Date of Hearing: June 29, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
SB 1105 (Hueso) – As Amended June 21, 2022

SENATE VOTE: 27-8

SUBJECT: San Diego Regional Equitable and Environmentally Friendly Affordable Housing Agency.

SUMMARY: Establishes the San Diego Regional Equitable and Environmentally Friendly Affordable Housing Agency (SDR) in San Diego County to facilitate increased funding for housing activities, including, new production, preservation, and renter protections. Specifically, **this bill**:

1) Establishes the SDR and exempts the formation and jurisdictional boundaries of SDR from the Local Agency Formation Commission Process.

2) Establishes jurisdiction of SDR as all of San Diego County, and provides the following:

   a) The purpose of SDR is to increase the supply of equitable and environmentally friendly housing in San Diego County by providing for significantly enhanced funding and technical assistance across the region for equitable and environmentally friendly housing activities that include new production, preservation, and rental protection.

   b) SDR's housing activities are guided by all of the following principles:

      i) Supporting the broad range of housing needs that reflect the diversity of San Diego County, from extremely low income to workforce housing and middle-income housing, at or below 135 percent of the area median income.

      ii) Advancing sustainability by supporting the production of equitable housing near transit, jobs, and amenities and including resilient and sustainable building design features.

      iii) Fostering livable and equitable communities that encourage mixed-uses, mixed-income, walkable, bikeable, age-friendly development patterns with proximity to transit, jobs, open spaces, schools and amenities.

      iv) Advancing equity in the built environment by fostering inclusion, diversity, and affirmatively furthering fair housing.

      v) Supporting good jobs for working families with fair wages and strong worker protections.

   c) SDR must complement and supplement existing efforts by cities, counties, districts, and other local, regional, and state entities, related to the goals of this bill.

3) Establishes the governance and staffing structure for SDR, as follows:

   a) SDR shall be governed by a board of directors (SDR Board) composed of six voting members.

   b) All of the SDR Board members will be San Diego Association of Governments (SANDAG) primary or alternate members.

   c) Each member shall represent each of San Diego County's subregions, as specified, and will consist of:

      i) A primary and alternate member appointed by the Mayor of the City of San Diego, to represent the subregion of the City of San Diego.

      ii) A primary and alternate member appointed by the San Diego County Board of Supervisors, to represent the subregion of the County of San Diego County.

      iii) A total of four members representing each of the four subregions of east county, north county coastal, north county inland, and south county, appointed by the cities in each of those regions through a specified process.

   d) Provides that six alternate members may be chosen in the same manner as the six voting members.

   e) Requires the governing body of each appointing entity to make their appointments by annually January 10, that and as necessary when vacancies occur.

   f) Establishes the appointment process for the SANDAG subregions including that appointments shall be made by January 31, or as vacancies occur, as specified.

   g) Establishes the process for the chair and vice-chair of SDR to be elected by the SDR Board, as specified.

   h) Requires the chair and vice-chair of SDR to notify a subregion if its board members are not participating in meetings, as specified.

   i) Provides that the board may consist of nonvoting Ex Officio members, as specified, including the:

      i) SANDAG Board Chair, First Vice-Chair, and Second Vice-Chair.

      ii) Directors of housing authorities located within San Diego County.

   j) Establishes compensation for members of the SDR Board as $100 per meeting and conditions compensation on meeting attendance, as specified.

   k) Provides that out-of-state and conference travel for board members shall be paid by the board member's home city or county.

l) Establishes four year terms for board members, specifies the circumstances under which SDR Board members may be removed, and provides that initial terms may be shortened to ensure that members serve staggered terms.

m) Requires SDR Board members to exercise independent judgment on behalf of the interests of the residents, the property owners, and the public of San Diego County in furthering the intent and purposes of the bill.

n) Establishes the procedures for identifying the location of SDR Board meetings.

o) In order to act on any item, the affirmative vote of the majority of the members of the board present is required. However, after a vote of the members is taken, a weighted vote may be called by the members of any two jurisdictions. If a weighted vote occurs, it must follow the specified procedures.

p) Requires the SDR Board to appoint an inspector general, who must report quarterly on the impact or cost-effectiveness of investments and projects, and on expenditures of SDR for travel, meals and refreshments, and any other expenditures specified by SDR. Establishes the inspector general's term of office and conditions for removal.

q) Requires the SDR Board to form an advisory committee, composed of up to 18 voting members and one nonvoting member, who have specified knowledge and experience in specified areas of affordable housing finance and development, preservation, or rental protections. Establishes appointment procedures, duties compensation and conditions for removal for the advisory committee, as specified.

