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AB-1319 Bay Area Housing Finance Authority: housing revenue. (2023-2024)

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Assembly Bill No. 1319

CHAPTER 758

An act to amend Sections 64502, 64511, 64520, 64521, 64621, 64622, 64627, 64631, 64632, and 64650 of, and to add Section 64523 to, the Government Code, relating to local government.

[Approved by Governor October 11, 2023. Filed with Secretary of State October 11, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1319, Wicks. Bay Area Housing Finance Authority: housing revenue.

(1) Existing law, the San Francisco Bay Area Regional Housing Finance Act, establishes the Bay Area Housing Finance Agency to raise, administer, and allocate funding for affordable housing in the San Francisco Bay area, as defined, and provide technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production. Existing law requires the Bay Area Housing Finance Authority and executive board of the Association of Bay Area Governments to form an advisory committee composed of 9 representatives with knowledge and experience in the areas of affordable housing finance and development, tenant protection, and housing preservation.

This bill would require the authority and executive board to form an advisory committee composed of at least 9 and no more than 11 representatives with knowledge and expertise in the areas of affordable housing finance, construction workforce, and development, tenant protection, and housing preservation.

The act provides the authority with various powers, including the power to place a measure on the ballot to raise revenue and allocate funds throughout the San Francisco Bay area, apply for and receive grants or loans from public and private entities, incur and issue bonds and other indebtedness, and otherwise incur liabilities or obligations. The act authorizes the authority to allocate and deploy financing to cities, counties, other public agencies within the San Francisco Bay area and private affordable housing developers to finance affordable housing development, as specified.

This bill would specify that the authority is limited to placing only one measure on the ballot per election. The bill would also authorize the authority to deploy financing to nonprofit corporations to finance affordable housing development, as specified.

Existing law authorizes a city or county, or an agency created pursuant to a joint powers agreement, to issue revenue bonds to defray the costs of acquiring home mortgages or making loans to lending institutions in order to enable them to make home mortgages, and the costs of studies and surveys, insurance premiums, underwriting fees, legal, accounting and marketing services incurred in connection with the issuance and sale of bonds, as specified.

This bill would authorize the authority to issue mortgage revenue bonds, pursuant to provisions described above; acquire, hold, develop, operate, and dispose of real property; and create one or more California limited liability companies of which the authority is the sole member.

(2) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

This bill would exempt from CEQA any actions taken by the authority to raise, administer, or allocate funding for tenant protection, affordable housing preservation, or new affordable housing production or to provide technical assistance consistent with the authority's purpose.

(3) Existing law authorizes the executive board of the authority to impose a commercial linkage fee, as defined, in an amount not to exceed ten dollars (\$10) per square foot, within the San Francisco Bay area, as specified. Existing law requires the expenditures of proceeds from a commercial linkage fee be limited to affordable housing production, preservation, and tenant protection programs.

This bill would authorize the expenditures of proceeds from a commercial linkage fee to include the authority's related administrative costs.

(4) The act defines "authority revenues" to include, without limitation, revenues generated by any special tax, fee, or charge imposed by the authority, other than ad valorem property taxes. Existing law, the Revenue Bond Law of 1941, requires a local agency to annually publish a summary statement showing, among other things, the amount of gross revenues from revenue bonds.

This bill would revise and recast the definition of "authority revenue" to also include loan repayments, investment income, or income derived from the ownership or operation of real property. The bill would provide for prioritization of spending of authority revenues. The bill would require the authority to publish the above-described summary statement not more than 9 months after the close of each fiscal year.

(5) Existing law requires the authority to distribute regional housing revenue, as defined, in the form of a grant, loan, or other financing tool in a manner that achieves certain minimum shares over 5-year periods. In this regard, existing law requires 5% of those regional housing revenues for tenant protection programs for low- and moderate-income households, which includes, among other things, preeviction and eviction legal services and providing emergency rental assistance for lower income households.

This bill would include homelessness prevention services, as specified, as an eligible expense under tenant protection programs for low- and moderate-income households.

(6) Existing law requires the authority to distribute funds received through the authorized funding measures according to specified provisions, which in part require each county to adopt a county expenditure plan applicable to county housing revenue. Existing law requires, in order for the expenditure plan to be deemed complete, the expenditure plan to specify, among other things, a description of any specific project or program proposed to receive funding.

This bill would additionally require the plan to demonstrate that the county has consulted with each city in the county, excluding cities that receive a direct allocation.

(7) Existing law requires, if the authority proposes a measure that will generate revenues and that requires voter approval, the board of supervisors of the relevant county or counties to call a special election on the measure. Existing law requires each county included in the measure to use the exact ballot question, impartial analysis, and summary of the expenditure plan provided by the authority. Existing law requires these materials to include, among other things, an estimate of the number of affordable housing units to be built or preserved by household income category served, and a description of any specific projects planned to be funded.

This bill would instead require each county included in the measure to use the election materials provided by the authority, including the exact ballot question, impartial analysis, and full text of the ballot measure for inclusion in the voter information pamphlet. The bill would make conforming changes.

By changing the duties of local officials with respect to elections procedures for revenue measures on behalf of the authority, this bill would impose a state-mandated local program.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

SECTION 1. Section 64502 of the Government Code is amended to read:

64502. For purposes of this title:

(a) "Affordable housing" is defined as housing that is restricted by recorded document to provide the housing at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code, as applicable.

