

AMENDED IN ASSEMBLY AUGUST 8, 2013

AMENDED IN SENATE MAY 20, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 2, 2013

SENATE BILL

No. 391

Introduced by Senator DeSaulnier

(Principal coauthors: Assembly Members Atkins, Bocanegra, and Gordon)

(Coauthors: Senators Block, Correa, De León, Evans, Hancock, Hill, Leno, Lieu, Liu, Pavley, Price, and Roth)

(Coauthors: Assembly Members *Alejo*, Ammiano, Bloom, Bonilla, *Chau*, Garcia, *Gonzalez*, *Roger Hernández*, *Lowenthal*, Mullin, Quirk-Silva, *Skinner*, *Stone*, Torres, and Wieckowski)

February 20, 2013

An act to add Section 27388.1 to the Government Code, and to add Chapter 2.5 (commencing with Section 50470) to Part 2 of Division 31 of the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 391, as amended, DeSaulnier. California Homes and Jobs Act of 2013.

Under existing law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time homebuyers. Existing law also authorizes the issuance of bonds in specified amounts

pursuant to the State General Obligation Bond Law. Existing law requires that proceeds from the sale of these bonds be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks.

This bill would enact the California Homes and Jobs Act of 2013. The bill would make legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded. By imposing new duties on counties with respect to the imposition of the recording fee, the bill would create a state-mandated local program. The bill would require that revenues from this fee be sent quarterly to the Department of Housing and Community Development for deposit in the California Homes and Jobs Trust Fund, which the bill would create within the State Treasury. The bill would provide that moneys in the fund may be expended for supporting affordable housing, administering housing programs, and the cost of periodic audits, as specified. The bill would impose certain auditing and reporting requirements.

Existing law requires the Department of Industrial Relations to monitor and enforce compliance with applicable prevailing wage requirements for specified public works projects that are funded by state bond proceeds. Moneys collected for this purpose are continuously appropriated to the department from the State Public Works Enforcement Fund to cover the costs of these monitoring and enforcement duties.

This bill would require the Department of Industrial Relations to monitor and enforce prevailing wage requirements for construction contracts for certain public works projects over \$1,000,000, that are funded, in whole or in part, by the bill. The bill would authorize the department to charge each person or entity awarding a construction contract for the reasonable and directly related costs of the monitoring and enforcement activities, and would require the department to deposit the moneys collected into the State Public Works Enforcement Fund. The bill would exempt projects with a collective bargaining agreement with a mechanism for resolution of wage disputes from this requirement.

By establishing a new source of revenue for a continuously appropriated fund, this bill would make an appropriation.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known as the California Homes
2 and Jobs Act of 2013.

3 SEC. 2. The Legislature finds and declares that having a healthy
4 housing market that provides an adequate supply of homes
5 affordable to Californians at all income levels is critical to the
6 economic prosperity and quality of life in the state. The Legislature
7 further finds and declares all of the following:

8 (a) Funding approved by the state's voters in 2002 and 2006,
9 as of June 2011, has financed the construction, rehabilitation, and
10 preservation of over 11,600 shelter spaces and 57,220 affordable
11 apartments, including 2,500 supportive homes for people
12 experiencing homelessness. In addition, these funds have helped
13 57,290 families become or remain homeowners. Nearly all of the
14 voter-approved funding for affordable housing was awarded by
15 the beginning of 2012.

16 (b) The requirement in the Community Redevelopment Law
17 that redevelopment agencies set aside 20 percent of tax increment
18 for affordable housing generated roughly one billion dollars
19 (\$1,000,000,000) per year. With the elimination of redevelopment
20 agencies, this funding stream has disappeared.

21 (c) California has 12 percent of the United States population,
22 but 21.4 percent of its homeless population. Seventy-three percent
23 of people experiencing homelessness in California fell into it
24 because they could not afford a place to live. Sixty-two percent of
25 homeless Californians are unsheltered, 14 percent are veterans,
26 and 20 percent are families.

