

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: October 30, 2018

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations
Committee

FROM: Sharon Tso 
Chief Legislative Analyst

Assignment No. 18-10-0958

SUBJECT: Department of City Planning 2019 and 2020 State legislative proposals

CLA RECOMMENDATION: Adopt Resolutions to include in the City's 2019-2020 State Legislative Program support or sponsorship of legislation to adopt a State Historic Rehabilitation Tax Credit and to amend the State Government Code to allow homeless shelters on private land during declared emergencies.

SUMMARY

The Department of City Planning's 2019-20 legislative proposal report advises that a State Historic Rehabilitation Tax Credit provides credit against state income taxes for rehabilitation work on historic properties, thus incentivizing more property owners to rehabilitate their historic properties. The report therefore requests that the Council support a State legislative action implementing a State Historic Rehabilitation Tax Credit.

The report also advises that amending the State Government Code to allow homeless shelters on private land, including public land owned by private third party nonprofit developers, during emergency declarations would facilitate a more effective response to homelessness emergencies. The report therefore also requests that the Council support a State legislative action to amend Section 8698.4 of the State Government Code to allow homeless shelters to be built on privately owned land, in partnership with a public agency, during declared emergencies.

BACKGROUND

In response to a request from the Mayor and Councilmember Wesson, the Planning Department submitted two proposals for State legislation to be included in the City's 2019-2020 State Legislative Program, which will begin January 1, 2019.

Establish a State Historic Rehabilitation Tax Credit

A Historic Rehabilitation Tax Credit allows participants to claim credit against their income taxes for qualified rehabilitation work on designated historic properties. The Federal government implemented such a credit as part of the National Historic Preservation Act of 1966, in the interest of preventing historic properties from falling into disrepair. Under the Tax Cut and Jobs Act of 2017, the program offers up to 20% credit against federal income taxes, to be claimed at a rate of 4% per year over a five-year period. Thirty four states have their own Historic Rehabilitation Tax Credit, which mirror the Federal program.

Former California Assembly Speaker Toni Atkins sponsored a bill creating a State rehabilitation tax credit in 2014. Councilman Jose Huizar introduced a Resolution to place support for this item on the City's 2013-2014 State Legislative Program. The bill was unanimously approved by the State Assembly and Senate, but vetoed by Governor Jerry Brown.

Planning staff indicate that there remains strong bipartisan support among State legislators for this credit, and that it could help further revitalize and attract investment in Los Angeles neighborhoods with large concentrations of historic buildings, such as Hollywood and Downtown. It could also encourage more property owners to seismically retrofit older buildings, thus mitigating possible damage from a major earthquake.

Staff also advise that owners could combine this credit with the Federal credit and the local Mills Act property tax incentive to maximize tax savings. Costs to the City associated with the program would include extra Planning staff resources to support and interface with participants.

Allow Emergency Homeless Shelters on Private Land

Section 8698 of the California Government Code authorizes any political subdivision, including cities, counties and special districts, to declare a shelter crisis if its governing body makes a finding that lack of shelter poses a health or safety threat to a significant portion of its population. The declaration temporarily suspends any State or local laws, regulations or ordinances that would hinder the availability of emergency housing.

In Los Angeles, this law only applies to land directly owned or leased by the City or County, which means that emergency homeless shelters could only be built on publicly owned land. Private applicants, including third party contractors partnering with the County to build homeless shelters via Measure H, still need to undergo a costly zone change or General Plan amendment process to bypass preexisting land use restrictions.

The Planning Department's proposal would amend 8698.4(a)(1) of the Government Code to qualify land owned or leased by a private entity in partnership with a public agency, in addition to any City or County-owned land, for emergency housing regardless of local regulations. Planning staff indicate that such a measure would not only improve the City's response to shelter crises, it would also save the Department significant time and money that would have gone towards processing zoning entitlements for homeless housing projects.