(b) "Authority" means the Bay Area Housing Finance Authority established pursuant to Section 64510.

(c) "Board" means the governing board of the Bay Area Housing Finance Authority.

(d) "Executive board" means the executive board of the Association of Bay Area Governments.

(e) "Extremely low income households" has the same meaning as the term is defined in Section 50106 of the Health and Safety Code.

(f) "Lower income households" has the same meaning as that term is defined in Section 50079.5 of the Health and Safety Code.

(g) "Low- or moderate-income households" has the same meaning as "persons and families of low or moderate income," as defined in Section 50093 of the Health and Safety Code.

(h) "San Francisco Bay area" means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.

(i) "Very low income households" has the same meaning as the term is defined in Section 50105 of the Health and Safety Code.

SEC. 2. Section 64511 of the Government Code is amended to read:

64511. (a) (1) The executive board shall review and approve the regional expenditure plan required pursuant to paragraph (5) of subdivision (d) of Section 64650 and projects authorized by this chapter before review, approval, and allocation by the authority.

(2) (A) The executive board and the authority board shall form an advisory committee composed of at least nine and no more than 11 representatives with knowledge and experience in the areas of affordable housing finance, construction workforce, and development, tenant protection, and housing preservation. The advisory committee shall assist in the development of funding guidelines and the overall implementation of the program.

(B) Consistent with the provisions of this chapter, the advisory committee shall provide consultation and make recommendations to the executive board and the authority board. The advisory committee will meet as necessary to fulfill their roles and responsibilities.

(b) (1) A member of the authority board may receive a per diem for each board meeting that the member attends. The authority board shall set the amount of that per diem for a member's attendance, but that amount shall not exceed one hundred dollars (\$100) per meeting. A member shall not receive a payment for more than two meetings in a calendar month.

(2) A member may waive a payment of per diem authorized by this subdivision.

(c) (1) Five years after the voters approve an initial ballot measure pursuant to Section 64521, the authority and the executive board shall review the implementation of the measure. The review shall include the following:

(A) An analysis of the expenditures to date.

(B) The number of affordable housing units produced and preserved at different household income levels.

(C) The tenant protection services provided, and the roles of the executive board and the authority.

(2) The executive board and the authority board may, upon mutual concurrence, as a part of the review described in this subdivision elect to transfer or delegate a responsibility authorized in this title to the executive board or the authority, as applicable, except for the provisions of Article 3 (commencing with Section 64630) of Chapter 2 of Part 2.

(d) (1) Members of the authority board are subject to Article 2.4 (commencing with Section 53234) of Chapter 2 of Part 1 of Division 2 of Title 5.

(2) The authority shall be subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(e) In addition to the requirements under subdivision (d), the authority shall engage in public participation processes, which shall include the following:

(1) Outreach efforts to encourage the active participation of a broad range of stakeholder groups in the planning process, including, but not limited to, affordable housing and homelessness advocates, nonprofit developers, neighborhood and community groups, environmental advocates, equity organizations, home builder representatives, and business organizations.

(2) Holding at least one public meeting regarding any relevant plan or proposals being considered by the authority. The authority shall hold any such meeting at a time and a location convenient for members of the public. The authority shall place each plan or proposal under consideration on a meeting agenda of the authority board for discussion at least 30 days before the authority board takes action.

(3) A process for enabling members of the public to provide a single request to receive authority notices, information, and updates.

SEC. 3. Section 64520 of the Government Code is amended to read:

64520. In implementing this title, the authority may do all of the following:

(a) Subject to the approval of the executive board, place one measure per election on the ballot to raise revenue and allocate funds throughout the San Francisco Bay area, as provided in Part 2 (commencing with Section 64600).

(b) Apply for and receive grants or loans from public and private entities.

(c) Solicit and accept gifts, fees, grants, loans, and other allocations from public and private entities.

(d) Deposit or invest moneys of the authority in banks or financial institutions, as provided in Chapter 4 (commencing with Section 53600) of Part 1 of Division 2 of Title 5, including the investment of any money that is not required for the immediate necessities of the authority, as determined by the authority.

(e) Sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

(f) Engage counsel and other professional services.

(g) Enter into and perform all necessary contracts.

(h) Enter into joint powers agreements pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1).

(i) Hire staff, define their qualifications and duties, and provide a schedule of compensation for the performance of their duties.

(j) Utilize staff employed by the Metropolitan Transportation Commission.

(k) Allocate and deploy capital and generated fees or income in the form of grants, loans, equity, interest rate subsidies, and other financing tools to the cities, counties, other public agencies within the San Francisco Bay area, private affordable housing developers, and nonprofit corporations organized pursuant to Section 501(c)(3) of the Internal Revenue Code to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs, pursuant to this title, in accordance with applicable constitutional requirements.

(l) Establish and modify the terms of potential capital investments deployed by the authority, including waiving or forgiving interest or principal payments.

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

(n) Provide support and technical assistance to local governments in relation to producing and preserving affordable housing and providing tenant protections.

(o) Provide public information about the authority's housing programs and policies.

(p) Incur and issue bonds and other indebtedness, and otherwise incur liabilities or obligations in accordance with Article 3 (commencing with Section 64630) of Chapter 2 of Part 2, and issue mortgage revenue bonds pursuant to Part 5 (commencing with Section 52000) of Division 31 of the Health and Safety Code.