27 (d) Furthermore, 4 of the top 10 metropolitan areas in the
28 country for homeless are in the following metropolitan areas in

1 California: San Jose-Sunnyvale-Santa Clara, Los Angeles-Long
2 Beach-Santa Ana, Fresno, and Stockton.

3 (e) California continues to have the second lowest
4 homeownership rate in the nation, and minimum wage earners
5 have to work 120 hours per week to afford the average
6 two-bedroom apartment.

7 (f) Millions of Californians are affected by the state's chronic
8 housing shortage, including seniors, veterans, people experiencing
9 chronic homelessness, working families, people with mental,
10 physical, or developmental disabilities, agricultural workers, people
11 exiting jails, prisons, and other state institutions, survivors of
12 domestic violence, and former foster and transition-aged youth.

13 (g) While the current credit and foreclosure crisis has resulted
14 in reductions in home prices in some areas, it has increased pressure
15 on the rental housing market and slowed new housing production
16 of all types, exacerbating the mismatch between the ever-increasing
17 number of households that need housing they can afford and the
18 supply.

19 (h) *Seven of the top 10 hardest hit cities by the foreclosure crisis*
20 *in the nation were in California. They include Stockton, Modesto,*
21 *Vallejo, Riverside-San Bernardino, Merced, Bakersfield, and*
22 *Sacramento.*

23 (~~h~~)

24 (i) California's workforce continues to experience longer
25 commute times as persons in the workforce seek affordable housing
26 outside the areas in which they work. If California is unable to
27 support the construction of affordable housing in these areas,
28 congestion problems will strain the state's transportation system
29 and exacerbate greenhouse gas emissions.

30 (~~i~~)

31 (j) Many economists agree that the state's higher than average
32 unemployment rate is due in large part to massive shrinkage in the
33 construction industry from 2005 to 2009, including losses of nearly
34 700,000 construction-related jobs, a 60-percent decline in
35 construction spending, and an 83-percent reduction in residential
36 permits. Restoration of a healthy construction sector will
37 significantly reduce the state's unemployment rate.

38 (~~j~~)

1 (k) The lack of sufficient housing impedes economic growth
2 and development by making it difficult for California employers
3 to attract and retain employees.

4 ~~(k)~~

5 (l) To keep pace with continuing demand, the state should
6 identify and establish a permanent, ongoing source or sources of
7 funding dedicated to affordable housing development. Without a
8 reliable source of funding for housing affordable to the state's
9 workforce and most vulnerable residents, the state and its local
10 and private housing development partners will not be able to
11 continue increasing the supply of housing after existing housing
12 bond resources are depleted.

13 ~~(l)~~

14 (m) The investment will leverage billions of dollars in private
15 investment, lessen demands on law enforcement and dwindling
16 health care resources as fewer people are forced to live on the
17 streets or in dangerous substandard buildings, and increase
18 businesses' ability to attract and retain skilled workers.

19 ~~(m)~~

20 (n) In order to promote housing and homeownership
21 opportunities, the recording fee imposed by this act should not be
22 applied to any recordings made in connection with a sale of real
23 property. Purchasing housing is likely the largest purchase made
24 by Californians, and it is the intent of this act not to increase
25 transaction costs associated with these transfers.

26 SEC. 3. Section 27388.1 is added to the Government Code, to
27 read:

28 27388.1. (a) (1) Commencing January 1, 2014, and except as
29 provided in paragraph (2), in addition to any other recording fees
30 specified in this code, a fee of seventy-five dollars (\$75) shall be
31 paid at the time of recording of every real estate instrument, paper,
32 or notice required or permitted by law to be recorded except those
33 expressly exempted from payment of recording fees. "Real estate
34 instrument, paper, or notice" means a document relating to real
35 property, including, but not limited to, the following: deed, grant
36 deed, trustee's deed, deed of trust, reconveyance, quit claim deed,
37 fictitious deed of trust, assignment of deed of trust, request for
38 notice of default, abstract of judgment, subordination agreement,
39 declaration of homestead, abandonment of homestead, notice of
40 default, release or discharge, easement, notice of trustee sale, notice

1 of completion, UCC financing statement, mechanic’s lien, maps,
 2 and covenants, conditions, and restrictions.

