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SB-1395 Shelter crisis: Low Barrier Navigation Center: use by right: building standards. (2023-2024)

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Senate Bill No. 1395

CHAPTER 297

An act to amend Sections 8698.4 and 65660 of, and to repeal Section 65668 of, the Government Code, to add Section 21080.27.5 to the Public Resources Code, and to amend Section 8255 of the Welfare and Institutions Code, relating to housing.

[Approved by Governor September 19, 2024. Filed with Secretary of State September 19, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1395, Becker. Shelter crisis: Low Barrier Navigation Center: use by right: building standards.

(1) Existing law authorizes a governing body of a political subdivision, as those terms are defined, to declare a shelter crisis if the governing body makes a specified finding. Upon declaration of a shelter crisis, existing law, among other things, suspends certain state and local laws, regulations, and ordinances to the extent that strict compliance would prevent, hinder, or delay the mitigation of the effects of the shelter crisis and allows a city, county, or city and county, in lieu of compliance, to adopt by ordinance reasonable local standards and procedures for the design, site development, and operation of homeless shelters and the structures and facilities therein. Existing law, among other things, exempts from the California Environmental Quality Act specified actions by a state agency or a city, county, or city and county to lease, convey, or encumber land owned by a city, county, or city and county, or to facilitate the lease, conveyance, or encumbrance of land owned by the local government for, or to provide financial assistance to, a homeless shelter constructed or allowed by these provisions. Existing law repeals these provisions on January 1, 2026.

This bill would expand the exemption from the California Environmental Quality Act described above to include action taken by a state agency or a city, county, or city and county, to approve a contract to provide services for people experiencing homelessness to a homeless shelter constructed pursuant to, or authorized by, these provisions, as specified. This bill would extend the repeal date of these provisions to January 1, 2036. The bill would make other nonsubstantive, conforming changes.

(2) Existing law, 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.

Existing law, the Planning and Zoning Law, requires that a Low Barrier Navigation Center development be a use by right in areas zoned for mixed uses and nonresidential zones permitting multifamily uses if it meets prescribed requirements. Existing law provides that the CEQA does not apply to an action taken by a public agency to lease, convey, or encumber land owned by a public entity or to facilitate the lease, conveyance, or encumbrance of land owned by a public agency, or to provide financial

assistance to, or otherwise approve, a Low Barrier Navigation Center constructed or allowed by existing law. Existing law defines the term "Low Barrier Navigation Center" for these purposes to mean a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. Existing law repeals these provisions on January 1, 2027.

This bill would revise the definition of "Low Barrier Navigation Center" by specifying that a Low Barrier Navigation Center may be non-congregate and relocatable. The bill would also delete the January 1, 2027, repeal date, thereby extending operation of these provisions indefinitely. By indefinitely changing the local permitting process and increasing the duties of local planning officials, this bill would impose a state-mandated local program.

This bill would exempt from CEQA specified activities by local agencies relating to low barrier navigation centers. To the extent this bill would impose additional duties on county clerks, this bill would impose a state-mandated local program.

(3) Existing law requires agencies and departments administering state programs related to homelessness to adopt guidelines and regulations to incorporate core components of Housing First, as defined. Existing law defines "state programs" for this purpose as any program a California state agency or department funds, implements, or administers for the purpose of providing housing or housing-based services to people experiencing homelessness or at risk of homelessness, except as provided.

This bill would expand the definition of "state programs" to include programs a California state agency or department funds, implements, or administers for the purpose of providing emergency shelter or interim housing.

(4) 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 no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. Section 8698.4 of the Government Code is amended to read:

8698.4. (a) Notwithstanding any other provision in this chapter, upon a declaration of a shelter crisis by a city, county, or city and county, the following shall apply to the respective city, county, or city and county during the shelter crisis:

(1) Emergency housing may include homeless shelters for the homeless located or constructed on any land owned or leased by a city, county, or city and county, including land acquired with low- and moderate-income housing funds.

(2) (A) (i) The city, county, or city and county, in lieu of compliance with local building approval procedures or state housing, health, habitability, planning and zoning, or safety standards, procedures, and laws, may adopt by ordinance reasonable local standards and procedures for the design, site development, and operation of homeless shelters and the structures and facilities therein, to the extent that it is determined at the time of adoption that strict compliance with state and local standards or laws in existence at the time of that adoption would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. For a jurisdiction that adopts an ordinance establishing reasonable local standards, those standards shall, at a minimum, meet the standards provided in the 2019 California Residential Code Appendix X, and California Building Code Appendix O, and any future standards adopted by the Department of Housing and Community Development related to emergency housing or emergency housing facilities, unless the city, county, or city and county adopts findings stating why the standards cannot be met and stating how the standards in the ordinance protect health and safety. Upon the adoption of an ordinance, the city, county, or city and county shall file a copy of the adopted ordinance, and any associated findings, with the department.