(q) Acquire, hold, develop, operate, and dispose of real property, including residential real property.

(r) (1) Create one or more California limited liability companies of which the authority is the sole member and exercise any of the powers granted to the authority by this title through those limited liability companies.

(2) Any limited liability company created pursuant to paragraph (1) shall be subject to the to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(s) Any other implied powers necessary or incidental to carry out the intent and purposes of this title.

SEC. 4. Section 64521 of the Government Code is amended to read:

64521. (a) Subject to the initial approval of the executive board, if the authority proposes a measure pursuant to Part 2 (commencing with Section 64600) that will generate revenues and that requires voter approval pursuant to the California Constitution, the board of supervisors of the county or counties in which the authority has determined to place the measure on the ballot shall call a special election on the measure. The special election shall be consolidated with the next regularly scheduled statewide election and the measure shall be submitted to the voters in the appropriate counties, consistent with the requirements of Articles XIII A, XIII C, and XIII, or Article XVI of the California Constitution, as applicable.

(b) (1) For the purpose of placement of a measure on the ballot, the authority is a district, as defined in Section 317 of the Elections Code. Except as otherwise provided in this section, a measure proposed by the authority that requires voter approval shall be submitted to the voters of the counties, as determined by the authority, in accordance with the provisions of the Elections Code applicable to districts, including the provisions of Chapter 4 (commencing with Section 9300) of Division 9 of the Elections Code.

(2) Because the authority has no revenues as of the operative date of this section, the appropriations limit for the authority shall be originally established based on receipts from the initial measure that would generate revenues for the authority pursuant to subdivision (a), and that establishment of an appropriations limit shall not be deemed a change in an appropriations limit for purposes of Section 4 of Article XIII B of the California Constitution.

(c) The authority shall file with the board of supervisors of each county in which the measure shall appear on the ballot a resolution of the authority board requesting consolidation and setting forth the exact form of the ballot question, in accordance with Section 10403 of the Elections Code.

(d) Notwithstanding Section 9313 of the Elections Code, the legal counsel for the authority shall prepare an impartial analysis of the measure. The impartial analysis prepared by the legal counsel for the authority shall be subject to review and revision by the county counsel of the county that contains the largest population, as determined by the most recent federal decennial census, among those counties in which the measure will be submitted to the voters.

(e) (1) Each county included in the measure shall use the election materials provided by the authority, including the exact ballot question, impartial analysis, and full text of the ballot measure for inclusion in the voter information pamphlet. The text of the ballot measure shall include, but is not limited to, all of the following:

(A) A description of the purpose and goals of the measure.

(B) A description of the categories of eligible expenditures to be funded.

(C) An estimate of the number of affordable housing units to be built or preserved by household income category served, and a description of any specific projects planned to be funded.

(D) An estimate of minimum funding levels to be provided to different expenditure categories by county.

(E) An overview of decisionmaking and oversight provisions applicable to the funds.

(2) If two or more counties included in the measure are required to prepare a translation of ballot materials into the same language other than English, the county that contains the largest population, as determined by the most recent federal decennial census, among those counties that are required to prepare a translation of ballot materials into the same language other than English shall prepare the translation, or authorize the authority to prepare the translation, and that translation shall be used by the other county or counties, as applicable.

(f) Notwithstanding Section 13116 of the Elections Code, the elections officials of the counties where the measure proposed by the authority is placed on the ballot shall mutually agree to use the same letter designation for the measure.

(g) The county clerk of each county shall report the results of the special election to the authority. If two-thirds of all voters voting on the question at the special election vote affirmatively, or a different approval threshold required by the California Constitution at the time the election is achieved, the measure shall take effect in the counties in which the measure appeared on the ballot within the timeframe specified in the measure.

(h) (1) Notwithstanding Section 10520 of the Elections Code, for any election at which the authority proposes a measure pursuant to subdivision (a) of Section 64520 that would generate revenues, the authority shall reimburse each county in which that measure appears on the ballot only for the incremental costs incurred by the county elections official related to submitting the measure to the voters with proceeds from the measure, or if the measure fails, with any eligible funds transferred to the authority from the Association of Bay Area Governments or the Metropolitan Transportation Commission or other public or private entity.

(2) For purposes of this subdivision, "incremental costs" include all of the following:

(A) The cost to prepare, review, and revise the impartial analysis of the measure that is required by subdivision (d).

(B) The cost to prepare a translation of ballot materials into a language other than English by any county, as described in subdivision (e).

(C) The additional costs that exceed the costs incurred for other election races or ballot measures, if any, appearing on the same ballot in each county in which the measure appears on the ballot, including both of the following:

(i) The printing and mailing of ballot materials.

(ii) The canvass of the vote regarding the measure pursuant to Division 15 (commencing with Section 15000) of the Elections Code.

SEC. 5. Section 64523 is added to the Government Code, to read:

64523. Actions taken by the authority to raise, administer, or allocate funding for tenant protection, affordable housing preservation, or new affordable housing production, or to provide technical assistance consistent with the authority's purpose shall be exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 6. Section 64621 of the Government Code is amended to read:

64621. (a) (1) Subject to paragraph (4), the executive board may establish, increase, or impose a commercial linkage fee, in an amount not to exceed ten dollars (\$10) per square foot, within the San Francisco Bay area by enactment of a resolution, in accordance with the requirements of this article, that is in addition to any fee, as defined in Section 66000, that is levied by an underlying land use jurisdiction.

