

Bay Area Housing Finance Authority Board

August 14, 2024

Agenda Item 6.a.

Update on State Proposition 5 and Regional Measure 4

Subject:

Update on state Proposition 5 and Regional Measure 4; consideration of and possible action under Elections Code Section 9605.

Background:

On June 26, 2024 BAHFA adopted Resolution No. 0034 calling for a special election to submit a ballot measure for a general obligation bond for affordable housing in an amount of \$20 billion to the voters of the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano and Sonoma and the city and county of San Francisco. At that meeting BAHFA also approved the BAHFA Business Plan (BAHFA Resolution No. 0031) and adopted BAHFA's Regional Expenditure Plan (BAHFA Resolution No. 0032). These actions followed action at the April 18, 2024 meeting of the Executive Board of the Association of Bay Area Governments (as the Executive Board to BAHFA) to approve the BAHFA Business Plan and the BAHFA Regional Expenditure Plan, and adopt Resolution No. 6-2024, which made findings in support of and authorized BAHFA calling for the special election to submit the housing bond to Bay Area voters.

These actions to place a Bay Area affordable housing bond on the ballot this November were the culmination of four and a half years of work by staff and members of the BAHFA Board and Executive Board, including about three dozen public meetings of the BAHFA Advisory Committee, the Joint Housing Committees, the BAHFA Board and the ABAG Executive Board. This work was also informed by extensive feedback from stakeholders, members of the public and the BAHFA Advisory Group. In addition, staff presented on the bond at least 100 times, including before city councils, conference of mayors associations, boards of supervisors and numerous civic organizations. This decision was also informed by an extensive voter research effort performed by EMC Research, including three randomized polls as well as focus groups.

Since then, county boards of supervisors and election offices have begun taking the official steps needed to prepare for the measure to appear on the ballot in the nine counties. Santa Clara County serves as the lead county and has undertaken translation of the election materials, including the ballot measure, the arguments and rebuttals. Santa Clara County also has reviewed and signed off on the impartial analysis and will be taking care of its translation. The remainder of the counties have either acted to consolidate the election of Regional Measure 4 (RM 4) – ballot designation for the affordable housing bond – with the general election or are preparing to take such action in the near future.

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Importance of Proposition 5 to Regional Measure 4

Over the course of the last several years, presentations to the BAHFA Board and the ABAG Executive Board about the viability of the Bay Area affordable housing bond have highlighted that housing affordability is Bay Area voters' top concern and about 2/3 believe there is a need for more money to address housing affordability yet support for a bond does not exceed two-thirds. Polling in June 2024 showed Bay Area voters remain in an anti-tax mood, with 68 percent agreeing with the statement that "taxes in the Bay Area are high enough, I will vote against any tax increase." Polls over the last several years have shown that, on the bond itself, support has been in the high 40s to high 50s, below the two-thirds vote threshold currently required.

At the June 26 BAHFA Board meeting, EMC Research staff presented their final poll of 2,100 likely voters conducted from May 29 to June 9, 2024. It showed that after receiving detailed information regarding the benefits of a potential housing bond, approximately 55 percent of Bay Area voters favored the bond, including 53 percent solid yes and 2 percent leaning yes. This presentation included reference to polling conducted in December 2023 and March 2024 where the yes vote, including lean yes, was 52/54 percent (depending on wording) and 50 percent, respectively.

Given voter attitudes, it has been clear for several years that the Bay Area affordable housing bond's viability is inextricably linked to passage of an amendment to the state's constitution to adjust the vote threshold. In 2023, our Joint Advocacy Program (Item 3D) explicitly called for engaging in a regional and statewide effort to "amend California's State Constitution to enable local and regional affordable housing bonds to be approved by a simple majority." Accordingly, MTC and ABAG were part of a broad coalition that helped secure passage of ACA 1 in 2023. In recognition that refinement to that legislation was needed, our [2024 Joint Advocacy Program](#) (Item 3A) called for "collaborating with partners on clean-up legislation to ACA 1 that increases its likelihood of success" and once again, a broad coalition, including MTC and ABAG, helped secure passage of ACA 10 this year (amending ACA 1), narrowing the scope of the measure to bonds, in response to research indicating voters were unlikely to support a measure that also adjusted the vote threshold for special taxes.

On August 1, the Howard Jarvis Taxpayers Association and its president filed suit against the State Attorney General related to the title and summary for Proposition 5 (ballot designation for ACA 1) alleging that it was misleading by not explicitly referencing the fact that Proposition 5 would lower the threshold from 2/3 currently. On August 8, the Sacramento Superior Court agreed. At the time this memo was finalized, that case was pending an appeal by the Attorney General. Depending on the outcome of the Court of Appeals' review, Proposition 5 could have a revised ballot label that may impact its appeal to voters.

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Cost Considerations

Under the provisions of BAHFA's enabling statute, BAHFA is responsible for reimbursing the counties for the incremental cost of placing the measure on the ballot. Such costs are not known until after the election when counties would submit itemized invoices. BAHFA reserved \$3 million in funding from its state appropriation for such purpose and has additional funds programmed from MTC (up to \$5 million) in Exchange Funds. For context, the 2018 Regional Measure 3 election in all nine counties cost \$3.2 million. Santa Clara County has incurred some reimbursable costs already, such as translation costs for the ballot question, ballot measure text, arguments and rebuttals. Printing and postage are a significant component of the cost and no county has begun printing voter information guides or ballots yet.

Next Steps

Given this context, the board may take action pursuant to Section 9605 of the Elections Code through August 14, which is 83 days prior to the November 5, 2024 election.

Possible Action:

1. Receive and discuss the information in this report; or
2. Receive and discuss the information in this report and take action as allowed under Elections Code Section 9605.

Attachment:

None



Andrew B. Fremier