

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
AB 2967 (Ting) – As Amended April 18, 2024

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

**SUBJECT:** Teacher Housing Act of 2016: teachers and school district employees: nonprofit childcare providers

**SUMMARY:** Adds specified employees of nonprofit organizations operating childcare classrooms and programs on school district property to the definition of “teacher or school district employee” for purposes of the Teacher Housing Act of 2016. Specifically, **this bill:**

- 1) For purposes of the Teacher Housing Act of 2016, defines “teacher or school district employee” to mean any person employed by the following:
  - a) A unified school district maintaining prekindergarten, transitional kindergarten, and grades 1 to 12, inclusive;
  - b) An elementary school district maintaining prekindergarten, transitional kindergarten, and grades 1 to 8, inclusive;
  - c) A high school district maintaining grades 9 to 12, inclusive, including, but not limited to, certificated and classified staff; and
  - d) A nonprofit organization operating early childhood, prekindergarten, or school-aged childcare classrooms and programs on school district property with funding from the California Department of Education (CDE), the federal Head Start program, or other public funding targeted to children from families of low and moderate income.
- 2) Requires, a program established under the Teacher Housing Act of 2016 to provide teachers or school district employees, as described, with a right of first refusal to occupy housing acquired, constructed, rehabilitated, or preserved under this part. States that the addition of this requirement only apply to housing made available or a contract for housing entered into, amended, or extended under the Act on or after January 1, 2025.

**EXISTING LAW:**

- 1) Establishes the Teacher Housing Act of 2016 in order to facilitate the acquisition, construction, rehabilitation, and preservation of affordable rental housing for teachers and school district employees to allow them to access and maintain housing stability. Requires a program established to be restricted to teacher or school district employees, except that a school district may allow local public employees or other members of the public to occupy housing. Requires a school district to retain the right to prioritize school district employees over local public employees or other members of the public to occupy housing. (Health and Safety Code (HSC) 53570 and 53571)

- 3) Defines the following terms for purposes of the Teacher Housing Act of 2016:
  - a) “Affordable rental housing” to mean a rental housing development, as specified, with a majority of its rents restricted to levels that are affordable to persons and families of low or moderate income, as specified, but neither definition is restrictive to only projects with five or more units;
  - b) “Local public employees” to include employees of a city, county, city and county, charter city, charter county, charter city and county, special district, or any combination thereof; and
  - c) “Teacher or school district employee” to mean any person employed by a unified school district maintaining prekindergarten, transitional kindergarten, and grades 1 to 12, inclusive; an elementary school district maintaining prekindergarten, transitional kindergarten, and grades 1 to 8; inclusive, or a high school district maintaining grades 9 to 12, inclusive, including, but not limited to, certificated and classified staff. (HSC 53572)
- 4) Creates in the Teacher Housing Act of 2016, a state policy supporting housing for teachers and school district employees, as specified in the Internal Revenue Code, and, authorizes 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, including permitting school districts and developers in receipt of tax credits designated for affordable rental housing to retain the right to prioritize and restrict occupancy on land owned by school districts to teachers and school district employees of the school district that owns the land, so long as that housing does not violate any other applicable laws. (HSC 53574)

**FISCAL EFFECT:** This bill has been keyed non-fiscal by the Office of Legislative Counsel.

**COMMENTS:**

***Need for the bill.*** According to the author, “California is in the middle of a dire housing crisis. Teachers have especially struggled to afford housing. One third of teachers are rent-burdened and only 17% of homes in California are affordable for the average teacher. In an effort to address this problem for teachers, California adopted the Teacher Housing Act in 2016 to facilitate the creation of housing that is specially set aside for teachers and public school employees. Unfortunately, current law prohibits teachers and employees at publicly funded early childhood, pre-kindergarten, transitional kindergarten, and afterschool programs from participating in teacher housing programs because they are not technically employees of the school district. AB 2967 expands the Teacher Housing Act to include these important educators if they teach on school district property with funding from the Department of Education, the Head Start program, or other public funding sources targeted to children of low and moderate-income families.”

***Low-income housing tax credits and housing for school employees.*** Existing 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.

SB 1413 (Leno), Chapter 732, Statutes of 2016, establishes the Teacher Housing Act of 2016 and provides that a school district may establish and implement programs that address the housing needs of teachers and school district employees who face challenges in securing affordable housing. 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.

Prior to the enactment of SB 1413 (Leno), developers were not permitted to use federal LIHTCs for school employee housing projects because those projects were not available to the general public. Because state credits can only be awarded to projects that receive federal credits, state LIHTCs also could not be used to fund teacher-only housing. By declaring a state policy supporting housing for teachers/school district employees in the Teacher Housing Act of 2016, these housing projects could qualify under federal law as general public housing and therefore be eligible for both federal and state LIHTCs.

***Early childhood education and childcare in California for income eligible families.*** California provides support to income eligible families to participate in subsidized early childhood education and childcare through a mixed delivery system that includes federal, state, and local funding. Most programs are delivered through a voucher system (also known as alternative payment) or direct funding model, under contract with either the CDE or the California Department of Social Services (CDSS). The CDSS issues childcare licenses to operators based on the early learning and childcare setting and age of child served.