(2) The fee shall be adjusted on July 1 of each year, in accordance with the California Construction Cost Index. The annual adjustment may increase the fee to be greater than the ten-dollar (\$10) maximum imposed by paragraph (1).

(3) The authority board shall ratify, by resolution, any commercial linkage fee or modification to a commercial linkage fee adopted by the executive board.

(4) The executive board shall not establish a commercial linkage fee pursuant to paragraph (1) until after the voters approve a parcel tax pursuant to Section 64610 or a general obligation bond pursuant to Section 64631.

(5) (A) The executive board may establish, increase, or impose a commercial linkage fee pursuant to this article by a resolution that provides for a fee assessed on commercial development projects within the San Francisco Bay area.

(B) A resolution establishing or revising the fee shall provide that the amount of the fee required to be paid shall be reduced by the amount that the applicant is required to pay, if any, for a commercial linkage fee for affordable housing imposed by the relevant underlying land use jurisdiction.

(b) Before establishing, increasing, or imposing a commercial linkage fee, the executive board shall prepare a regional jobs and housing nexus study in order to support the necessity and amount of the fee. The study, or separate study conducted before the establishment of a commercial linkage fee, shall examine the factors listed in paragraph (5) of subdivision (d), may consider other potential consequences, and shall take into consideration the potential impact of the fee on the creation of high-paying jobs for people without four-year degrees.

(c) Expenditures of proceeds from a commercial linkage fee shall be limited to affordable housing production, preservation, tenant protection, as described in subparagraphs (A) and (B) of paragraph (2) of subdivision (b) of Section 64650, and the authority's related administrative costs.

(d) In any action to establish, increase, or impose a commercial linkage fee, the executive board shall do all of the following:

(1) Identify the purpose of the commercial linkage fee.

(2) Determine how there is a reasonable relationship between the fee's use and the type of commercial development project on which the fee is imposed, based on the regional nexus study prepared pursuant to subdivision (b).

(3) Determine how there is a reasonable relationship between the need for housing and the type of commercial development project on which the fee is imposed, based on the regional nexus study prepared pursuant to subdivision (b).

(4) Determine how there is a reasonable relationship between the amount of the fee and the cost of the housing necessitated by the commercial development project that is attributable to the development on which the fee is imposed, based on the regional nexus study prepared pursuant to subdivision (b).

(5) (A) Adopt findings that, based upon the executive board's analysis and the regional nexus study, the commercial linkage fee:

(i) Would concentrate jobs near transit.

(ii) Would not reduce commercial development and space for jobs, particularly in economically disadvantaged areas.

(iii) Would not exacerbate intraregional job-to-housing imbalances.

(iv) Would not disincentivize mixed-use development.

(6) Specify the estimated administrative costs of the authority in connection with the imposition of the fee to be included in the amount of the fee.

(B) The executive board shall provide analysis to support the findings and consider other potential consequences of the fee.

(e) The executive board and the authority shall suspend the imposition of a commercial linkage fee after two consecutive quarters of negative gross domestic product growth within the San Francisco Bay area. The fee may be reinstated after two consecutive quarters of positive gross domestic product growth within the San Francisco Bay area. The executive board and the authority board may reinstate the fee by resolution that states the condition in the previous sentence is met but shall not be subject to subdivisions (b), (c), or (d) of this section.

SEC. 7. Section 64622 of the Government Code is amended to read:

64622. (a) A commercial linkage fee established, increased, or imposed pursuant to this article shall not exceed the reasonable cost of providing the housing necessitated by the commercial development project for which the commercial linkage fee is imposed, as determined in the regional nexus study pursuant to subdivision (b) of Section 64621, and the authority's related administrative costs.

(b) It is the intent of the Legislature in adding this section to codify existing constitutional and decisional law with respect to the imposition of development fees and monetary exactions on developments by local agencies. This section is declaratory of existing law and shall not be construed or interpreted as creating new law or as modifying or changing existing law.

SEC. 8. Section 64627 of the Government Code is amended to read:

64627. (a) Any person may request an audit in order to determine whether any fee or charge levied by the executive board and the authority board exceeds the amount necessary to cover the reasonable cost of providing the housing necessitated by the commercial development project for which the commercial linkage fee is imposed, as determined in the regional nexus study pursuant to subdivision (b) of Section 64621 and the authority's related administrative costs. If a person makes that request, the executive board and the authority may retain an independent auditor to conduct an audit to determine whether the commercial linkage fee is reasonable, but is not required to conduct the audit if an audit has been performed for the same fee within the previous 12 months.

(b) If an audit pursuant to this section determines that the amount of any commercial linkage fee or charge does not meet the requirements of this article, the executive board and the authority board shall adjust the fee accordingly.

(c) The authority shall retain an independent auditor to conduct an audit only if the person who requests the audit deposits with the authority the amount of the executive board's and the authority's reasonable estimate of the cost of the independent audit. At the conclusion of the audit, the authority shall reimburse unused sums, if any, or the requesting person shall pay the authority the excess of the actual cost of the audit over the sum which was deposited.

(d) Any audit conducted by an independent auditor pursuant to this section shall conform to generally accepted auditing standards.

(e) This section shall not be construed as granting any additional authority to any local agency to levy any fee or charge which is not otherwise authorized by another provision of law, nor shall its provisions be construed as granting authority to any local agency to levy a new fee or charge when other provisions of law specifically prohibit the levy of a fee or charge.

