

Assembly Bill No. 873

Passed the Assembly September 12, 2013

Chief Clerk of the Assembly

Passed the Senate September 12, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 50802 and 50803 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 873, Chau. Housing: emergency housing and assistance funding.

Existing law requires the Department of Housing and Community Development to administer the Emergency Housing and Assistance Program. Under the program, moneys from the continuously appropriated Emergency Housing and Assistance Fund are available for the purposes of providing shelter, as specified, to homeless persons at as low a cost and as quickly as possible, without compromising the health and safety of shelter occupants, to encourage the move of homeless persons from shelters to a self-supporting environment as soon as possible, to encourage provision of services for as many persons at risk of homelessness as possible, to encourage compatible and effective funding of homeless services, and to encourage coordination among public agencies that fund or provide services to homeless individuals, as well as agencies that discharge people from their institutions.

Existing law requires the department to distribute funds appropriated for activities providing for capital development programs, including acquisition, leasing, construction, and rehabilitation of sites for emergency shelter and transitional housing for homeless persons, as grants in the form of forgivable deferred loans, as prescribed. Existing law requires the department to make funding available to each project as a loan with a term of 5 years for rehabilitation, 7 years for substantial rehabilitation, or 10 years for acquisition and rehabilitation or new construction.

This bill would authorize the department to also make funding available as a loan with a term of 20 years for conversion to permanent supportive housing for homeless families and individuals.

Existing law requires that grants awarded by the department pursuant to these provisions be used by a grant recipient to defray costs of eligible activities defined in department regulations.

This bill would provide that these grants may also be awarded pursuant to department requirements and would authorize the department to develop requirements that are not subject to review by the Office of Administrative Law, as specified. The bill would also expand eligible activities to include capital development loans for the conversion of emergency shelter or transitional housing to permanent supportive housing for homeless families or individuals, and the provision of effective approaches to rapidly rehouse homeless clients, including homeless system assessments, street outreach and housing and services engagement efforts, coordinated care services, housing location and stabilization services, and rental assistance costs, including deposits and costs necessary for occupancy. The bill would require the department to give priority for capital development funds to applicants proposing capital development loans for the conversion of emergency shelter or transitional housing to permanent supportive housing for homeless families or individuals and to give priority for noncapital development funds to applicants that propose effective approaches to rapidly rehouse homeless clients and that leverage additional funding sources or focus on high-cost users of more than one system of care.

The bill would require that the department, no later than June 30, 2015, transfer any unobligated Proposition 46 and Proposition 1C bond funds derived from bonds remaining in the Emergency Housing and Assistance Fund to the Housing Rehabilitation Loan Fund, less any funds needed for state operations to support outstanding awards as determined by the Department of Housing and Community Development, to be expended for the Multifamily Housing Program for supportive housing for a specified target population.

By authorizing the use of continuously appropriated funds for new purposes, this bill would make an appropriation.

This bill would also incorporate changes in Section 50802 of the Health and Safety Code proposed by AB 1109, that would become operative on the date this bill becomes operative only if AB 1109 and this bill are both chaptered and become effective on or before January 1, 2014, and this bill is chaptered last.

Appropriation: yes.

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

SECTION 1. Section 50802 of the Health and Safety Code is amended to read:

50802. (a) The department shall ensure that not less than 20 percent of the moneys in the Emergency Housing and Assistance Fund shall be allocated to nonurban counties during any given fiscal year. If the funds designated for facilities operation that are allocated to nonurban counties are not awarded by the end of that fiscal year, then those unencumbered funds shall be allocated in the next fiscal year to urban counties. Funds for capital development that are not awarded by the end of the second fiscal year shall be awarded in the subsequent fiscal year to urban counties.

(b) The amount of funds that the department allocates from the Emergency Housing and Assistance Fund to each region, excluding funds allocated pursuant to subdivision (a), shall be based upon a formula that accords at least 20 percent weight to each of the following factors:

(1) The relative number of persons in the region below the poverty line according to the most recent federal census, updated, if possible, with an estimate by the Department of Finance, compared to the total of the urban counties.

(2) The relative number of persons unemployed within each region, based on the most recent one-year period for which data is available, compared to the total of the urban counties.

(c) Grant funds shall be disbursed as expeditiously as possible by the department.

(d) The department shall use not more than 5 percent of the amount available for funds pursuant to this chapter to defray the department's administrative costs pursuant to this chapter.