r) Provides that the SDR Board may appoint a chief executive officer, general counsel, board secretary, or any other officers as deemed necessary who will act for SDR under its direction and perform those duties delegated by the SDR Board, as specified.

s) Provides that the SDR Board may determine its organizational structure, which may include, but is not limited to, the establishment of departments, divisions, subsidiary units, or similar entities. Authorizes the SDR board to delegate duties it deems appropriate including contract approval and resolution of bid protests. Specifies that if SDR reaches agreement with SANDAG to utilize its staff, SDR shall utilize the policies established by SANDAG for its operations.

t) Requires the members of the SDR Board to be appointed by April 1, 2023, and that SDR will have no powers, duties, or responsibilities until that time and until one of the following occurs:

    i) SDR receives dedicated funding from the state or local agencies.

    ii) SDR reaches an agreement with SANDAG to utilize their staff, as specified.

    iii) Voters approve a measure for SDR to generate revenue pursuant to the bill's provisions.

u) Requires SDR to engage in public participation processes, as specified.

v) Subjects SDR to the Ralph M. Brown Act (Brown Act), and the Political Reform Act.

w) Specifies that SDR is a public entity for the purposes of the Surplus Land Act.

4) Establishes the powers of SDR as follows:

a) Authorizes SDR to make and enforce rules and regulations necessary for governing the board, the preservation of order and the transaction of business, and authorizes SDR to act by ordinance, resolution, or minute action.

b) Authorizes SDR to do all of the following related to elections:

i) Place on the ballot in San Diego County, including all the incorporated cities, funding measures to raise and allocate funds to the County of San Diego, the cities in San Diego County, and other public agencies and housing projects in its jurisdiction for purposes of producing and preserving housing and supporting rental protection activities. Establishes election procedures for any measure that qualifies for the ballot including, among other provisions, the following:

(1) Specifies that the county elections official for San Diego County shall serve as the elections official for purposes of administering the ballot measure process and any election for the purposes set forth in the bill. In the alternative, SDR, at its discretion, may appoint an elections official to administer any election for the purposes set forth in the bill. If SDR appoints an elections official, the board may authorize that elections official to retain the services of the elections official of San Diego County to administer the ballot measure process and any election, and the elections official of San Diego County shall perform those services.

(2) Specifies how the entity administering the election shall be compensated for the costs of the election.

(3) Specifies that the legal counsel for SDR shall prepare the impartial analysis of the measure, subject to review and revision by the county counsel.

c) Authorizes SDR to do all of the following related to general duties:

i) Apply for and receive grants from federal and state agencies.

ii) Solicit and accept gifts, fees, grants, and other allocations from public and private entities.

iii) Incur and issue indebtedness, as specified.

iv) Incur and issue bonds and otherwise incur liabilities or obligations, as specified.

v) Assemble parcels and lease, purchase, and otherwise acquire land for housing development.

vi) Sell or dispose of land or assets or enter into ground lease agreements, consistent with SDR's purpose and eligible activities, as specified.

vii) Allocate and deploy capital and generated fees or income in the form of grants, loans, equity, interest rate subsidies, and other financing tools, as specified.

viii) Provide support and technical assistance to local governments in relation to producing and preserving equitable housing and providing rental protections.

ix) Deposit or invest money in banks or financial institutions in the state.

x) Sue and be sued, as specified.

xi) Engage counsel and other professional services.

xii) Enter into and perform all necessary contracts.

xiii) Enter into joint powers agreements.

xiv) Hire staff, define their qualifications and duties, and provide a schedule of compensation for those duties.

xv) Collect data on housing production and monitor progress on meeting regional and state housing goals.

xvi) Provide information about SDR's housing programs and policies to the public.

xvii) Establish and modify the terms of potential capital investments deployed by the agency including waiving or forgiving interest or principal payments.

xviii) Act in compliance with the Marks-Roos Local Bond Pooling Act of 1985, as specified.

xix) Any other express or implied powers necessary to carry out the intent and purpose of this bill.

d) SDR must not do the following:

i) Regulate or enforce land use decisions.

ii) Acquire property by eminent domain.