SEC. 9. Section 64631 of the Government Code is amended to read:

64631. (a) The authority may incur or refund general obligation bonded indebtedness, secured by the levy of ad valorem property taxes, pursuant to Article XIII A of the California Constitution, and any amendment thereto, for any purpose allowed by state law or the California Constitution.

(b) For purposes of incurring general obligation bonded indebtedness pursuant to this section, the authority shall comply with the requirements of Chapter 3 (commencing with Section 53400) of Part 1 of Division 2 of Title 5.

(c) The board of the authority shall annually at the time of making the levy of taxes for county purposes, levy a tax for that year upon property in the authority's jurisdiction for the interest and redemption of all outstanding bonds of the authority, as provided by Section 1 of Article XIII A of the California Constitution. The tax shall not be less than sufficient to pay the interest on the bonds as it becomes due and to provide a sinking fund for the payment of the principal payable or on before maturity and may include an allowance for an annual reserve, established for the purpose of avoiding fluctuating tax levies. The tax shall be sufficient to provide funds for the payment of the interest on the bonds as it becomes due and also any part of the principal and interest that is to become due before the proceeds of a tax levied at the time for making the next general tax levy may be made available for the payment of the principal and interest.

SEC. 10. Section 64632 of the Government Code is amended to read:

64632. (a) (1) For purposes of this section, "authority revenues" includes, without limitation, revenues generated by either of the following:

(A) Any special tax, fee, or charge imposed by the authority, other than ad valorem property taxes.

(B) Any loan repayments, investment income, or income derived from the ownership or operation of real property.

(2) (A) The authority may issue revenue bonds, payable from authority revenues, in accordance with the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5), for the purposes set forth in this title and in any resolution adopted by the authority, or measure adopted by voters, in connection with the generation of authority revenues or imposition of those special taxes, fees, or other charges.

(B) For purposes of issuing revenue bonds pursuant to this section, all or any portion of the authority revenues designated by the authority, the special taxes, fees, or other charges described in subparagraph (A) shall constitute an "enterprise" within the meaning of Section 54309.

(C) Any authority revenues designated pursuant to subparagraph (B) shall constitute "revenues" within the meaning of Section 54315.

(3) To exercise the powers described in this section, the authority shall ensure that the text of the ballot measure prepared pursuant to Section 64521 related to voter approval of a special tax under this title notifies the voters that proceeds from the special tax may be used as payment for revenue bonds.

(4) For purposes of this section, the authority shall be deemed to be a local agency within the meaning of Section 54307. Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 and the limitations on the rate of interest set forth in subdivision (b) of Section 54402 do not apply to the issuance and sale of bonds pursuant to this section. Instead, the authority shall authorize the issuance of bonds by resolution at any time, and from time to time, which shall specify all of the following:

(A) The purposes for which the bonds are to be issued.

(B) The maximum principal amount of the bonds.

(C) The maximum term for the bonds.

(D) (i) The maximum rate of interest to be payable upon the bonds, which shall not exceed the maximum rate permitted for bonds of the authority by Section 53531 or any other applicable provisions of law.

(ii) In the case of bonds bearing a variable interest rate, the variable rate shall not, on any day, exceed the maximum rate permitted for bonds of the authority by Section 53531 or any other applicable provisions of law. However, the variable interest rate may, on any day, exceed that maximum rate in subparagraph (A), if the interest paid on the bonds from their date of original issuance to that day does not exceed the total interest that would have been permitted if the bonds had borne interest at all times from the date of issuance to that day at the maximum rate permitted from time to time by Section 53531 or any other applicable provisions of law.

(E) The maximum original issue premium or discount on the sale of the bonds.

(F) The denomination or denominations of the revenue bonds, which shall not be less than five thousand dollars (\$5,000).

(b) The resolution may also contain any other matters authorized by this chapter or any other law.

(c) The revenue bonds may be sold at public or private sale or on a negotiated sale basis and at the prices, above or below par, as determined by the authority board.

(d) The revenue bonds, or each series thereof, shall be dated and numbered consecutively and shall be signed by the executive director of the authority, whose signature may be printed, lithographed, or mechanically reproduced. If any officer whose signature appears on the revenue bonds ceases to be that officer before the delivery of the bonds, the officer's signature is as effective as if the officer had remained in office.

(e) Any summary statement required to be published by the authority pursuant to Section 54522 shall be published annually, not more than nine months after the close of each fiscal year.

(f) This section provides a complete, additional, and alternative method for the issuance of revenue bonds by the authority. An issuance does not need to comply with the procedures specified elsewhere in this article or other laws, but shall instead be issued in accordance with the procedures specified in this article.

(g) (1) To the extent permitted by law, authority revenues shall be applied according the following priority:

(A) First, to operation and maintenance of any housing project, if so required by the relevant financing documents.

(B) Second, to the payment of bonds with respect to which the revenues have been pledged.

(C) Third, to the payment of obligations in connection with bonds.

(D) Fourth, to the payment of administrative costs.

(E) Fifth, to any other purpose permitted by law and authorized by this title.

(2) All moneys received by the authority shall be trust funds applied solely for purposes of this title.