(e) Notwithstanding any other provision of this chapter, the department shall distribute funds appropriated for purposes of the activities specified in paragraphs (2) and (7) of subdivision (a) of Section 50803 as grants in the form of forgivable deferred loans, subject to all of the following:

(1) Funding shall be made available to each project as a loan with a term of five years for rehabilitation, seven years for

substantial rehabilitation, 10 years for acquisition and rehabilitation or new construction, or 20 years for conversion to permanent supportive housing for homeless families and individuals. Each deferred loan shall be secured by a deed of trust and promissory note. Repayment of the loan shall be deferred as long as the project is used as an emergency shelter, permanent supportive housing, or transitional housing. At the completion of the specified year term, the loan shall be forgiven. If a transfer or conveyance of the project property, however, occurs prior to that time that results in the property no longer being used as an emergency shelter, permanent supportive housing, or transitional housing, the department shall terminate the grant and require the repayment of the deferred loan in full.

(2) Applications for funding shall be made pursuant to department-issued statewide “Notices of Funding Availability” without the need for additional regulations.

(3) The department shall set forth the criteria for evaluating applications in the “Notices of Funding Availability” and shall make deferred loans based on those applications that best meet the criteria.

(4) The department shall specify in the “Notice of Funding Availability” both maximum and minimum grant amounts that may be varied for urban and nonurban counties.

(5) Contracts for projects that have not begun construction within the initial 12-month period shall be terminated and funds reallocated. The department, however, may extend this period by a period not to exceed 12 months.

SEC. 1.5. Section 50802 of the Health and Safety Code is amended to read:

50802. (a) The department shall ensure that not less than 20 percent of the moneys in the Emergency Housing and Assistance Fund shall be allocated to nonurban counties during any given fiscal year. If the funds designated for facilities operation that are allocated to nonurban counties are not awarded by the end of that fiscal year, then those unencumbered funds shall be allocated in the next fiscal year to urban counties. Funds for capital development that are not awarded by the end of the second fiscal year shall be awarded in the subsequent fiscal year to urban counties.

(b) The amount of funds that the department allocates from the Emergency Housing and Assistance Fund to each region, excluding funds allocated pursuant to subdivision (a), shall be based upon a formula that accords at least 20 percent weight to each of the following factors:

(1) The relative number of persons in the region below the poverty line according to the most recent federal census, updated, if possible, with an estimate by the Department of Finance, compared to the total of the urban counties.

(2) The relative number of persons unemployed within each region, based on the most recent one-year period for which data is available, compared to the total of the urban counties.

(c) Grant funds shall be disbursed as expeditiously as possible by the department.

(d) The department shall use not more than 5 percent of the amount available for funds pursuant to this chapter to defray the department's administrative costs pursuant to this chapter.

(e) Notwithstanding any other provision of this chapter, the department shall distribute funds appropriated for purposes of the activities specified in paragraphs (2) and (7) of subdivision (a) of Section 50803 as grants in the form of forgivable deferred loans, subject to all of the following:

(1) (A) Funding shall be made available to each project as a loan with a term of five years for rehabilitation, seven years for substantial rehabilitation, 10 years for acquisition and rehabilitation or new construction, or 20 years for conversion to permanent supportive housing for homeless families and individuals. Each deferred loan shall be secured by a deed of trust and promissory note. Repayment of the loan shall be deferred as long as the project is used as an emergency shelter, permanent supportive housing, or transitional housing. At the completion of the specified year term, the loan shall be forgiven. If a transfer or conveyance of the project property, however, occurs prior to that time that results in the property no longer being used as an emergency shelter, permanent supportive housing, or transitional housing, the department shall terminate the grant and require the repayment of the deferred loan in full.

(B) If the property is transitioned from an emergency shelter or transitional housing to permanent supportive housing, and serves people who are homeless or at risk of homelessness, the loan may

also be deferred and forgiven according to subparagraph (A), as if it had remained an emergency shelter or transitional housing. Prior to a transition, a project shall obtain department approval to transition to permanent supportive housing to ensure that the proposed transition is consistent with this subdivision. In considering whether to approve a transition, the department shall evaluate the following factors: the suitability of the building for use as permanent supportive housing and project financial feasibility. A project transitioned to permanent supportive housing pursuant to this subdivision shall have a loan term of 20 years from the beginning of its approved use as permanent supportive housing for people who are homeless or at risk of homelessness. If a transitioned project property is no longer being used as permanent supportive housing for people who are homeless or at risk of homelessness, the department shall terminate the loan and require repayment of the deferred loan in full.