5) Authorizes SDR to raise and allocate new revenue, as follows:

a) SDR may raise and allocate new revenue through special taxes, as specified, including:

i) A parcel tax, as specified.

ii) A gross receipts business license tax, as specified

iii) A special business tax, as specified

iv) A special tax on vacant real property, as specified

v) A special tax on real property, as specified

vi) A commercial linkage fee, as specified

b) SDR may raise and allocate new revenue through issuance of bonds, as specified, including:

i) General obligation bonds, as specified

ii) Revenue bonds, as specified

iii) Mortgage revenue bonds, as specified

iv) Private activity bonds, as specified.

c) Provides that one or more jurisdictions, including the County of San Diego, may either directly or through qualified voter initiative, raise and allocate new regional housing revenue through a documentary transfer tax, as specified.

d) Provides that all regional housing revenue mechanisms may be applicable to the entirety of, or a portion of, San Diego County, as specified.

e) Provides that new revenue must be approved by voters, except the commercial linkage fee which is subject to a number of requirements including a protest provision and cannot be imposed until voters approve a parcel tax or general obligation bond.

6) Establishes requirements for expenditure of revenue, as follows:

a) Requires revenue generated pursuant to this bill to be used to support the construction and preservation of housing, rental protection programs, planning, and technical assistance related to housing for households making less than 120 percent of the area median income (AMI).

b) Requires that revenue generated through bonds must be used solely to purchase or improve real property.

c) Requires that for each regional housing revenue mechanism the portion of the region that the mechanism applies shall match the portion of the region to which funds are eligible, and allows SDR to administer funds on behalf of one or more local jurisdictions upon entering into an agreement.

d) Requires that distribution of any revenue generated through a commercial linkage fee be consistent with a regional nexus study that must adopted by the board.

e) Requires that half of the revenue must be administered at the regional level in a manner consistent with the guiding principles of SDR as specified in the bill, and all of the following:

i) A maximum of 10 percent for SDR administrative and operating expenditures.

ii) A minimum of 5 percent on technical assistance to local jurisdictions, research and policy development, and data collection and analysis, as specified.

iii) A minimum of 40 percent for production of housing for households making up to 120 percent of AMI.

iv) A minimum of 10 percent for preservation of housing for households making up to 120 percent AMI.

v) A minimum of 15 percent for strategic priorities and innovation identified in the annual expenditure plan. Specifies that this expenditure is not subject to the same conditions that apply to other revenues.

vi) A minimum of 5 percent for rental and tenant protection programs for households making up to 80 percent AMI, as specified.

vii) A minimum of 10 percent and a maximum of 35 percent shall be used to support first-time homebuyer programs and opportunities for households at or below 135 percent of AMI. All projects aided under this category must achieve a net income average of not more than 120 percent of AMI.

f) Requires that half of all regional revenues must be administered by local jurisdictions, defined as San Diego County and the incorporated cities in the County, based on each jurisdiction's share of very low-, low-, and moderate-income units as determined in the most recent regional housing needs assessment, as follows:

i) A maximum of 10 percent for local agency administrative and operating expenditures or SDR's administrative and operations expenses if the SDR agrees to administer a local jurisdictions' allocated funds.

ii) A minimum of 50 percent for production of housing for households making up to 120 percent AMI.

iii) A minimum of 10 for preservation of housing for households making up to 120 percent AMI.

iv) A maximum of 5 percent for rental and tenant protection programs for households making up to 80 percent AMI, as specified.

v) A minimum of 10 percent and a maximum of 35 percent of all local jurisdictions revenues to support first-time homebuyer programs and opportunities for households at or below 135 AMI, as specified.

g) Further requires that SDR shall develop project eligibility and prioritization criteria based on the following parameters:

i) Funds shall be reserved as follows:

(1) Between 20 to 45 percent of funds are reserved for households earning between 0 and 50 percent of the AMI.

(2) Between 20 to 40 percent of funds are reserved for households earning between 50 and 80 percent of the AMI.

(3) Between 20 to 40 percent of funds are reserved for household earning 80 to 135 percent of the AMI, as specified.

(4) One hundred percent of funds shall be reserved for households that earn less than 135 percent of the AMI.

(5) A minimum of 10 percent and a maximum of 35 percent of all revenues must support homeownership opportunities for households at or below 135 percent AMI, provided that all first-time home buyer projects shall achieve an income average across the project not to exceed 120 percent of the AMI.

ii) The criteria shall prioritize the following projects:

(1) Those that leverage state or federal revenue sources, as specified.

(2) Those that have multiple tiers of affordable housing, as specified.

(3) Projects that facilitate development on public land identified for equitable housing production.

iii) Eligible projects must comply with the following criteria:

(1) Be located in a regionally or locally defined priority area for smart growth consistent with the most recent sustainable communities strategy, or have a vehicle miles travels per capita that is 15 percent or more below the existing regional average.

(2) For new construction projects, eligible projects shall include onsite renewable generation estimated to produce 50 percent or more of annual electricity use.