SEC. 11. Section 64650 of the Government Code is amended to read:

64650. (a) (1) Revenue generated pursuant to this part shall be used for the construction of new affordable housing, affordable housing preservation, tenant protection programs, planning and technical assistance related to affordable housing, and for infrastructure to support housing and other purposes, as provided for in this section.

(2) For purposes of this section:

(A) "County housing revenue" are those funds distributed pursuant to subparagraph (A) of paragraph (1) of subdivision (d) and subparagraph (A) of paragraph (2) of subdivision (d).

(B) "Regional housing revenues" are those revenues described in subparagraph (B) of paragraph (1) of subdivision (d) and subparagraph (B) of paragraph (2) of subdivision (d).

(b) (1) The allocation of regional housing revenues to projects and programs shall be first approved by the executive board and subsequently by the authority. If the authority takes an action different from the executive board, the executive board must subsequently approve the action.

(2) Subject to funding eligibility and adjustment pursuant to paragraph (3), the authority shall distribute regional housing revenue in the form of a grant, loan, or other financing tool pursuant to subdivision (k) of Section 64520 in a manner that

achieves the following minimum shares over five-year periods commencing after revenue is approved by voters as follows:

(A) (i) A minimum of two-thirds for production and preservation of affordable housing as follows:

(I) A minimum of 52 percent for the production of rental housing that is restricted by recorded document to be affordable to lower income households for at least 55 years, including, but not limited to, housing serving specific populations such as veterans, seniors, people with disabilities, current or former foster youth, victims of abuse, and people experiencing or at risk of homelessness. "Eligible expenses," for purposes of this paragraph, include, but are not limited to, development costs, as defined in Section 50065 of the Health and Safety Code.

(II) A minimum of 15 percent for preservation of housing that is restricted by recorded document to be affordable to low- or moderate-income households for 55 years. Funding pursuant to this clause for preservation programs may be used to acquire, rehabilitate, and preserve existing housing units restricted for affordability, as well as housing from the private market, including residential hotels, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, in order to prevent the loss of affordability. Funding provided pursuant to this clause shall be subject to both of the following conditions:

(ia) Existing residents of buildings acquired for the purpose of affordable housing preservation shall not be displaced, even if the resident's household income exceeds the moderate-income limits in Section 50093 of the Health and Safety Code.

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

(ii) Funding provided pursuant to this subparagraph shall be subject to the following conditions in the event that demolition or rehabilitation of housing units is required:

(I) If the housing units are occupied at the date of acquisition, the housing development shall provide at least the same number of units of equivalent number of bedrooms to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy.

(II) If existing residents must be relocated due to demolition or rehabilitation needs, the developer must provide relocation benefits to the occupants of those housing rental units subject to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1. This subclause does not supersede any provision of a locally adopted ordinance that requires greater relocation assistance to displaced households.

(III) If existing residents must be relocated due to demolition or rehabilitation needs, the developer shall provide a right of first refusal for a comparable unit available in the new or rehabilitated housing development that is affordable to the household at an affordable rent, as defined in Section 50053 of the Health and Safety Code, or an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code.

(B) A minimum of 5 percent for tenant protection programs for low- and moderate-income households. However, regional housing revenues derived from a bond authorized in Section 64631 shall not be spent for these purposes unless, and only to the extent, permitted by law. The executive board and the authority board shall prioritize the use of revenue sources that are eligible for tenant protection programs in order to meet the minimum requirement of this subparagraph, or as that requirement is modified pursuant to paragraph (3), to the extent feasible. Eligible expenses provided pursuant to this paragraph may only be spent on the following:

(i) Preeviction and eviction legal services, counseling, advice and consultation, training, renter education, and representation, and services to improve habitability that protect against displacement of tenants.

(ii) Providing emergency rental assistance for lower income households. Rental assistance provided pursuant to this clause shall not exceed 48 months for each assisted household, except that for severely rent-burdened seniors on fixed incomes, rental assistance may be renewed for successive 48-month terms. For purposes of this clause, a "severely rent-burdened senior" is a senior that pays more than 50 percent of their pretax income on rent.

(iii) Homelessness prevention services, including, but not limited to, emergency financial assistance, supportive services, and housing problem solving.

(iv) Providing relocation assistance for lower income households beyond what is legally required of landlords according to local or state law.

(v) Collection and tracking of information related to displacement and displacement risk, rents, and evictions in the region.

(C) A maximum of 10 percent for a grant program for local governments that qualify based on criteria established in funding guidelines adopted by the executive board and the authority board, in consultation with the advisory committee. Subject to any limitations on the funding source, eligible expenditures pursuant to this subparagraph must support housing and related uses, including, but not limited to, grants for the following purposes:

(i) Technical assistance, preparation, and adoption of planning documents and process improvements to accelerate and support housing production, preservation, and tenant protections.

(ii) Infrastructure needs associated with increased housing production, including, but not limited to, transportation, schools, and parks.

(iii) One-time uses that address homelessness, including, but not limited to, homeless shelters and infrastructure to support those shelters, and homeless prevention programs.

(iv) Programs to enable low- or moderate-income households to become or remain homeowners, including, but not limited to, below market rate ownership programs, downpayment 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.

(v) Tenant protection programs, as described in subparagraph (B).

(D) Funding subject to this paragraph that is derived from a bond issued pursuant to Section 64631 shall be expended consistent with Article XIII A of the California Constitution and any amendment thereto.

