This significantly reduces safety for construction workers on the projects envisioned by the bill and for the families who will end up living there.

"AB 2295 states that a qualified housing development shall be deemed consistent with local development standards, zoning codes, and the general plan with no opportunity for public input. It takes zoning decisions completely out of the hands of local leaders and members of their communities, including our nearly half a million members and their families that live in every community across the state. Because the bill makes housing an authorized use without requiring rezoning, there would be virtually no opportunity for the public to provide input.

"In addition to silencing the voice of working families and communities, this bill, even though it purports to be about supporting education, also turns its back on blue-collar educational opportunities by choosing not to support apprenticeship in construction. Every time a legislator chooses to incorporate skilled and trained language in a bill, it supports additional opportunities for working class kids in the building trades apprenticeship

programs. And, while choosing not to support apprenticeship, this bill also seeks to short shrift construction workers by not ensuring that the prevailing wage is paid to the workers tasked with building these developments, further emboldening the underground economy that widely exploits workers in residential construction.”

10) **Double-Referral.** This bill is double-referred to the Assembly Housing Committee, where it passed on a 6-1 vote on April 20, 2022.

REGISTERED SUPPORT / OPPOSITION:

Support

cityLAB-UCLA [SPONSOR]

East Bay for Everyone

Los Angeles Unified School District

People Assisting the Homeless

San Francisco Bay Area Planning and Urban Research Association (SPUR)

Southern California Association of Non-profit Housing (SCANPH)

Sv@home Action Fund

Turner Center for Housing Innovation At the University of California, Berkeley

Support If Amended

California School Boards Association

Opposition

California State Pipe Trades Council (prior version)

Coalition of California Utility Employees (prior version)

International Union of Elevator Constructors, Local 18 (prior version)

International Union of Elevator Constructors, Local 8 (prior version)

State Building & Construction Trades Council of California (prior version)

Western States Council Sheet Metal, Air, Rail and Transportation (prior version)

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