3 (2) The fee described in paragraph (1) shall not be imposed on
 4 any real estate instrument, paper, or notice recorded in connection
 5 with a transfer subject to the imposition of a documentary transfer
 6 tax as defined in Section 11911 of the Revenue and Taxation Code.

7 (b) The fees, after deduction of any actual and necessary
 8 administrative costs incurred by the county recorder in carrying
 9 out this section, shall be sent quarterly to the Department of
 10 Housing and Community Development for deposit in the California
 11 Homes and Jobs Trust Fund established by Section ~~50471~~ 50470
 12 of the Health and Safety Code, to be expended for the purposes
 13 set forth in that section. In addition, the county shall pay to the
 14 Department of Housing and Community Development interest, at
 15 the legal rate, on any funds not paid to the Controller within 30
 16 days of the end of a quarter.

17 SEC. 4. Chapter 2.5 (commencing with Section 50470) is added
 18 to Part 2 of Division 31 of the Health and Safety Code, to read:

19

20 CHAPTER 2.5. CALIFORNIA HOMES AND JOBS TRUST FUND

21

22 Article 1. General Provisions

23

24 ~~50470. This chapter shall be known, and may be cited, as the~~
 25 ~~California Homes and Jobs Act of 2013.~~

26 ~~50471.~~

27 50470. (a) There is hereby created in the State Treasury the
 28 California Homes and Jobs Trust Fund. All interest or other
 29 increments resulting from the investment of moneys in the fund
 30 shall be deposited in the fund, notwithstanding Section 16305.7
 31 of the Government Code. Moneys in the California Homes and
 32 Jobs Trust Fund shall not be subject to transfer to any other fund
 33 pursuant to any provision of Part 2 (commencing with Section
 34 16300) of Division 4 of Title 2 of the Government Code, except
 35 to the Surplus Money Investment Fund. Upon appropriation by
 36 the Legislature, moneys in the fund may be expended for the
 37 following purposes:

38 (1) Supporting the development, acquisition, rehabilitation, and
 39 preservation of housing affordable to low- and moderate-income
 40 households, including, but not limited to, ~~emergency shelters;~~

1 transitional and permanent rental housing, including necessary
2 service and operating subsidies; ~~foreclosure mitigation; and~~
3 homeownership opportunities; *emergency shelters and rapid*
4 *rehousing services; accessibility modifications; and efforts to*
5 *acquire and rehabilitate foreclosed, vacant, or blighted homes.*

6 (2) Administering housing programs that receive an
7 appropriation from the fund. Moneys expended for this purpose
8 shall not exceed 5 percent of the moneys in the fund.

9 (3) The cost of periodic audits required by Section 50475.

10 (b) Both of the following shall be paid and deposited in the
11 fund:

12 (1) Any moneys appropriated and made available by the
13 Legislature for purposes of the fund.

14 (2) Any other moneys that may be made available to the
15 department for the purposes of the fund from any other source or
16 sources.

17 50471. (a) *The department, in consultation with the California*
18 *Housing Finance Agency, the California Tax Credit Allocation*
19 *Committee, and the California Debt Limit Allocation Committee,*
20 *shall develop and submit to the Legislature, at the time of the*
21 *Department of Finance’s adjustments to the proposed 2014–15*
22 *fiscal year budget pursuant to subdivision (e) of Section 13308 of*
23 *the Government Code, the California Homes and Jobs Trust Fund*
24 *Investment Strategy. Notwithstanding Section 10231.5 of the*
25 *Government Code, commencing with the 2019–20 fiscal year, and*
26 *every five years thereafter, concurrent with the release of the*
27 *Governor’s proposed budget, the department shall update the*
28 *investment strategy and submit it to the Legislature. The investment*
29 *strategy shall do all of the following:*

30 (1) *Identify the statewide needs, goals, objectives, and outcomes*
31 *for housing for a five-year time period.*

32 (2) *Promote a geographically balanced distribution of funds*
33 *including consideration of a direct allocation of funds to local*
34 *governments.*

35 (3) *Emphasize investments that serve households that are at or*
36 *below 60 percent of area median income.*

37 (4) *Meet the following minimum objectives:*

38 (A) *Encourage economic development and job creation by*
39 *helping to meet the housing needs of a growing workforce up to*
40 *120 percent of area median income.*

1 (B) Identify opportunities for coordination among state
2 departments and agencies to achieve greater efficiencies, increase
3 the amount of federal investment in production, services, and
4 operating costs of housing, and promote energy efficiency in
5 housing produced.

