

TOWNSEND

PUBLIC AFFAIRS

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MEMO

To: City of Cupertino
Legislative Review Committee

From: Townsend Public Affairs, Inc.

Date: July 23, 2021

Subject: Consider adopting a position on AB 816 (Chiu) State and local agencies: homelessness plan: Housing Trust Fund: housing projects

Bill Information

The official text of AB 816 can be found [here](#)¹.

Summary

This bill creates the Office of the Housing and Homelessness Inspector General (HHIG) to create greater accountability for state and local actions to address homelessness, impose new requirements on local governments to develop actionable plans to address homelessness, and create a public right of action for the Inspector General to compel compliance with those new plans. This bill also requires the Homeless Coordinating and Financing Council (HCFC) to conduct, or contract to conduct, a statewide gaps and needs assessment.

AB 816 contains a number of specific provisions, including the following:

- Requires the HCFC, upon appropriation by the Legislature, or upon receiving technical assistance offered by the federal Department of Housing and Urban Development, to conduct a statewide needs and gaps analysis. Allows the HCFC to contract with an outside entity for the performance of the needs and gaps analysis.
- Requires the needs and gaps analysis to do all of the following:
 - Identify programs in the state that provide housing or services to persons experiencing homelessness and provide specific information on those programs, including the amount of funding received by the program, funding sources, number of persons served by the program, types of housing and services provided to the persons served by the program, limitations on length of stay for housing programs and length of provision of services, and, if applicable, reasons for unavailability of data. Requires data provided on persons served to be disaggregated by race and gender.
 - Identify the total number and type of permanent housing beds, units, or opportunities available to persons experiencing homelessness statewide and in geographically diverse regions.

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB816

- Analyze the need for permanent housing opportunities, including, but not limited to, supportive housing, rapid rehousing, and affordable housing.
 - Analyze the need for services to assist persons in exiting homelessness and remaining housed.
 - Identify the number of and types of interim interventions available to persons experiencing homelessness in geographically diverse regions across the state, including, but not limiting to: number of year-round shelter beds, average length of stay in or use of interim interventions, and, exit rate from an interim intervention to permanent housing.
 - Analyze the need for additional interim interventions and funding needed to create such interventions.
 - Identify state-funded institutional settings that discharge persons into homelessness, and the total number of persons discharged into homelessness from those settings, if data is available. If data is unavailable, the entity conducting the analysis may extrapolate from national, local, or statewide estimates on the number or percentage of people discharged from specific institutional settings into homelessness.
 - Collect data on the numbers and demographics of persons experiencing homelessness, including, but not limited to, a quantification of the racial and ethnic disparities in the homeless population relative to the general population.
 - Assess, to the extent data is available, a sampling of data provided by local jurisdictions regarding the number of people experiencing homelessness who access interim interventions.
 - Create a financial model that will assess needs for investment in capital, in operating supports project-based housing, in rental assistance, with private-market landlords, and in services costs for purposes of moving persons experiencing homelessness into permanent housing.
- Requires the HCFC, for the purposes of collecting data to conduct the gaps analysis, to evaluate all available data, including, but not limited to, data from agencies and departments other than the HCFC, statewide and local homeless point-in-time (PIT) counts and housing inventory counts, and available statewide information on the number or rate of persons exiting state-funded institution settings into homelessness.
 - Allows, for the purposes of HCFC collecting data for the required analysis, local governments to collaborate with the HCFC or entity conducting the analysis to share existing data from local gaps or needs analyses, if available, and provide data for conducting needs analyses in a sampling of up to six geographically diverse regions to inform statewide data.
 - Requires the HCFC to report on the final needs and gaps analysis by July 31, 2022 to the appropriate legislative committees.
 - Creates within the HCD the HHIG, as an independent officer to be appointed by, and hold office at the pleasure of, the Governor. Further requires the appointment be subject to confirmation by the senate.
 - Provides the HHIG with the following responsibilities: monitor the implementation and progress of state plans and local agency plans; provide technical assistance to the state, local agencies, and cities in complying with existing law; audit the state, local agencies, and cities to determine compliance with adopted plans; bring

actions against the state, local agencies, and cities to compel compliance with their respective adopted plans, and, investigate complaints and issue civil penalties.

