

**Metropolitan Transportation Commission and Association of Bay Area Governments
Joint MTC ABAG Legislation Committee**

June 14, 2024

Agenda Item 3d

Assembly Bill 598 (Wicks): Bay Area Housing Finance Authority (BAHFA) Funding

Subject:

Clarification of the limitations on BAHFA’s authority to condition funding disbursements on local jurisdictions’ land use and housing policies.

Background:

Assembly Bill (AB) 598 (Wicks) makes changes to BAHFA’s enabling statute at the request of MTC/ABAG staff following discussions with the Bay Area Council (“Council”) and Building Industry Association of the Bay Area (“BIA”) in May and subsequent direction from BAHFA Chair Pedroza, ABAG President Ramos and Legislation Committee Chair Canepa pursuant to the MTC/ABAG policies for urgent legislative action.

BAHFA’s Expenditure Plan and Funding Programs

BAHFA’s Expenditure Plan is a statutorily required document that defines, over a five-year period, the spending programs, projects and policies applicable to BAHFA’s 20 percent share of a regional housing bond. On April 18, 2024, the ABAG Executive Board (as the Executive Board to BAHFA) approved the 2025-30 Expenditure Plan for the \$20 billion bond anticipated for the November 2024 ballot. The BAHFA Board is scheduled to approve the same plan on June 26, 2024.

The 2025-30 Expenditure Plan outlines the requirements by which BAHFA must prioritize and spend bond funds issued in the first two funding tranches.

For production funds (52% of the total), these include:

1. Set “return-to-source” investment targets in each county, based on assessed property values.
2. Prioritize permanent supportive housing developments and developments that serve extremely low-income households.
3. Work collaboratively with jurisdictions to secure oversubscribed resources.

For preservation funds (at least 15% of the total), the requirements include:

1. Prioritize investments in historically disinvested areas.
2. Forestall eviction risk or affordability loss.
3. Support community-controlled housing through a 20% set-aside target.

Meeting these requirements will require a project-level analysis. For example, does the project provide homes for people with extremely low incomes or experiencing homelessness? Is it financially feasible over the long term? Does it leverage BAHFA funding with sources other than existing over-subscribed sources? The Expenditure Plan does not anticipate conditioning projects' eligibility on jurisdiction-wide policies adopted by localities.

County and City Expenditure Plans

Under state law, the nine counties and four cities (Napa, Oakland, San Jose and Santa Rosa) who will receive a direct allocation of regional housing bond funds must adopt an expenditure plan for those funds. BAHFA is required to approve the locality's expenditure plan if it meets the criteria established in state law; BAHFA does not have discretion to impose additional requirements.

Stakeholder Concerns

In mid-May, the Council and BIA reached out to BAHFA staff with significant concerns about the potential for BAHFA's funding programs to be used to encourage cities and counties to adopt policies that they believe make market rate housing development more difficult and costly to build. BAHFA staff met with both organizations and other stakeholders to develop options for addressing these concerns while maintaining the goals and requirements outlined in BAHFA's Expenditure Plan.

On May 22, 2024, the Council and BIA requested the BAHFA Board's support for proposed bill language to address their concerns (see Attachment A). The BAHFA Board Chair Alfredo Pedroza responded in a letter dated May 24, 2024. The letter committed that the Chair would direct staff to work with the Council, BIA and other stakeholders on legislation reflecting the proposed language. (See Attachment B.)

The legislation consists of two key changes. The first clarifies that BAHFA cannot impose conditions on counties' and cities' expenditure plans beyond those outlined in BAHFA's enabling statute. The second provision prohibits BAHFA from rendering a proposed housing development ineligible for funding from BAHFA's portion of the bond proceeds based on the land use or housing policies of the locality in which it's located. Both amendments are consistent with BAHFA's enabling legislation, which prohibits BAHFA from regulating or enforcing local land use decisions. (See Gov. Code § 64522(a).)

Recommendation: Support

Sponsor / ABAG Executive Board Approval

Sponsor / Commission Approval

Discussion:

Given the regional Expenditure Plan's focus on evaluating projects based on project-level criteria rather than a locality's policies, staff believes the language in AB 598 makes explicit what was already implied in BAHFA's enabling legislation and would not alter BAHFA's plans or goals. Staff have worked to clarify and explain BAHFA's statutory requirements and the additional goals and obligations created by new BAHFA documents, such as the Expenditure Plan, for Bay Area stakeholders over the last two years. The Council/BIA have concerns about broader conditions affecting real estate and housing development throughout the region. While BAHFA's funding programs are not structured in a manner that would exacerbate these concerns, AB 598 provides further reassurance as to BAHFA's future actions and goals. For these reasons, staff recommends a support position on AB 598 (Wicks).

Known Positions:

Support

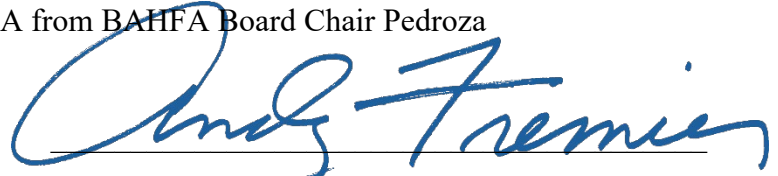
None known

Oppose

None known

Attachments:

- Attachment A: Letter to BAHFA Board from BAC-BIA
- Attachment B: Letter to BAC-BIA from BAHFA Board Chair Pedroza



Andrew B. Fremier