(3) No earlier than five years after approval of a funding measure under Chapter 2 (commencing with Section 64610) and subject to consultation with the advisory committee, the executive board and the authority board may change any of the minimum requirements in subparagraph (A) or (B) of paragraph (2) if the executive board and the authority board each adopt a finding that the region's needs in a given category differ from those requirements. The executive board must approve the finding by a two-thirds vote, which must be subsequently approved by the authority board by a two-thirds vote. Approval of the finding shall be subject to the public participation requirements provided in subdivision (e) of Section 64511.

(4) The authority shall distribute the revenues derived from a commercial linkage fee established, increased, or imposed pursuant to Article 2 (commencing with Section 64620) of Chapter 2, net of related administrative costs of the authority, to each city or county in a manner that is consistent with the regional nexus study adopted by the executive board and the authority board. A city or county that receives revenues pursuant to this paragraph shall use that revenue solely for affordable housing necessitated by a commercial development project on which the fee was imposed, as determined by the executive board and the authority board pursuant to Section 64621.

(c) Except as otherwise provided in paragraph (4) of subdivision (b), the executive board and the authority board may approve funds for a project or program directly to a city, a county, a public entity, or a private project sponsor.

(d) (1) The authority shall distribute funds received through the funding measures authorized in Sections 64610 and 64611 and Article 3 (commencing with Section 64630) of Chapter 2 as follows:

(A) At least 80 percent of the revenue received shall be allocated to the county of origin for expenditure in that county, consistent with the county expenditure plan adopted pursuant to paragraph (6). Each county board of supervisors shall determine the appropriate entity or entities within their county to administer the funds. Counties may use up to 5 percent of these funds for administrative purposes to assist with the development and implementation of the expenditure plan in their county.

(B) Up to 20 percent of the revenue received shall be collected by the authority for expenditures consistent with the regional expenditure plan adopted pursuant to paragraph (5) and for the purposes set forth in subdivision (a), and shall be eligible to be spent in any county in which the measure is in effect.

(2) The authority shall distribute funds received through the funding measure authorized in Section 64612 as follows:

(A) At least 50 percent of the revenue received shall be allocated to the county of origin for expenditure in the county, consistent with the county expenditure plan adopted pursuant to paragraph (6). Each county board of supervisors shall determine the appropriate entity within their county to administer the funds allocated to their county. Counties may use up to 5 percent of these funds for administrative purposes to assist with the development and implementation of the expenditure plan in their county.

(B) Up to 50 percent of the revenue received shall be collected by the authority for expenditures consistent with the regional expenditure plan adopted pursuant to paragraph (5) and for the purposes set forth in subdivision (a), and shall be eligible to be spent in any county in which the measure is in effect.

(3) No earlier than five years after approval of a funding measure under Chapter 2 (commencing with Section 64610), the executive board and the authority board may review and adjust the minimum requirements regarding the distribution of funds in paragraphs (1) and (2). After consultation with the advisory committee and subject to the public participation requirements of subdivision (e) of Section 64511, the executive board and the authority board may adopt a finding that it is in the best interest of the region to modify the distribution of funds and adopt a revised policy. A vote in support of modifying the distribution of funds in paragraphs (1) and (2) must be approved first by a two-thirds vote of the executive board, followed by a subsequent two-thirds vote of the authority.

(4) County housing revenue may be spent on affordable housing production, affordable housing preservation, and tenant protection programs, as described in subparagraphs (A) and (B) of paragraph (2) of subdivision (b), provided that the expenditures are consistent with the county expenditure plan and the California Constitution.

(A) A county, including a city and county, shall provide a direct allocation to a city in their county if it is one of the three largest cities, including a city and county, in the San Francisco Bay area, as determined by the most recent population estimate by the Department of Finance. The direct allocation shall be based on the city's share of the county's regional housing need allocation pursuant to Section 65584 for lower income households. A city described in this subparagraph may use up to 5 percent of its direct allocation for administrative purposes to assist with the development and implementation of its expenditure plan.

(B) A county receiving funds from this chapter that does not include one of the three largest cities, including a city and county, in the region shall provide an option for a direct allocation to a city that has been allocated more than 30 percent of that county's regional housing need allocation for lower income households during that regional housing need allocation period. The direct allocation shall be based on the city's share of the county's regional housing need allocation for lower income households. A city described in this subparagraph may use up to 5 percent of its direct allocation for administrative purposes to assist with the development and implementation of its expenditure plan.

(C) A city that receives a direct allocation shall prepare, adopt, and transmit to the county in which it is located an expenditure plan consistent with the provisions in paragraph (6) and prioritize projects that help the city achieve its regional housing need allocation. A city receiving a direct allocation shall be subject to the same minimum shares applicable to counties in clause (i) of subparagraph (B) of paragraph (6), unless the executive board and the authority each adopt a finding, based on a thorough review and after consultation with the advisory committee, that the minimum allocation requirements are not the best use of the funds to address the city's affordable housing needs. The executive board must approve the finding by a two-thirds vote, which must be subsequently approved by the authority board by a two-thirds vote.

(5) (A) The executive board and the authority board shall, in consultation with the advisory committee, adopt a regional expenditure plan for the use of housing revenue by July 1 of each year, except the executive board and the authority board shall select the deadline to adopt the first regional expenditure plan. The regional expenditure plan may cover multiple years, as determined by the executive board and the authority board. The authority may take action on the regional expenditure plan only after it has been approved by the executive board. If the authority adopts changes to the regional expenditure plan, the changes must be subsequently approved by the executive board.