Chris Campbell
Analyst

- Attachments:
1. Planning Department Legislative Proposal Report
 2. Resolution to support or sponsor legislation to adopt a State Historic Rehabilitation Tax Credit
 3. Resolution to support or sponsor legislation amending the Government Code to allow emergency homeless shelters on private land during declared emergencies

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the City of Los Angeles contains many neighborhoods with rich assortments of historic architecture; and

WHEREAS, keeping these historic structures in good repair is crucial to maintaining these neighborhoods' unique characters; and

WHEREAS, the Federal government and many states offer a Historic Rehabilitation Tax Credit, which allows property owners to claim credit against their income taxes for qualified rehabilitation work on designated historic properties; and

WHEREAS, a California Historic Rehabilitation Tax Credit, mirroring the Federal program, could help owners of designated historic properties in Los Angeles further revitalize and attract investment to historic neighborhoods by offering credit against state income taxes for rehabilitative work; and

WHEREAS, such a credit could combine with the Federal program and the local Mills Act property tax incentive to maximize tax savings and the extent of rehabilitative work;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2019-2020 State Legislative Program support or sponsorship of legislation or administrative action adopting an Historic Rehabilitation Tax Credit.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

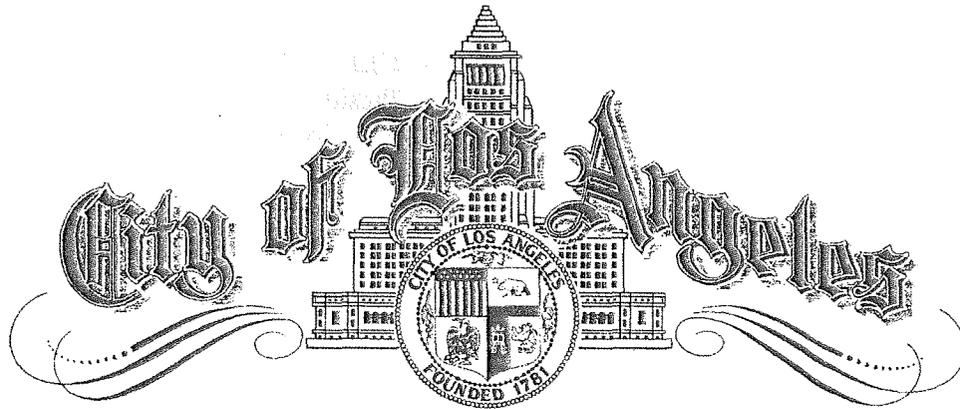
WHEREAS, Section 8698 of the California Government Code authorizes any political subdivision, including cities, counties and special districts, to declare a shelter crisis after making the proper findings; and

WHEREAS, declaring a shelter crisis allows local governments to suspend any State or local laws, regulations, or ordinances that would hinder the availability of emergency housing; and

WHEREAS, In Los Angeles, this law only applies to land directly owned or leased by the City or County, which means that private applicants partnering with the County to build homeless shelters via Measure H would still be subject to the full brunt of land use restrictions regarding emergency homeless shelters; and

WHEREAS, amending 8698.4(a)(1) of the Government Code to qualify land owned or leased by a private entity in partnership with a public agency for emergency housing during a declared shelter crisis, regardless of local regulations, could improve the quality and efficiency of the City's response to shelter crises;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2019-2020 State Legislative Program support or sponsorship of legislation or administrative action to amend the State Government Code to allow homeless shelters on land owned or leased by a private entity in partnership with a public agency during a declared shelter crisis.



CITY HALL
LOS ANGELES, CALIFORNIA
90012

To All City Department Heads,

2019 and 2020 Legislative Proposals for Sacramento and Washington

When the 2019 and 2020 biennial legislative sessions in Sacramento and Washington begin in January 2019, the City has a window of opportunity to seek new legislation that would enhance and improve City operations. It is imperative that we identify and adopt specific legislative proposals that our lobbyists can present to legislators.

To that end, the Rules, Elections, and Intergovernmental Relations Committee will hold a hearing to discuss and identify specific legislative proposals that our lobbyists can present to legislators in Sacramento and Washington. To facilitate, we request that you submit proposals to seek and sponsor State and federal legislation that would allow the City to more effectively and efficiently provide services and support.

Your recommendations to the Rules, Elections, and Intergovernmental Relations Committee on proposed legislative actions should be submitted no later than **October 12, 2018**. Please limit your report to the three to five most important legislative proposals affecting your Department. Include a discussion of the issue, why it is important to the City, and the legislative action needed. Please respond using the format attached to this letter. It is important to remember that these proposals must be specific. Vague policy changes cannot be crafted into legislative language for consideration by legislators.

Please submit your reports to the Mayor, c/o Breelyn Pete, Chief of State and Federal Affairs, Mail Stop 370, and to the Chief Legislative Analyst, Sharon M. Tso, Mail Stop 136, by **OCTOBER 12, 2018**. If you have any questions, contact John Wickham in the Office of the Chief Legislative Analyst at (213) 473-5738.