Head Start is a national program administered by the Office of Head Start (OHS) within the Administration on Children, Youth and Families, Administration for Children and Families (ACF), Department of Health and Human Services. Head Start provides funding directly to local programs to provide comprehensive developmental services for children from low-income households from birth to entry into elementary school; funding does not pass through a state agency. California's Head Start program is the largest in the nation. In California, many Head Start programs use both Head Start funding and federal and state funding to provide a full year and full day of services for children and families who qualify.

Many direct funded and Head Start programs operate on school district property, operated either by a school district or a nonprofit organization.

This bill would specify that employees of a nonprofit organization operating early childhood, prekindergarten, or school-aged childcare classrooms and programs on school district property with funding from the CDE, the Head Start program, or other public funding targeted to children from families of low and moderate income be defined as a “teacher or school district employee” for purposes of the Teacher Housing Act of 2016.

***Recommended Committee Amendments.*** *Staff recommends that the bill be amended as follows:*

- Delineate and define employees of a nonprofit organization operating early childhood, prekindergarten, or school-age childcare classrooms and programs on school district

property with funding from the CDE, Head Start, or other public funding targeted to children from families of low and moderate income apart from the definition of “teacher or school district employee.”

- Include both “teacher or school district employee” and “nonprofit employee,” as specified, for eligibility for LIHTCs for purposes of the Teacher Housing Act of 2016. Prioritize access for “teachers or school district employees” before “nonprofit organization employees.”
- Add employees of nonprofit expanded learning classrooms and programs to the definition of “nonprofit employee”.

**Related legislation.** AB 2571 (Papan) of the 2023-24 Session would establish a definition of the term “school facilities” as it relates to local school facilities bond elections in school districts and community college districts to include housing for students, faculty, or school or district employees, and would enumerate the purposes for which school bonds may be issued.

AB 2295 (Bloom), Chapter 652, Statutes of 2022, authorizes a housing development project to be an allowable use on any real property owned by a local educational agency (LEA), as specified.

AB 3308 (Gabriel), Chapter 199, Statutes of 2020, allows school districts to restrict occupancy of affordable housing on school district-owned land, funded with LIHTC, to teachers and school district employees of the school district that owns the land, regardless of any laws that would prohibit a priority or preference for school district employees and teachers. Allows public employees to also occupy the housing, as specified.

SB 1413 (Leno), Chapter 732, Statutes of 2016, establishes the Teacher Housing Act of 2016 and provides that a school district may establish and implement programs that address the housing needs of teachers and school district employees who face challenges in securing affordable housing.

**Arguments in support.** The County of San Mateo writes, “Housing for preschool teachers and other early educators is particularly unaffordable in high-cost counties like San Mateo County. An annual wage of \$35,006 places the preschool teacher in the Extremely Low-Income (ELI) category for purposes of qualifying for affordable housing in San Mateo County. Moreover, according to a March 2024 public review draft of the County’s 2023-34 Housing Element, San Mateo County currently has a significant deficit in the number of housing units affordable to the County’s 34,709 households in the ELI category.”

The lack of affordable housing for the early childhood workforce has forced many to leave the profession, find second jobs, and undertake long, difficult commutes from cheaper housing markets. This makes it extremely difficult for nonprofit employers operating state or federally-funded programs for low-income children to recruit and retain a qualified workforce. Providers of publicly subsidized early childhood education providers are crucial to the state’s social safety net, accounting for almost one-third of California’s enrollment in early childhood programs, according to a 2019 UC Berkeley Labor Center Report.

To provide more housing options for the County’s early childhood workforce, the Housing Authority of San Mateo County (HACSM) is working with MidPen Housing to redevelop

Midway Village, an older public housing site, in four phases of affordable housing development. The local school district donated land to create affordable housing under an agreement with HACSM and MidPen to develop a new early childhood center for Peninsula Family Services, a provider of state-funded early childhood education programs at Midway Village. More importantly, the land donation was also in consideration of an agreement to include a housing preference for some of the units for educators, including a secondary preference for early childhood educators, who, like the employees of Peninsula Family Services, are not employees of the school district but provide early childhood services vital to the school readiness of the school district's children. Unfortunately, critical early childhood educators employed by a nonprofit organization providing state or federally early childhood education and after-school programs for qualifying low-income children are not eligible for the teacher housing preference under the Teacher Housing Act of 2016.

AB 2967 would make these essential educators eligible to live in teacher housing projects by expanding the Teacher Housing Act of 2016 to include employees of nonprofits who operate early childhood, pre-kindergarten, or school-aged childcare on school district property with funding from the Department of Education, the Head Start program, or other public funding sources targeted to children of low and moderate-income families. The expansion is narrowly crafted to target this particular critical workforce, and school districts retain the right to prioritize school district employees over local public employees or other members of the public to occupy housing. It's up to each school district to decide whether or not to include a preference for this additional category.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Midpen Housing  
Peninsula Family Service  
San Mateo County  
Urban Counties of California (UCC)

##### **Opposition**

None on file

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