(3) For rehabilitation projects, eligible projects shall document at least a 10-percent energy efficiency improvement over pre-rehabilitation energy efficiency conditions.

(4) Other criteria regarding proximity to transit, amenities, schools, and the environment, as specified.

iv) Requires funds to be expended consistent with the following:

(1) Allows funding to be used for land acquisition, housing acquisition, financing and ownership programs, as specified, and deems the following categories as eligible uses:

(a) Grants, loans, or other financing provided to community land trusts and other similarly structured nonprofit entities to acquire, rehabilitate, and preserve existing housing units.

(b) Programs to enable low- or moderate-income households to become or remain homeowners, including, but not limited to, below market rate ownership programs, down payment assistance programs, residential rehabilitation loan programs, and grants or loans to assist in the rehabilitation or replacement of existing mobilehomes located in a mobilehome or manufactured home community.

(2) Allows funding to be used to acquire, rehabilitate, place affordability restrictions on, and preserve existing housing units, as specified. Conditions funds used for these purposes as follows:

(a) Existing residents of buildings acquired for the purpose of affordable housing preservation shall not be permanently displaced, even if the resident's household income exceeds the moderate-income limits.

(b) Buildings acquired for the purpose of affordable housing preservation shall achieve 100 percent occupancy by extremely low or very low income households over time through unit turnover.

(c) Funds used for the demolition or rehabilitation of housing are subject to unit replacement requirements, relocation assistance, and return rights for displaced tenants as specified.

v) Allows the SDR, by a two-thirds vote of the board, to change the minimum funding requirements five years after a funding measure is approved, as specified.

vi) Requires SDR to adopt an annual expenditure plan for the share of revenue and estimated funding to be spent on each eligible funding category, as specified.

vii) Requires SDRs expenditure plan to include information on funded projects, and the relative progress of those funded projects, and includes provisions for withdrawing funds from projects that do not make adequate progress over five years, as specified.

h) Establishes conditions local jurisdictions within SDR must meet to remain eligible for direction allocations from SDR, as specified.

i) Allows SDR to take specified actions against a local jurisdiction that is found to be out of compliance with affordability targets over a three-year period. Specifically, SDR may:

i) Limit the funding for the jurisdiction to extremely low and very low-income housing units only until compliance is reestablished.

ii) Require the funding allocated to the jurisdiction to be administered by SDR instead of the jurisdiction.

iii) Increase funding incentives as needed to meet project and programmatic targets.

j) Requires SDR to monitor expenditures in coordination with local jurisdictions, as specified, and authorizes SDR to adopt funding guidelines to ensure funds are spent in a timely manner consistent with the bill.

k) Requires SDR to submit a performance audit to the Legislature every other year as specified.

7) Establishes labor provisions for SDR as follows:

   a) A proponent of a development project funded by SDR must require, in contracts with construction contractors, that all of the labor provisions of this bill's standards will be met in project construction. The proponent must certify this to SDR.

   b) A development that is not in its entirety a public work, as specified, must be subject to all of the following wage provisions:

      i) All construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as specified, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

      ii) The development proponent must ensure that the prevailing wage requirement is included in all contracts for the performance of the work for those portions of the development that are not a public work.

      iii) All contractors and subcontractors for those portions of the development that are not a public work must maintain and verify payroll records, as specified, and make those records available for inspection and copying. This requirement does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.

   c) The obligation of the contractors and subcontractors to pay prevailing wages pursuant to this bill are subject to the following enforcement provisions:

      i) They may be enforced by the any of the following:

         (1) The Labor Commissioner through the issuance of a civil wage and penalty assessment, as specified, within 18 months after the completion of the development.

         (2) An underpaid worker through an administrative complaint or civil action.

         (3) A joint labor-management committee through a civil action, as specified.

      ii) If a civil wage and penalty assessment is issued pursuant to this section, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages, as specified.

      iii) These enforcement provisions do not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.

d) The requirement that the employer pay prevailing wages does not apply to those portions of development that are not a public work if otherwise provided in a bona fide collective bargaining agreement covering the worker.

e) Provides that the requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule, as specified.

f) Before placement of a measure on the ballot to raise revenue for SDR, SDR shall enter into a specific countywide project labor agreement with the San Diego County Building and Construction Trades Council and the San Diego Housing Federation.

g) Specifies that the labor provisions of this bill do not apply to new construction or preservation projects in which the project contains four units or fewer. This exemption specifically includes, but is not limited to, single-family homeowner properties and accessory dwelling units.

8) Defines relevant terms for the purposes of the bill.

9) Makes Findings and Declarations relative to the severity and impacts of the housing crisis in San Diego and the need for a regionally coordinated approach to address the crisis.