(ii) During the shelter crisis, except as provided in this section, provisions of any housing, health, habitability, planning and zoning, or safety standards, procedures, or laws shall be suspended for homeless shelters, provided that the city, county, or city and county has adopted health and safety standards and procedures for homeless shelters consistent with ensuring minimal public health and safety and those standards are complied with. Landlord tenant laws codified in Sections 1941 to 1942.5, inclusive, of the Civil Code providing a cause of action for habitability or tenantability shall be suspended for homeless shelters, provided that the city, county, or city and county has adopted health and safety standards for homeless shelters and those standards are complied with. During the shelter crisis, the local and state law requirements for homeless shelters to be consistent with the local land use plans, including the general plan, shall be suspended.

(B) This section applies only to a public facility or homeless shelters reserved entirely for the homeless pursuant to this chapter.

(3) Homeless shelters constructed or allowed under this chapter shall not be subject to the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), or the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), except that disposition of any vehicle or its contents abandoned by its owner shall be performed pursuant to Chapter 5 (commencing with Section 1980) of Title 5 of Part 4 of Division 3 of the Civil Code.

(4) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to any of the following actions taken by a state agency or a city, county, or city and county:

(A) To lease, convey, or encumber land owned by a city, county, or city and county, or to facilitate the lease, conveyance, or encumbrance of land owned by the local government for a homeless shelter constructed pursuant to, or authorized by, this section.

(B) To provide financial assistance to a homeless shelter constructed pursuant to, or authorized by, this section.

(C) To approve a contract to provide services for people experiencing homelessness to a homeless shelter constructed pursuant to, or authorized by, this section. These services may include, but are not limited to, case management, resource navigation, security services, residential services, and counseling services.

(5) (A) On or before July 1, 2019, the Cities of Berkeley, Emeryville, Los Angeles, Oakland, and San Diego, the County of Santa Clara, and the City and County of San Francisco shall develop a plan to address the shelter crisis, including, but not limited to, the development of homeless shelters and permanent supportive housing, as well as onsite supportive services. The city, county, or city and county shall make the plan publicly available.

(B) In the case of a shelter crisis declared by the County of Alameda, a city located within the County of Alameda, the County of Orange, a city located within the County of Orange, or the City of San Jose, the county or the city, as applicable, shall develop the plan described in subparagraph (A) on or before July 1, 2020, and shall include in the plan required by this subparagraph a plan to transition residents from homeless shelters to permanent housing.

(C) In the case of a shelter crisis declared by any other county or city not described in subparagraph (A) or (B) on or before January 1, 2021, the county or the city, as applicable, shall develop the plan described in subparagraph (A) on or before July 1, 2021, and shall include in the plan required by this subparagraph a plan to transition residents from homeless shelters to permanent housing.

(D) In the case of a shelter crisis declared by any other county or city not described in subparagraph (A) or (B) after January 1, 2021, the county or the city, as applicable, shall develop the plan described in subparagraph (A) on or before July 1 of the year following the declaration of the shelter crisis, and shall include in the plan required by this subparagraph a plan to transition residents from homeless shelters to permanent housing.

(6) If the city, county, or city and county has declared a shelter crisis, the city, county, or city and county shall report, by January 1 of each year, all of the following to the Senate Committee on Housing and the Assembly Committee on Housing and Community Development:

(A) The total number of residents in homeless shelters within the city, county, or city and county.

(B) The total number of residents who have moved from a homeless shelter into permanent supportive housing within the city, county, or city and county.

(C) The estimated number of permanent supportive housing units.

(D) The number of residents who have exited the system and are no longer in need of a homeless shelter or permanent supportive housing within the city, county, or city and county.

(E) The number and bed capacity of new homeless shelters built pursuant to this section within the city, county, or city and county. The information regarding the bed capacity shall be included in reports due by January 1, 2022, and by January 1 of each year thereafter. Bed capacity shall not include the parking vehicle capacity of a homeless shelter on a parking lot owned or leased by a city, county, or city and county specifically identified as one allowed for safe parking by homeless and unstably housed individuals.

(F) New actions the city, county, or city and county is taking under the declared shelter crisis to better serve the homeless population and to reduce the number of people experiencing homelessness.

(G) The ordinance and any associated findings adopted by the city, county, or city and county pursuant to paragraph (2).

(b) A declaration of a shelter crisis by a city, county, or city and county and the provisions in this section that are or may be utilized by a city, county, or city and county, including an ordinance adopted by a city, county, or city and county pursuant to clause (i) of subparagraph (A) of paragraph (2) of subdivision (a), shall apply to any land owned or leased by an agency or entity created pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code) if the city, county, or city and county that declared a shelter crisis is one of the parties to the agreement creating the entity or agency and the real property owned or leased by the agency or entity is located within the jurisdiction of the city, county, or city and county that declared the shelter crisis.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Homeless shelter" means a facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless that is not in existence after the declared shelter crisis. A temporary homeless shelter community may include supportive and self-sufficiency development services. A "homeless shelter" shall include a parking lot owned or leased by a city, county, or city and county specifically identified as one allowed for safe parking by homeless and unstably housed individuals.

(2) "Permanent supportive housing" means housing for people who are homeless, with no limit on length of stay, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving the person's health status, and maximizing the person's ability to live and, when possible, work in the community.