6 (C) Incentivize the use and coordination of nontraditional
7 funding sources including philanthropic funds, local realignment
8 funds, nonhousing tax increment, federal Patient Protection and
9 Affordable Care Act, and other resources.

10 (D) Incentivize innovative approaches that produce cost savings
11 to local and state services by reducing the instability of housing
12 for frequent, high-cost users of hospitals, jails, detoxification
13 facilities, psychiatric hospitals, and emergency shelters.

14 (E) Incentivize regional partnerships that serve people that have
15 a high level of housing instability.

16 (b) Before submitting the investment strategy to the Legislature,
17 the department shall hold at least four public workshops in different
18 regions of the state to inform the development of the strategy.

19 (c) Expenditure requests contained in the Governor's proposed
20 budget shall be consistent with the investment strategy developed
21 and submitted pursuant to this part. Moneys in the California
22 Homes and Jobs Trust Fund shall be appropriated through the
23 annual Budget Act.

24 (d) The strategy and updates required by this section shall be
25 submitted pursuant to Section 9795 of the Government Code.

26 ~~50472.~~

27 50473. (a) This section applies to all construction projects in
28 excess of one million dollars (\$1,000,000) that are funded, in whole
29 or in part, from the California Homes and Jobs Trust Fund, and
30 that are public works within the meaning of Section 1720 of the
31 Labor Code.

32 (b) (1) The Department of Industrial Relations shall monitor
33 and enforce compliance with applicable prevailing wage
34 requirements for any construction contract on a project subject to
35 this section and shall charge each person or entity awarding a
36 construction contract for the reasonable and directly related costs
37 of monitoring and enforcing compliance with the prevailing wage
38 requirements. The department, with the approval of the Director
39 of Finance, shall determine the rate or rates, which the department
40 may from time to time amend, that the department shall charge to

1 recover the reasonable and directly related costs of performing the
2 monitoring and enforcement services for public works projects.
3 However, the amount charged by the department shall not exceed
4 one-fourth of 1 percent of the amount of the contract.

5 (2) All moneys received by the department pursuant to this
6 section shall be deposited into the State Public Works Enforcement
7 Fund created by Section 1771.3 of the Labor Code.

8 (3) Paragraph (1) shall not apply to a project if a collective
9 bargaining agreement binds all of the contractors performing work
10 on the project, and that collective bargaining agreement includes
11 a mechanism for resolving disputes regarding the payment of
12 wages.

13

14

Article 2. Audits and Reporting

15

16 50475. The California State Auditor’s Office shall conduct
17 periodic audits to ensure that the annual allocation to individual
18 programs is awarded by the department in a timely fashion
19 consistent with the requirements of this chapter. The first audit
20 shall be conducted no later than 24 months from the effective date
21 of this section.

22 50476. In its annual report to the Legislature pursuant to
23 Section 50408, the department shall report how funds that were
24 made available pursuant to this chapter and allocated in the prior
25 year were expended, including efforts to promote a geographically
26 balanced distribution of funds. *The report shall also assess the*
27 *impact of the investment on job creation and the economy. With*
28 *respect to any awards made specifically to house or support*
29 *persons who are homeless or at-risk of homelessness, the report*
30 *shall include an analysis of the effectiveness of the funding in*
31 *allowing these households to retain permanent housing.* The
32 department shall make the report available to the public on its
33 Internet Web site.

34 SEC. 5. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 a local agency or school district has the authority to levy service
37 charges, fees, or assessments sufficient to pay for the program or
38 level of service mandated by this act, within the meaning of Section
39 17556 of the Government Code.

1 SEC. 6. This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety within
3 the meaning of Article IV of the Constitution and shall go into
4 immediate effect. The facts constituting the necessity are:

5 In order to provide affordable housing opportunities at the earliest
6 possible time, it is necessary for this act to take effect immediately.

O