We look forward to your presentations.

Sincerely,

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ERIC GARCETTI
Mayor

V. #/ J, 4-A

HERB J. WESSON, Jr.
President
City Council

CITY OF LOS ANGELES

LEGISLATIVE PROPOSAL REPORT

DEPARTMENT/BUREAU/OFFICE: Department of City Planning

PREPARED BY: Arthi Varma

EXT: x 8-1191

PROPOSED LEGISLATION SUBJECT/TITLE: State Historic Rehabilitation Tax Credit

I. **Proposal.** Describe the impact this proposed legislation would have on your department or the City, its program(s), and/or its constituency (state existing law or practice, a summary of the effect the bill will have on existing department operations, etc.).

At least 34 states have historic rehabilitation tax credits that provide a credit against state income taxes for qualified rehabilitation work on designated historic properties, providing an additional incentive to support appropriate rehabilitation for many properties that may also utilize the Federal rehab credit and/or our local Mills Act property tax incentive.

A California state historic rehab credit was sponsored in 2014 by former Assembly Speaker Toni Atkins and unanimously approved by the Assembly and State Senate, only to be vetoed by Governor Brown. With a new Governor taking office in January, there remains strong bipartisan support for the state credit, which would significantly benefit communities such as Downtown, Hollywood, and many other Los Angeles historic neighborhoods. Councilmember Huizar introduced a resolution in 2014 placing this item on the City's State Legislative program, and would likely support such a request again.

II. **Costs/Savings.** Give estimate of cost or savings to your department (include SB 90 reimbursements, if applicable).

This proposed legislation could support historic preservation. Costs associated with this program would be resources/support provided by staff for the legislation.

III. **Interested Parties.** Indicate any interest that other departments or organizations may have in the legislation. Also, list any contacts you made in preparing this information.

Ken Bernstein in the Office of Historic Resources in the Department of City Planning has been assisting in preparing this information.

CITY OF LOS ANGELES

LEGISLATIVE PROPOSAL REPORT

DEPARTMENT/BUREAU/OFFICE: Department of City Planning

PREPARED BY: Arthi Varma

EXT: x 8-1191

PROPOSED LEGISLATION SUBJECT/TITLE: Amend Section 8698.4 of the Government Code to allow homeless shelters on privately owned land during emergency declarations.

I. **Proposal.** Describe the impact this proposed legislation would have on your department or the City, its program(s), and/or its constituency (state existing law or practice, a summary of the effect the bill will have on existing department operations, etc.).

Existing law authorizes a governing body of a political subdivision to declare a shelter crisis if the governing body makes a specified finding. Existing law provides that certain state and local laws, regulations and ordinances are suspended during a shelter crisis to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis.

Currently this law only applies to land owned or leased by the City or County. The County through Measure H is often facilitating the production of homeless shelters through a private third party such as Brilliant Corners. Usually the County operates under this third party system to avoid taking on liability with the acquisition of land or leasing of land. Under current law, Section 8698.4 would not apply unless the County directly purchases or leases the land. If the private applicant wants to operate a homeless shelter on land not zoned to allow residential, the applicant would have to undergo a costly zone change and/or general plan amendment process.

A solution could be to amend this law to allow, upon a declaration of a shelter crisis by the City to authorize emergency housing to include homeless shelters located or constructed on any land leased by a private entity in partnership with a public agency, and include a statutory exemption to CEQA to allow such development. In addition, the creation of a new statutory exemption to implement the Sustainable Communities Strategy would further facilitate the creation of homeless shelters.

The amendment would modify Section 8698.4 of the Government Code to say:

- (a) Notwithstanding any other provision in this chapter, upon a declaration of a shelter crisis by the city or Berkeley, Emeryville, Los Angeles, Oakland, or San Diego, the County of Santa Clara, or the City and County of San Francisco, the following shall apply to the respective city, county or city and county during a 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, or any land owned or leased by a private entity in partnership with a public agency, including land acquired with low- and moderate-income housing funds.

II. **Costs/Savings.** Give estimate of cost or savings to your department (include SB 90 reimbursements, if applicable) .

This proposed legislation could have significant savings in staff time that would go to processing zoning entitlements for homeless housing projects.

III. **Interested Parties.** Indicate any interest that other departments or organizations may have in the legislation. Also, list any contacts you made in preparing this information.

The Department of City Planning has been working with the Mayor's Office, the County of Los Angeles and other entities in considering potential land for homeless shelters under this criteria.