(i) For purposes of this subparagraph, “permanent supportive housing” has the same meaning as the term “supportive housing,” as defined in paragraph (2) of subdivision (b) of Section 50675.14.

(ii) For purposes of this subparagraph, “people who are homeless” means individuals described in Section 11302 of Title 42 of the United States Code, and paragraph (2) of subdivision (e) of Section 11139.3 of the Government Code.

(2) Applications for funding shall be made pursuant to department-issued statewide “Notices of Funding Availability” without the need for additional regulations.

(3) The department shall set forth the criteria for evaluating applications in the “Notices of Funding Availability” and shall make deferred loans based on those applications that best meet the criteria.

(4) The department shall specify in the “Notice of Funding Availability” both maximum and minimum grant amounts that may be varied for urban and nonurban counties.

(5) Contracts for projects that have not begun construction within the initial 12-month period shall be terminated and funds reallocated. The department, however, may extend this period by a period not to exceed 12 months.

SEC. 2. Section 50803 of the Health and Safety Code is amended to read:

50803. (a) Grants awarded by the department pursuant to this chapter shall be used by a grant recipient to defray costs of eligible activities defined in department regulations or guidelines, including, but not limited to, any of the following activities:

(1) Operating facilities, including, but not limited to, operations staff salaries, maintenance, repair, utilities, equipment, and debt reduction.

(2) Providing for capital development programs, such as acquisition, leasing, construction, and rehabilitation of sites for emergency shelter and transitional housing for homeless persons.

(3) Administrative costs.

(4) Operating expenses relating to supervising and counseling clients.

(5) Providing residential rental assistance.

(6) Leasing or renting rooms for provision of temporary shelter.

(7) Capital development loans for the conversion of emergency shelter or transitional housing to permanent supportive housing for homeless families or individuals. The department shall establish the maximum loan limits for the loans in the notice of funding availability.

(8) Providing effective approaches to rapidly rehouse homeless clients. Eligible activities include, but are not limited to, homeless system assessments, street outreach and housing and services engagement efforts, coordinated care services, housing location and stabilization services, and rental assistance costs, including deposits and costs necessary for occupancy.

(b) Funds allocated to a nonurban county pursuant to subdivision (a) of Section 50802 may be used to pay the cost of leasing or renting individual units, hotel rooms, or motel rooms for use as emergency shelters. No more than 15 percent of the funds allocated to a region other than a nonurban county shall be expended for this purpose.

(c) By regulation, the department shall establish a level, not to exceed 5 percent of a grant award, which any eligible recipient may use to defray administrative costs.

SEC. 3. (a) Notwithstanding any provision of Chapter 11.5 (commencing with Section 50800) of Part 2 of Division 31 of the Health and Safety Code, the Department of Housing and Community Development shall do all of the following with respect

to notices of funding availability issued on or after the effective date of this act and prior to July 1, 2015:

- (1) Make funding available on a competitive basis statewide.
- (2) Give priority for capital development funds to applicants proposing activities described in paragraph (7) of subdivision (a) of Section 50803 of the Health and Safety Code.
- (3) Give priority for noncapital development funds to applicants that propose activities described in paragraph (8) of subdivision (a) of Section 50803 and that leverage additional funding sources or focus on high-cost users of more than one system of care.
- (4) Accept applications from eligible organizations, public housing authorities, tribal governments, and continuum of care entities.
 - (b) The Department of Housing and Community Development may award funds under the notices of funding available described in subdivision (a) pursuant to requirements developed by the department and included in the notices of funding available that are not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.
 - (c) No later than June 30, 2015, the Department of Housing and Community Development shall transfer any unobligated Proposition 46 and Proposition 1C bond funds remaining in the Emergency Housing and Assistance Fund to the Housing Rehabilitation Loan Fund, less any funds needed for state operations to support outstanding awards as determined by the Department of Housing and Community Development, to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code, to be used for supportive housing for the target population identified in Section 50675.14.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 50802 of the Health and Safety Code proposed by both this bill and Assembly Bill 1109. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 50802 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 1109, in which case Section 1 of this bill shall not become operative.

Approved _____, 2013

Governor