- States the intent of the Legislature that the state, each local agency, and each city aim to reduce homelessness in the jurisdiction by 90 percent by December 31, 2029, based on the 2019 homeless PIT count, that racial disparities in the homeless population be eliminated by December 31, 2029, that the HHIG's decision that a local agency's or city's good standing status may influence future funding decisions related to housing and homelessness in that jurisdiction, and that the state, local agency, or city is only accountable for reducing homelessness to the extent that it has available resources to address homelessness.
- Requires the HCD, based on the gap analysis conducted by the HCFC pursuant to this bill, to set a benchmark goal to reduce homelessness for the state. Requires that the benchmark goals establish both of the following by December 31, 2029, and be based on the 2019 homeless PIT count: the minimum number of people experiencing homelessness who are diverted from a homeless shelter or who have successfully accessed permanent housing during the relevant period; and, the minimum reductions in people becoming homeless, including targeted homelessness prevention and reductions in returns to homelessness, during the relevant period. Also requires the HCD to establish annual benchmarks for each local agency and city, as provided.
- Requires, on or before July 1, 2023, each local agency to submit to HCD an actionable county-level plan for meeting specific annual benchmarks. The plan provides that counties are responsible if one or more cities elect not to participate, or if a city or homeless Continuum of Care does not formally adopt a local homelessness plan.
- Requires the local plans submitted to HCD include: a gaps analysis, containing specified information; a description of any racial and ethnical disparities among the homeless population relative to the general population; a description and the amount of all funding sources that the local agency, and any incorporated jurisdiction and Continuum of Care (CoC) within the local agency, has earmarked or committed to addressing homelessness, mental illness, substance use, medical care, justice system needs, and child welfare within their jurisdiction; the estimated amount of additional funding needed to meet the homeless reduction goal; timelines for the state or local agency to utilize funding; specific actions that the local agency, cities, and the CoC will take to meet the established goal; and, specific roles and responsibilities that each local agency, city and CoC will assume to meet the benchmark goal and ensure collaboration, leveraging of resources, and avoid the duplication of services and efforts. Also allows plans to identify innovative projects to test new policies or programs that are designed to help the local agency meet its benchmark.
- Requires each participating local agency's, city's, and Continuum of Care's governing body to approve, by resolution, or other method, the county level plan.
- Requires the state and each local agency to submit an annual progress report to HCD that details the progress and implementation of the local plan and any proposed amendments to the plan.
- Requires HCD to review and provide feedback and recommended revisions to the state or local agency upon receipt of an adopted local plan. If revisions are recommended, the state or applicable local agency shall adopt the revisions or adopt findings as to why they are not needed.

- Requires the HCD to monitor the progress of the state and each local agency to adopt and implement the required local plan and if the HCD determines a plan has not been adopted or has failed within a reasonable time after adoption of the plan to make progress in accordance with the plan, the HCD must notify the state or local agency and the HHIG of this non-compliance. Further provides that HCD shall not consider a local agency to be out of compliance for a partner jurisdiction's failure to adopt a plan so long as that local agency has made at least three attempts to partner with the other jurisdiction or to assist the jurisdiction in formally adopting a plan.
- Allows the HHIG, on or after January 1, 2023, to bring an action against the state, a local agency, or a city to compel compliance.
- Prohibits the state, a local agency, or a city from deliberately and intentionally transporting a homeless individual or household to a different jurisdiction in order to reduce the number of homeless individuals within its jurisdictions, unless those individuals or households choose to move to a different jurisdiction. Further, allows any person to file a complaint with the HHIG that the state, a local agency, or city violated this prohibition on transporting individuals or households out of their jurisdiction, and requires the HHIG to investigate.

Status

AB 816 was approved by the Senate Human Services Committee (4-1) on July 6th. The measure is currently in the Senate Appropriations Committee.

Support

The author states, "homelessness is the moral crisis of our time. The COVID-19 pandemic has intensified an already intense crisis. The state and local governments lack a mechanism to hold each other accountable for reducing homelessness and as a result there is no clear strategy for responding. Local homeless advocates have sued and continue to sue cities and counties for what they see as a lack of response and urgency in responding to homelessness. Rather than waiting for coronavirus outbreaks or expensive, time-consuming lawsuits to force the question of how to address homelessness, AB 816 would proactively establish plans, metrics, accountability and enforcement of progress towards plans. By holding all government levels accountable based on benchmarks, AB 816 would move California towards finally addressing the moral crisis of our day."

Supporters of AB 816 include: Corporation for Supportive Housing; Housing California; Steinberg Institute; California Access Coalition; California Downtown Assn; San Francisco Bay Area Rapid Transit District; City/County of San Francisco; City of Sacramento; and the City of San Diego.

Opposition

Cities and counties state concerns that, among other things, this bill could lead to a piecemeal approach; includes no funding; treats the statewide and county-level plans differently; and does not enumerate consequences for cities that do not participate in the planning process, while holding counties accountable.

Opponents of AB 816 include: City of Thousand Oaks; California State Assn of Counties; Rural County Representatives of California; Urban Counties of California; and League of California Cities (oppose unless amended)

The League's letter states that they "must oppose AB 816 unless amended to provide cities with the necessary funding to achieve the goals and objectives of the measure."

Legislative Platform

This bill falls under Cupertino's 2021 Legislative Platform in the Housing and Community Development Section, Item #2 (page 6), as well as Quality of Life, Item #5 (page 7) and allows for an Oppose position.

Recommended Action

Adopt an oppose position on AB 816 and authorize the Mayor to send letters to the state legislature.