

Date of Hearing: June 22, 2016

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 1413 (Leno) – As Amended June 16, 2016

[Note: This bill was double-referred to the Assembly Committee on Housing and Community Development and was heard by that committee as it relates to issues under its jurisdiction.]

SENATE VOTE: 29-7

SUBJECT: School districts: employee housing

SUMMARY: Establishes the Teacher Housing Act of 2016 to facilitate the acquisition, construction, rehabilitation, and preservation of affordable housing restricted to teachers or school district employees. Specifically, **this bill:**

- 1) Makes findings and declarations regarding the importance of providing affordable housing for teachers and other school employees to help address staffing shortages.
- 2) Defines "affordable rental housing" to mean a rental housing development where a majority of the rents are restricted to levels affordable to low- and moderate income residents, no more than 120% of area median income (AMI), and are not limited to projects with five or more units.
- 3) Defines "teacher or school district employee" to mean any person employed by a unified school district maintaining prekindergarten, transitional kindergarten, and grades 1 to 12, elementary school district maintaining prekindergarten, transitional kindergarten, and grades 1 to 8 or a high school district maintaining grades 9 to 12 but not limited to certified and classified staff.
- 4) Authorizes a school district to establish and implement programs that address the housing needs of teachers and school district employees who face challenges in securing affordable housing.
- 5) Allows a school district, to the extent feasible, to establish and implement programs that among other things, do the following:
 - a) Leverage federal, state, and local public, private, nonprofit and fiscal resources available to housing developers;
 - b) Promote public and private partnerships; and
 - c) Foster innovated financing opportunities.
- 6) Creates a specific state policy supporting housing for teachers and school district employees, as described in Section 42(g) (9) (B) of the Internal Revenue Code, and further permits school districts and developers in receipt of local or state funds or tax credits designated for affordable rental housing to restrict occupancy to teachers and school district employees on

land owned by school districts so loans as the housing does not violate any other applicable laws.

EXISTING LAW:

- 1) Federal law requires low-income housing tax credits (LIHTCs) to be utilized for residential units that are for use by the “general public.” If a residential unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and not eligible for federal LIHTCs, and by extension, state LIHTCs. A qualified low-income project does not fail to meet the general-public use requirement solely because of occupancy restrictions or preferences that favor, among other things: members of a specified group under a federal program or state program or policy that supports housing for a specified group.
- 2) Defines “rental housing development” as a structure or set of structures with common financing, ownership, and management, and which collectively contain five or more dwelling units, including efficiency units. No more than one of the dwelling units may be occupied as a primary residence by a person or household who is the owner of the structure or structures.
- 3) Establishes various housing programs, such as the Multifamily Housing Program and Joe Serna Jr. Farmworker Housing Grant Program administered by the Department of Housing and Community Development (HCD) and the Low-Income Housing Tax Credit (LIHTC) Program administered by the Tax Credit Allocation Committee (TCAC) within the State Treasurer’s Office, to help low-income families and other specified groups.
- 4) Declares it unlawful, pursuant to Fair Employment and Housing Act, for any housing accommodation owner to inquire about; make known any preference or limitation as to; discriminate; or harass a person based on the person’s race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information (Government Code Section 12955).
- 5) Prohibits, under the Unruh Civil Rights Act, business establishments from discriminating on the basis of sex (including gender), race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation, and provides civil remedies for violations of its provisions (Civil Code Section 51 et seq.).

FISCAL EFFECT: According to the Senate Appropriations Committee, to the extent this bill results in additional affordable housing projects targeting teachers and school personnel, greater demand would be placed on limited existing housing resources leading to greater competition for receiving certain financial benefits such as state low-income housing tax credits. According to the State Treasurer’s Office, state credits are oversubscribed by roughly a 2 to 1 ratio.

COMMENTS:

Background: According to the author, at least two school districts have successfully built affordable rental housing on district owned property to house teachers employed in the district. However, the districts only provide an occupancy preference to teachers and cannot limit the housing to teachers only. This bill would allow school districts to establish and implement

programs to address the housing needs of teachers and school district employees. In addition the bill creates a state policy supporting housing for teachers and school employees, and permits school districts and developers who receive local or state funds or tax credits to support the construction of affordable rental housing, to restrict the occupancy to teachers and school district employees on land owned by school districts.

Generally under federal IRS rules, if a residential unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for federal LIHTC. However, federal IRS law also states that a qualified LIHTC project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants (1) with special needs, (2) who are members of a specified group under a federal program or state program or policy that supports housing for such a specified group, or (3) who are involved in artistic or literary activities. This bill creates a specific state policy that supports housing for teachers and school district employees with the intent of making it clear that those projects can receive LIHTC.

Purpose of this bill: According to the author, California places a high value on its public education system, and the stability of housing for school employees is critical to the overall success and stability of each school in California. Students and the community at large are benefitted by teachers living in the community in which they practice their profession. It ensures stability, community involvement, and stronger ties between teachers, and their students and families. Lack of affordable housing creates barriers to effective teaching and teacher retention and the combination of teacher and housing shortages demands innovative solutions. Twenty-five percent of teachers nationwide point to housing incentives as an important factor in their decision to return to teaching.

While there are programs in many communities to help people find and attain affordable housing, middle-class earners like teachers do not always qualify for them. This bill underscores the critical role that teachers and other education professionals play in the long-term success of our state by allowing for the development of specific housing to keep these hard-working professionals in our communities and our schools. This bill provides clear authorization to school districts to develop housing on district-owned property, which will enable the districts facing the most acute teacher shortages to directly address the lack of affordable housing that is forcing teachers out of our communities and out of a vital profession. Investors require clear state law before getting on board with new and innovative projects, especially in an area as expensive as San Francisco. Unlike the higher education code, which covers faculty housing in detail, K-12's silence on this issue is a cause for great concern for financial markets when facing a decision of whether to embark upon multi-billion dollar housing projects."

REGISTERED SUPPORT / OPPOSITION:

Support

City and County of San Francisco

Opposition

None received.

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