10) Provides that the Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the uniquely severe shortage of available funding and resources for the development and preservation of affordable housing and the particularly acute nature of the housing crisis within San Diego County.

11) Provides that the Legislature finds and declares that providing a regional financing mechanism for affordable equitable housing development, preservation, and renter protections in San Diego County is a matter of statewide concern and is not a municipal affair, and that therefore this bill would applies to all cities within San Diego County, including charter cities.

12) Provides No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution. However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs must be made.

EXISTING LAW:

1) Establishes the Bay Area Housing Finance Authority (BAHFA) to raise, administer, and allocate funding for affordable housing in the San Francisco Bay Area, and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production.

2) Sets forth the governing structure and powers of the BAHFA Board, allowable financing activities, and allowable expenditures of the revenues generated.

3) Establishes a number of housing assistance programs for affordable housing.

4) Defines "lower income households" as below 80 percent AMI.

5) Defines "persons and families of low- or moderate- income" as persons and families whose income does not exceed 120 percent AMI.

6) Enacts the Joint Exercise of Powers Act (JPA law), which allows two or more public agencies to use their powers in common if they sign a JPA.

7) Allows entities that include federal agencies, state departments, counties, cities, special districts, school districts, federally recognized Indian tribes, and other joint powers authorities to enter into JPAs.

8) Permits public agencies to use the JPA law and the related Marks-Roos Local Bond Pooling Act to form bond pools to finance public works, working capital, insurance needs, and other public benefit projects.

FISCAL EFFECT: According to the Senate Appropriations Committee:

1) Unknown significant General Fund cost pressures, potentially in the low millions, to fund SDR's startup costs prior to the approval of any revenues, to the extent SDR does not receive dedicated funding from other local agencies, or reach an agreement with the San Diego Association of Governments to utilize staff until SDR generates its own revenue.

2) Unknown, potentially reimbursable state-mandated costs would be incurred by San Diego County officials with respect to elections procedures for revenue measures proposed by SDR, and the administration of any taxes imposes pursuant to the bill. Staff notes that the bill requires SDR to reimburse the County for the incremental costs incurred to submit a measure to the voters. Any claims for state reimbursement for other local costs would be subject to a determination by the Commission on State Mandates. (General Fund)

COMMENTS:

1) **Author's Statement.** According to the author, "Just as the entirety of California is facing a housing crisis, the San Diego region is struggling to meet its housing demand. For the past decades, this has been driving up living costs, and forcing people to make the decision to live farther away from urban centers and commuting longer distances to work every day. With more congestion, increased traffic has only exacerbated pollution concerns, emphasizing the fact that our housing and climate crises are interconnected.

   "These issues require sensible approaches that consider how we can best manage our need to increase housing with making sure that we are equitably distributing resources, because unfortunately, our lowest income residents and people of color are bearing the highest burdens associated with these crises. By establishing a regional housing agency in San Diego, we can make sure that we are doing our best to address these concerns on a larger scale, by coordinating efforts between cities to allocate resources more efficiently and more equitably. Everyone deserves a place to call home, and our goal is to help make that priority a reality for more San Diegans across the county."

2) **Background.** In light of the ongoing housing crises across the state, several jurisdictions sought legislative approval to create regional JPAs for the purposes of addressing their regional housing needs:

   a) **Bay Area Housing Finance Authority.** In 2019, the Legislature enacted AB 1487 (Chiu), Chapter 598, Statutes of 2019, which established BAHFA to raise, administer, and allocate funding and provide technical assistance in the nine-county Bay Area region for tenant protection, affordable housing preservation, and new affordable housing production. Two governmental entities provide region-wide housing planning: the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG). These entities govern BAHFA. Among its powers, BAHFA may place various types of revenue-generating measures on the ballot in all nine Bay Area counties. Specifically, BAHFA may approve:

      i) Various types of special taxes, including parcel taxes.

      ii) A regional commercial linkage fee.

      iii) General obligation and revenue bonds.

   If approved, BAHFA retains 20 percent of revenue raised for BAHFA to spend, and distributes remaining funds directly to counties and specified cities for specified housing projects, programs, and related infrastructure. If BAHFA approves a regional commercial linkage fee, it must spend funds according to a regional nexus study, and can only impose the commercial linkage fee if voters first approve a tax. BAHFA planned to put a regional financing measure on the November 2020 ballot, but the COVID-19 pandemic force the agency to delay its plans. SB 129 (Skinner), Chapter 69, Statutes of 2021, allocated $20 million to BAHFA to fund five BAHFA pilot programs.

   b) **Los Angeles County Affordable Housing Solutions Agency.** Building off the Bay Area model, SB 679 (Kamlager) would create the Los Angeles County Affordable Housing Solutions Agency (LACAHSA). A 19-member board of local government elected officials and housing experts govern the agency. Similar to BAHFA, LACAHSA can also approve special taxes and bonds, but it does not have the authority to approve a regional commercial linkage fee. LACAHSA retains 30 percent of the revenue it raises for regional priorities. The bill is currently pending in the Assembly Housing and Community Development Committee.

