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AB-74 Housing. (2017-2018)

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Assembly Bill No. 74

CHAPTER 777

An act to add Part 14.2 (commencing with Section 53590) to Division 31 of the Health and Safety Code, relating to housing.

[Approved by Governor October 14, 2017. Filed with Secretary of State October 14, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 74, Chiu. Housing.

Existing federal law requires the Secretary of the Department of Housing and Urban Development to establish a Housing Trust Fund to provide grants to states to increase the supply of rental housing for extremely low and very low income families, including homeless families, and home ownership for extremely low and very low income families.

Existing law establishes the Department of Housing and Community Development in the Business, Consumer Services, and Housing Agency. The department is responsible for administering various housing and home loan programs throughout the state. Existing law designates the department as the state agency responsible for administering funds received by the state from the federal Housing Trust Fund and requires the department to administer these funds through existing or newly created programs.

This bill would require the department, on or before January 1, 2019, to establish the Housing for a Healthy California Program to create supportive housing opportunities through grants to counties for capital and operating assistance, as specified, or operating reserve grants and capital loans to developers, or both. The bill would require the department to award grants to counties on a competitive basis pursuant to rating and ranking criteria, as specified. The bill would require the county to use grant funds in a specified manner and to comply with federal Housing Trust Fund regulations. The bill would require a county or developer awarded grant or loan funds to report data, as specified. The bill would require the department to submit federal Housing Trust Fund allocation plans to the Department of Housing and Urban Development, as provided. The bill would also require the department to analyze data collected pursuant to the program, as specified, and to report program data to certain legislative committees, as specified. The bill would require the department to carry out these provisions with revenues appropriated to the department from federal Housing Trust Fund allocations, as specified, or with any other revenues appropriated to the department that may be allocated for purposes of the program, or both.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Homeless beneficiaries incur disproportionate Medi-Cal costs, particularly people experiencing chronic homelessness and people who cycle between homelessness, emergency departments, inpatient care, and nursing home stays. Supportive housing,

which is affordable housing with intensive services, allows people experiencing significant barriers to housing stability to improve their health and decrease their Medicaid costs. National studies comparing formerly homeless Medicaid beneficiaries living in supportive housing with homeless beneficiaries receiving usual care demonstrate Medicaid cost savings.

(b) In most communities in California, a lack of housing affordable to people experiencing homelessness is one of the greatest barriers to exiting homelessness. Housing resources would equip counties implementing services programs for people experiencing homelessness to achieve the goals of these programs, and would spur local governments to coordinate the capital, operating, and services funding necessary to move our most vulnerable and expensive homeless Californians to housing stability.

SEC. 2. Part 14.2 (commencing with Section 53590) is added to Division 31 of the Health and Safety Code, to read:

PART 14.2. Housing for a Healthy California Program

53590. For purposes of this part, all of the following definitions shall apply:

(a) "Chronically homeless" has the same meaning as in Parts 91 and 578 of Title 24 of the Code of Federal Regulations, as those parts read on January 1, 2018, except that people who were chronically homeless before entering an institution would continue to be defined as chronically homeless upon discharge, regardless of length of stay.

(b) "County" means a county, city and county, or a city collaborating with a county to secure services funding.

(c) "Department" means the Department of Housing and Community Development.

(d) "Fair market rent" means the rent, including the cost of utilities, as established by the United States Department of Housing and Urban Development pursuant to Parts 888 and 982 of Title 24 of the Code of Federal Regulations, as those parts read on January 1, 2018, for units by number of bedrooms, that must be paid in the market area to rent privately owned, existing, decent, safe, and sanitary rental housing of nonluxury nature with suitable amenities.

(e) "Health Home Program" means the Health Home Program established pursuant to Article 3.9 (commencing with Section 14127) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) "Homeless" has the same meaning as in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 1, 2018.

(g) "Long-term rental assistance" means a rental subsidy provided to a housing provider, including a developer leasing affordable housing, to assist a tenant to pay the difference between 30 percent of the tenant's income and fair market rent or reasonable market rent as determined by the department.

(h) "Federal Housing Trust Fund" has the same meaning as the national Housing Trust Fund established pursuant to the Housing and Economic Recovery Act of 2008 (Public Law 110-289), and implementing federal regulations.

(i) "Permanent housing" means a housing unit where the landlord does not limit length of stay in the housing unit, the landlord does not restrict the movements of the tenant, and the tenant has a lease and is subject to the rights and responsibilities of tenancy, pursuant to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(j) "Program" means the Housing for a Healthy California Program created by this part.

(k) "Supportive housing" has the same meaning as in Section 50675.14.

(l) "Whole Person Care pilot" has the meaning as described in the Medi-Cal 2020 Waiver Special Terms and Conditions (STCs), Sections 110-126, as approved by the federal Centers for Medicare and Medicaid Services on December 30, 2015.

53591. The department shall do all of the following:

(a) On or before January 1, 2019, establish the Housing for a Healthy California Program to create supportive housing opportunities through either or both of the following:

(1) Grants to counties for capital and operating assistance. The department shall award grants to counties on a competitive basis pursuant to rating and ranking criteria that include, but are not limited to, points based upon all of the following:

(A) Need, which includes consideration of the number of individuals experiencing homelessness and the impact of housing costs in the county.

(B) Ability of the county to administer or partner to administer a program offering capital loans and operating assistance in supportive housing. Operating assistance may include operating reserves.