(B) The regional expenditure plan shall set forth the share of revenue and estimated funding amount to be spent on each of the categories established in subdivision (b), indicate the household income levels to be served within each category of expenditures, and estimate the number of affordable housing units to be built or preserved and the number of tenants to be protected. To the extent feasible, the regional expenditure plan shall include a description of any specific project or program proposed to receive funding, including the location, amount of funding, and anticipated outcomes, as well as the estimated funding level for each of the categories listed in subparagraph (A) or (B) of paragraph (2) of subdivision (b). Beginning the second year, the authority shall include a report in the regional expenditure plan that provides its allocations and expenditures to date of projects and programs funded and the extent to which the minimum targets in subparagraph (A) or (B) of paragraph (2) of subdivision (b) were achieved.

(C) The regional expenditure plan shall include the following information for any specific project that has received an allocation of regional housing revenue during the prior year:

(i) Whether the project proponent has requested a building permit for the project, and if so, the date when it was requested.

(ii) Whether the project proponent is eligible to request a building permit for the project, and if so, the date when it became eligible.

(iii) Whether the project proponent has obtained final approval or certification that the housing development is habitable, such as a certificate of occupancy, and if so, the date when it was obtained.

(6) Each county shall adopt a county expenditure plan applicable to county housing revenue no sooner than 30 days after a draft of the plan has been placed on an agenda of the governing body for discussion. Each county shall transmit the county expenditure plan to the executive board and the authority as follows:

(A) The expenditure plan shall be transmitted by July 1 of each year, except the executive board and the authority board shall select the deadline for the transmission of the first expenditure plan. The deadline for the transmission of the first expenditure plan shall provide at least 90 days for a county to prepare the expenditure plan after the election approving a tax or bond pursuant to this part is certified. An expenditure plan may cover multiple years, as determined by the county.

(B) To be deemed complete, the expenditure plan shall specify the proposed allocation of funds as follows:

(i) The proposed share of revenues that will be allocated to the construction of new affordable housing, affordable housing preservation, and tenant protection programs. Except as provided in subclause (IV), the expenditure plan shall demonstrate that over a five-year period the county will meet the following allocations:

(I) A minimum allocation of 52 percent towards construction of new affordable housing that prioritizes projects that help achieve regional housing need allocation targets for housing affordable to extremely low income, very low income, and lower income households.

(II) A minimum allocation of 15 percent towards affordable housing preservation.

(III) A minimum allocation of 5 percent towards tenant protection programs.

(IV) A county expenditure plan may deviate from the minimum shares required by this clause if the executive board and the authority board each adopt a finding, based on a thorough review and after consultation with the advisory committee, that the minimum allocations are not the best use of the funds to address the county's affordable housing needs. The executive board must adopt the finding by a two-thirds vote, which must be subsequently approved by the authority board by a two-thirds vote.

(ii) To the extent feasible, the plan shall include a description of any specific project or program proposed to receive funding, including the location, amount of funding, and anticipated outcomes, as well as the estimated funding level for each of the categories listed in clause (i).

(iii) The plan shall demonstrate the county has consulted with each city in the county, excluding cities that receive a direct allocation.

(iv) Commencing with the second year, each county shall include in its expenditure plan a report on its allocations and expenditures to date of projects and programs funded and the extent to which the minimum targets in clause (i) were achieved.

(7) If the executive board and the authority board each determine by a majority vote that a county has not submitted a complete expenditure plan pursuant to the requirements of subparagraph (B) of paragraph (6), the authority may withhold allocation of revenues to that county until the county submits a complete expenditure plan.

(8) The authority shall post each completed expenditure plan on its internet website.

(9) A county may request the executive board and the authority to administer all or a portion of its county housing revenue. If the executive board and the authority board agree to administer the funds, they shall develop and adopt an annual expenditure plan applicable to that portion of the funds that shall be jointly approved by the executive board and the authority board, in consultation with the county, and projects allocated according to that plan shall be subject to the same timelines described in paragraph (10).

(10) After county housing revenues are committed to a specific project, they shall remain available for expenditure for three years. A county may authorize expenditures beyond three years pursuant to guidelines that shall be reviewed and adopted by the executive board and the authority board, in consultation with the advisory committee.

(11) (A) Funds allocated to a city pursuant to paragraph (3) shall be committed to a specific project within five years of receipt.

(B) Once committed to a specific project, funds shall remain available for expenditure for an additional five years, unless an extension is authorized pursuant to subparagraph (C).

(C) If the funds have not been expended within five years of receipt as required in subparagraph (B), the city shall show that it has made adequate progress towards completing the project. If the county in which the city is located finds that adequate progress has been made, the county shall authorize an additional 24 months to grant entitlements to the remainder of the project. If the county in which the city is located does not find that adequate progress has been made, the funds shall be transferred to the county. The county shall hold the funds until the city submits a plan satisfactory to the county to move forward with the project or allocate funds to another qualified project consistent with the city's expenditure plan.

(D) For purposes of this paragraph, "adequate progress" means the project has received the land use approvals or entitlements necessary for at least 75 percent of the project's units.

(e) Before the distribution of funds each year in accordance with subdivision (d), the authority shall be entitled to up to 5 percent of the funds of any measure approved pursuant to this part for general administration and overhead.

SEC. 12. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.