3) **San Diego Housing Challenges.** San Diego County's 3.3 million residents live in 18 cities and unincorporated areas throughout the county. SANDAG is a joint powers authority, independent of county government, which addresses long-range transportation and other regional planning issues. AB 805 (Gonzalez Fletcher), Chapter 658, Statutes of 2017, revised SANDAG's voting structure to strike the previous requirement that any action be approved by both tally and weighted vote. Instead, the bill provided that a majority vote of the members of the board is necessary to take any action, but that a weighted vote may be called by the members of any two jurisdictions. SANDAG is split into subregions: east county, north county coastal, north county inland, south county, and the City of San Diego.

   One of the greatest challenges facing San Diego is housing affordability. To lead discussions to identify voluntary, innovative, and incentive-based housing approaches that address housing needs throughout the San Diego region, the SANDAG board created the Regional Equitable Housing Subcommittee. At its March 30, 2022, meeting, the subcommittee highlighted the fact that the San Diego region needs to permit an additional 90,000 homes to meet its needs. While the region has produced 92 percent of its need for above moderate-income housing, the region has only produced 9 percent of its moderate-income housing need, 19 percent of its low-income housing need, and 10 percent of its very low-income housing need. The subcommittee discussed the possibility of creating a regional housing authority to help address these housing needs.

4) **Local Financing Tools.** Local agencies use various tools to finance affordable housing production and preservation, as well as to protect tenants currently living in those affordable housing units. These include special taxes, impact fees, and bonds.

   a) ***Special Taxes.*** The California Constitution states that taxes local governments levy are either general taxes, subject to majority voter approval, or special taxes, subject to 2/3 vote (Article XIII C), which local agencies use for specified purposes. Proposition 13 (1978) required a 2/3 vote of each house of the Legislature for state tax increases, and 2/3 vote of local voters for local special taxes. One of the most common forms of a special tax is a parcel tax. Parcel taxes are not ad valorem or assessed based on the value of a property; instead they are generally a flat rate assessed per parcel regardless of its size, or on a per square foot rate. Agencies can use revenues in almost any way that serves local needs, such as ongoing expenses, programs, or buildings. Counties collect parcel taxes with property taxes, and then remit funds to the agency imposing the tax. Property tax law generally guides parcel tax collection.

   b) ***Bonds***. When public agencies issue bonds, they borrow money from investors, who provide cash in exchange for the agencies' commitment to repay the principal amount of the bond plus interest. Bonds are usually either revenue bonds, which repay investors out of revenue generated from the project the agency buys with bond proceeds, or general obligation bonds, which the public agency pays out of general revenues and the agency guarantees with its full faith and credit. Since bonds produce interest costs, they are generally used for financing projects with useful lives that correspond to the bond's term, such as an affordable housing project. Public agencies generally do not use bonds to fund services, such as procuring legal services. Generally, issuing bonds requires a 2/3 voter approval. However, some types of revenue bonds do not require a 2/3 vote, or any vote at all. For example, the Revenue Bond Law of 1941 only requires majority voter approval.

   c) ***Private Activity Bonds (PABs)*** are a third type of bonds. PABs are tax-exempt bonds public agencies issue on behalf of private businesses allowing for lower borrowing costs than those private entities pay when financing projects at market rates. Local agencies can issue PABs for a variety of purposes, including low-income and multi-family housing, industrial development, or facilities that treat water, sewage, or hazardous material. Unlike other bonds, the obligation to pay principal and interest on PABs is not the local agency's responsibility, but the responsibility of the private entity receiving bond proceeds. Since these bonds are federally tax-exempt, the federal government limits the number of PABs each state can issue in a given year. The California Debt Limit Allocation Committee (CDLAC) monitors the cap. Local agencies need an allocation from this amount approved by CDLAC to issue PABs.

To provide financing for decent, safe, and sanitary housing that people in the lower income ranges can afford to purchase, existing law allows a city or county to issue mortgage revenue bonds, a type of PABs to defray the costs of acquiring home mortgages, to sell or otherwise dispose of any home mortgages, or make loans to lending institutions to enable them to make home mortgages. The local agency must adopt regulations establishing criteria for families to qualify for a home financing program based on:

i) Income available for housing needs.

ii) Size of household.

iii) Costs and condition of available housing.

iv) Eligibility for federal housing assistance.