(C) The county's documented partnerships with affordable and supportive housing providers in the county.

(D) Demonstrated commitment to address the needs of people experiencing homelessness through existing programs or programs planned to be implemented within 12 months.

(E) Preferences or set asides for housing populations established by the department pursuant to Section 53595.

(F) Coordination with all of the following:

(i) Community-based housing and homeless service providers.

(ii) Behavioral health providers.

(iii) Safety net providers, including community health centers.

(2) Operating reserve grants and capital loans to developers. The department may use existing guidelines in awarding grants and loans to developers.

(b) On or before August 31, 2018, and on or before August 31 for the next three years, submit federal Housing Trust Fund allocation plans to the Department of Housing and Urban Development that includes state objectives consistent with the goals of this part.

(c) Draft any necessary regulations, guidelines, and notices of funding availability for stakeholder comment.

(d) Midyear and annually, collect data from counties and developers awarded grant or loan funds.

(e) No later than October 1, 2020, contract with an independent evaluator to analyze data collected pursuant to Section 53593 to determine changes in health care costs and utilization associated with services and housing provided under the program. The department shall provide, on a regular basis as needed, collected data to the evaluator.

(f) (1) On or before January 1, 2024, report data collected to the Assembly Committee on Budget, the Senate Committee on Budget and Fiscal Review, the Assembly and Senate Committees on Health, the Assembly Committee on Housing and Community Development, and the Senate Committee on Transportation and Housing.

(2) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(g) The department is encouraged to consult with the State Department of Health Care Services where appropriate to carry out the intent of this section.

53592. A county shall be eligible for a program grant if the county meets the requirements of this section. Eligibility does not create an entitlement to grant funds and is subject to availability of funds. The county shall meet all of the following requirements:

(a) Has identified a source of funding for providing intensive services promoting housing stability. Funding for these services may include, but are not limited to, one or more of the following:

(1) County general funds.

(2) Whole Person Care pilot program funds, to the extent those funds are available or the Whole Person Care program has been renewed.

(3) The Health Home Program.

(4) Other county-controlled funding to provide these services to eligible participants.

(b) Has agreed to contribute funding for projects assisted through federal Housing Trust Fund grants. This assistance may include preferences or set-asides for federally funded, locally administered rental subsidies.

(c) Has designated a process for administering grant funds through agencies administering housing programs.

(d) Agrees to collect and report data, as described in Section 53593, to the department.

53593. (a) The department shall coordinate with the State Department of Health Care Services to match program participant data, consistent with state and federal privacy law, to Medi-Cal data to identify outcomes among participants as well as changes in health care costs and utilization associated with housing and services provided under the program to the extent that information is available, up to 12 months prior to each participant's move into permanent housing, as well as changes in costs after each participant's move into permanent housing.

(b) A county or developer awarded grant or loan funds shall, at annual and midyear intervals, report all of the following data to the department:

- (1) Data specified by the department necessary to measure the costs and outcomes of the program.
- (2) The number of participants and the type of interventions offered through grant funds.
- (3) The number of participants living in supportive housing or other permanent housing.
- (4) To the extent feasible and available, data on the impact of the program on participants' use of corrections systems and law enforcement resources.

53594. (a) A county shall use grants awarded pursuant to this part for all of the following:

- (1) Acquisition funding, new construction, or reconstruction and rehabilitation.
- (2) Project based operating assistance.
- (3) A county's administrative costs, as determined by the department, of at least 5 percent of the total grant awarded.

(b) Project based operating assistance may include either or both of the following:

- (1) Long-term rental assistance for periods of up to five years, subject to renewal grants.
- (2) A capitalized operating reserve for at least 15 years to pay for operating costs of an apartment or apartments receiving capital funding to provide supportive housing to people experiencing homelessness.

(c) A county awarded grant funds pursuant to this part shall comply with federal Housing Trust Fund regulations.

53595. The department shall establish rating and ranking criteria to promote housing for persons who meet all of the following requirements:

- (a) Is chronically homeless or is homeless and a high-cost health user upon initial eligibility.
- (b) Is a Medi-Cal beneficiary.
- (c) Is eligible for Supplemental Security Income.
- (d) Is eligible to receive services under a program providing services promoting housing stability, including, but not limited to, the following:
 - (1) The Whole Person Care pilot program, to the extent the Whole Person Care program is available or has been renewed.
 - (2) The Health Home Program.
 - (3) A locally controlled services program funding or providing services in supportive housing.
- (e) Is likely to improve his or her health conditions with supportive housing.

53596. The Legislature shall consider the impact that housing and supportive services have had in changing utilization and health care costs, as identified in the evaluation described in Section 53591, of moving eligible participants into supportive housing.

53597. The department shall reimburse the State Department of Health Care Services for the costs of collaborating in matching and providing relevant data.

53598. (a) For purposes of implementing this part, the department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis. Contracts entered into or amended pursuant to this subdivision shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and shall be exempt from the review or approval of any division of the Department of General Services.

(b) Any regulations or guidelines that are adopted, amended, or repealed to implement this part shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

53599. The department shall carry out the purposes of this part with either or both of the following:

(a) Revenues appropriated to the department from federal Housing Trust Fund allocations for years 2018 to 2021, inclusive.

(b) Any other revenues appropriated to the department that may be allocated for purposes of the program.