(d) This section shall remain in effect only until January 1, 2036, and as of that date is repealed.

SEC. 2. Section 65660 of the Government Code is amended to read:

65660. For purposes of this article:

(a) "Low Barrier Navigation Center" means a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. A Low Barrier Navigation Center may be non-congregate and relocatable. "Low Barrier" means best practices to reduce barriers to entry, and may include, but is not limited to, the following:

(1) The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.

(2) Pets.

(3) The storage of possessions.

(4) Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

(b) "Use by right" has the meaning defined in subdivision (i) of Section 65583.2. Division 13 (commencing with Section 21000) of the Public Resources Code shall not apply to actions taken by a public agency to lease, convey, or encumber land owned by a public agency, or to facilitate the lease, conveyance, or encumbrance of land owned by a public agency, or to provide financial assistance to, or otherwise approve, a Low Barrier Navigation Center constructed or allowed by this section.

SEC. 3. Section 65668 of the Government Code is repealed.

SEC. 4. Section 21080.27.5 is added to the Public Resources Code, immediately following Section 21080.27, to read:

21080.27.5. (a) This division does not apply to any of the following activities by a local agency:

(1) An action to lease or facilitate the lease of land owned by the local agency for a low barrier navigation center.

(2) An action associated with a lease for a low barrier navigation center pursuant to subdivision (a).

(3) An action to provide financial assistance to a low barrier navigation center.

(4) An action to construct or operate a low barrier navigation center.

(5) An action to enter into a contract to provide services to a low barrier navigation center.

(b) For purposes of this section, "low barrier navigation center" has the same definition as in Section 65660 of the Government Code.

SEC. 5. Section 8255 of the Welfare and Institutions Code is amended to read:

8255. For purposes of this chapter:

(a) "Council" means the California Interagency Council on Homelessness, formerly known as the Homeless Coordinating and Financing Council established pursuant to Section 8257.

(b) "Core components of Housing First" means all of the following:

(1) Tenant screening and selection practices that promote accepting applicants regardless of their sobriety or use of substances, completion of treatment, or participation in services.

(2) Applicants are not rejected on the basis of poor credit or financial history, poor or lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of "housing readiness."

(3) Acceptance of referrals directly from shelters, street outreach, drop-in centers, and other parts of crisis response systems frequented by vulnerable people experiencing homelessness.

(4) Supportive services that emphasize engagement and problem solving over therapeutic goals and service plans that are highly tenant-driven without predetermined goals.

(5) Participation in services or program compliance is not a condition of permanent housing tenancy.

(6) Tenants have a lease and all the rights and responsibilities of tenancy, as outlined in California's Civil, Health and Safety, and Government codes.

(7) The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction.

(8) In communities with coordinated assessment and entry systems, incentives for funding promote tenant selection plans for supportive housing that prioritize eligible tenants based on criteria other than "first-come-first-serve," including, but not limited to, the duration or chronicity of homelessness, vulnerability to early mortality, or high utilization of crisis services. Prioritization may include triage tools, developed through local data, to identify high-cost, high-need homeless residents.

(9) Case managers and service coordinators who are trained in and actively employ evidence-based practices for client engagement, including, but not limited to, motivational interviewing and client-centered counseling.

(10) Services are informed by a harm-reduction philosophy that recognizes drug and alcohol use and addiction as a part of tenants' lives, where tenants are engaged in nonjudgmental communication regarding drug and alcohol use, and where tenants are offered education regarding how to avoid risky behaviors and engage in safer practices, as well as connected to evidence-based treatment if the tenant so chooses.

(11) The project and specific apartment may include special physical features that accommodate disabilities, reduce harm, and promote health and community and independence among tenants.

(c) "Homeless" has the same definition as that term is defined in Section 91.5 of Title 24 of the Code of Federal Regulations.

(d) (1) "Housing First" means the evidence-based model that uses housing as a tool, rather than a reward, for recovery and that centers on providing or connecting homeless people to permanent housing as quickly as possible. Housing First providers offer services as needed and requested on a voluntary basis and that do not make housing contingent on participation in services.

(2) (A) "Housing First" includes time-limited rental or services assistance, so long as the housing and service provider assists the recipient in accessing permanent housing and in securing longer term rental assistance, income assistance, or employment.

(B) For time-limited, supportive services programs serving homeless youth, programs should use a positive youth development model and be culturally competent to serve unaccompanied youth under 25 years of age. Providers should work with the youth to engage in family reunification efforts, where appropriate and when in the best interest of the youth. In the event of an eviction, programs shall make every effort, which shall be documented, to link tenants to other stable, safe, decent housing options. Exit to homelessness should be extremely rare, and only after a tenant refuses assistance with housing search, location, and move-in assistance.

(e) "State programs" means any programs a California state agency or department funds, implements, or administers for the purpose of providing emergency shelter, interim housing, housing, or housing-based services to people experiencing homelessness or at risk of homelessness, with the exception of federally funded programs with requirements inconsistent with this chapter.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.