Mortgagors must certify that the individuals remain in the home for at least two years, unless they have a hardship, and the program must comply with the land use and housing elements of the local agency's general plan. Bonds issued to help finance these mortgages must not have maturity dates beyond 45 years.

5) **Bill Summary**. This bill creates SDR to raise, administer, and allocate funding, and provide technical assistance at a regional level, for tenant protection, affordable housing preservation, and new affordable housing production. Specifically, the bill:

a) Establishes SDR's governance structure, which among other provisions, creates a board of directors and an advisory committee. The bill specifies that six members comprise the board and that the members include:

i) One member and one alternate appointed by the Mayor of San Diego.

ii) One member and one alternate appointed by the San Diego County Board of Supervisors.

iii) Four members and alternates collectively from the SANDAG east county, north county coastal, north county inland, and south county subregions.

b) Provides SDR various powers, including the power to:

i) Place a measure on the ballot to raise revenue.

ii) Apply for grants and other financial support.

iii) Engage professional services and enter into contracts.

iv) Hire and utilize staff.

v) Collect data, provide technical assistance, and engage in public participation processes.

vi) Acquire, sell, or dispose of land or assets.

vii) Incur debt, and establish and modify terms of capital investments.

c) Outlines SDR's revenue generating tools, including bonds and special taxes. The bill authorizes SDR to raise revenue via:

i) A parcel tax.

ii) A gross receipts business license tax.

iii) A special business tax.

iv) A special tax on vacant real property.

v) A special tax on real property.

vi) A commercial linkage fee.

vii) General obligation bonds.

viii) Revenue bonds.

ix) Mortgage revenue bonds.

x) Private activity bonds.

d) Establishes how SDR spends money, including the percentage of funds that may be allocated to specified income categories and the types of projects that should be prioritized.

e) Includes certain accountability, auditing, and reporting provisions for SDR and member agencies.

This bill is author sponsored.

6) **Policy Consideration.** The Committee may wish to consider the following:

a) **Parallel Oversight.** This bill creates SDR and establishes SDR's governance structure, which includes a board of directors that includes six primary members and alternates appointed by elected officials. The governance structure also includes an 18 member advisory committee appointed by the board of directors. The legislation spells out in great detail the type of experience each member of the advisory committee should posses. A large advisory body can provide for a diversity of opinion that is valuable to the board of directors; however, a large body can also prove unruly. The presence of two oversight bodies can also create confusion for SDR staff. If the board of directors and the advisory committee adopt conflicting positions on policy issues, what direction should SDR staff follow? Is it better to create a single oversight body that is slightly larger rather than create two distinct oversight bodies? Further, there is nothing in statute that would prevent the SDR board from appointing individual staff advisors or creating an advisory body as it sees fit. Is it necessary to oblige SDR to appoint an advisory body?

b) **Exhaustive Detail.** This bill includes a tremendous level of detail regarding SDRs governance procedures. For example, the bill specifies that the chair or vice-chair of the SDR board of directors shall send a letter to a board members' appointing body if that body's appointed board member is absent at three meetings during their term. While board members should participate in board meetings, is it necessary to specify in statute how the SDR chair and vice-chair should complain about truant board members? Ultimately, the author may wish to consider if the overall level of detail included in the bill will make it difficult for SDR to implement its mission.

c) **Duplicative Authority.** Many of the tools that the bill contemplates for SDR including special taxes and bonds, are tools that the county and its cities already have. SB 1105 creates another regional body on top of the work that cities, the county, and other local agencies are already doing. While it is clear that the San Diego region has not met its regional housing needs, is creating another agency to tackle these problems the best approach? Would a regional board provide the same level of access and accountability as individual city councils and the county's board of supervisors?

Existing law already provides San Diego County and its cities with the ability to create a regional JPA to exercise powers these local governments share. JPA Law is flexible: local agencies can come together to form an agreement of their own design to carry out any power common to each of its members. Agreements specify a JPA's mission, structure, governing board, each member's financial obligations, and provisions for members to enter and exit the JPA, among other items. As such, local agencies do not need legislative authority for a JPA, unless it requires powers not common to all its members, or when statutory certainty and specificity is preferable to the agreement's details. On the one hand, coming to agreement on a JPA can take time, especially when it involves San Diego County and all 18 cities in the county. On the other hand, the JPA route puts the final decision in the hands of local decision makers, not legislators in Sacramento.

7) **Technical Amendments.** The Committee may wish to consider the following technical amendments:

a) Delete GC 62820 (s), which is duplicative of GC 62820 (o).

b) Amend GC 62880 (d)(1) to reorder Subparagraph (E) and (F).

c) Amend GC 62880 (d)(6) as follows:

Paragraphs (2) through (5) shall not apply to the Strategic Priorities and Innovation funds described in subparagraph (E) of paragraph (1) of subdivision *(c)* ~~(b).~~

8) **Housing and Community Development Committee Amendments.** The author committed to accepting amendments in Housing and Community Development Committee that, due to timing, must be taken in this committee. The Housing and Community Development Committee Amendments will amend GC 62891(a) as follows:

62891. (a) *The agency may not place* ~~Before placement of~~ a measure on the ballot to raise revenue for the agency~~,~~ *unless the agency has* ~~the agency shall~~ enter*ed* into a ~~specific~~ countywide project labor agreement with the San Diego County Building and Construction

Trades Council ~~and the San Diego Housing Federation~~ *that will cover all construction and rehabilitation work to be funded or financed by the ballot measure. As a condition of receiving funding or financing from the ballot measure, the recipient must become a party to the countywide project labor agreement. The agency shall not undertake, fund or finance other projects that involve construction or rehabilitation work unless the agency has entered into a project labor agreement with the San Diego County Building and Construction Trades Council that will cover such projects. As a condition of receiving funding or financing from the agency, the recipient must become a party to that project labor agreement.*

(b) For purposes of this section, “project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(c) This chapter shall not apply to new construction or preservation projects in which the project contains four units or fewer. This exemption specifically includes, but is not limited to, single-family homeowner properties and accessory dwelling units *when the project includes four units or fewer*.

9) **Double-Referral**. This bill is double-referred to the Housing and Community Development Committee, where it is scheduled to be heard on June 29, 2022.

10) **Arguments in Support.** The San Diego County Building Trades Council writes in support, “The housing crisis is fundamentally connected to the climate crisis. As housing prices increase, San Diegans are forced to move further away, leading to worsening traffic, more carbon pollution, and the acceleration of the climate emergency. SB 1105 will enable our region to build more equitable and inclusive housing near jobs, amenities, and transportation infrastructrure in order to protecting our climate and prevent paving over our open spaces and natural ecosystems.”

11) **Arguments in Opposition.** The Western Electrical Contractors Association writes in opposition, “While some may applaud the transparency in your bill (mandating a PLA before going to the voters), [Western Electrical Contractors Association] and [Plumbing-Heating-Cooling Contractors Association of California] object to your inclusion of project labor agreement (PLA) requirements that they believe will drastically increase the price of housing projects pursued by [San Diego Regional Equitable and Environmentally Friendly Affordable Housing Agency] and result in discrimination against apprentices, journeypersons and contractors who are not signatory to union collective bargaining.”

REGISTERED SUPPORT / OPPOSITION:

Support

AARP
Business for Good San Diego
Center on Policy Initiatives
City Heights Community Development Corporation
City of Imperial Beach
Climate Action Campaign
Connect Foundation
County of San Diego Third District Supervisor Terra Lawson-remer
Encinitas4equality

Endangered Habitats League
Escondido Community Housing Coalition
Faith in Action Ministry of St. Andrew's Episcopal Church, Encinitas
IBEW Local Union 569
Interfaith Community Services
Keys4homes, Robert Kent
Legal Aid Society of San Diego
Lisc San Diego
Mayor Alejandra Sotelo-solis, City of National City
Mayor Lesa Heebner, City of Solana Beach
San Diego & Imperial Counties Labor Council
San Diego Community College District
San Diego Continuing Education Foundation
San Diego County Bicycle Coalition
San Diego County Building & Construction Trades Council
San Diego Organizing Project
San Diego Regional Task Force on Homelessness
San Diego Workforce Partnership, INC.
Sandiego350
State Building & Construction Trades Council of California
Vice Mayor Jack Shu, City of La Mesa
YMCA of San Diego County, Youth and Family Services

Support if Amended

Mayor Todd Gloria, City of San Diego

Oppose Unless Amended

California Apartment Association
California Building Industry Association

Opposition

Apartment Association of Greater Los Angeles
California Coalition for Rural Housing
California Housing Consortium
California Housing Partnership
California Rental Housing Association
City of Carlsbad
Housing California
Non Profit Housing Association of Northern California
Plumbing-heating-cooling Contractors Association of California
Southern California Rental Housing Association
Western Electrical Contractors Association

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