

**Metropolitan Transportation Commission and Association of Bay Area Governments
Joint MTC ABAG Legislation Committee**

September 13, 2024

Agenda Item 3b

Proposition 5: Affordable Housing and Public Infrastructure Vote Threshold

Subject:

State constitutional amendment to allow local bonds for affordable housing for low- and middle-income Californians or for public infrastructure, including roads and public transportation, water and fire protection, to be approved by 55 percent of voters.

Background:

Under Article XIII A of the California Constitution, passing local bonds for any purpose except school facilities requires support from two-thirds of voters. Local school bonds enjoy a lower vote threshold of 55 percent as the result of Proposition 39 (2000). Proposition 5 extends the 55 percent vote threshold to local bonds for affordable housing and public infrastructure. MTC and ABAG supported the state Legislature's efforts to place it on the November 2024 statewide ballot via Assembly Constitutional Amendments 1 and 10 (Aguiar-Curry, 2023-24). MTC and ABAG also supported Assembly Bill (AB) 2813 (Aguiar-Curry, Statutes of 2024) which defines terms used in Proposition 5 and expands accountability requirements. AB 2813 will only take effect if voters pass Proposition 5 this November.

Proposition 5 defines "affordable housing" as:

- Development of multifamily and single-family homes affordable to households earning up to 150% of area median income
- Permanent supportive housing
- Associated facilities serving the residents
- Capitalized operating reserves, i.e., an account funded at the time of development to cover shortfalls in operating revenue for supportive services, rental assistance, and other operating expenses.
- First-time homebuyer and down payment assistance programs

AB 2813 further defines "affordable housing" to include rental, ownership and interim housing, as well as rehabilitation of owner-occupied homes. It also prohibits use of bond funds to acquire or lease real property containing one to four housing units, with specific exceptions.

As defined in Proposition 5, “public infrastructure” covers a wide range of infrastructure and facilities, including:

- Public transit, roads and highways, railroads, airports and seaports
- Flood and sea level rise protection, parks, recreation, and open space
- Police, fire, emergency medical, public health, and disaster recovery
- Utilities, including broadband access
- Educational facilities and libraries

AB 2813 specifies that public infrastructure shall not include construction or rehabilitation of sports stadiums or arenas primarily used for private ticketed activities.

Additional provisions in Proposition 5 limit administrative expenses to five percent of bond proceeds; require annual independent performance and financial audits, appointment of a trained citizens’ oversight committee, and designation of the specific local program or ordinance through which projects will be funded; and require all funds from a measure passed with at least 55 percent but less than 66.7 percent support to be committed to projects/programs before voters can pass another measure with a 55 percent vote. AB 2813 additionally details the composition of the Citizens’ Oversight Committee and its scope of work; requires all funded projects except public safety equipment to have a useful life of at least 15 years; and makes necessary technical changes to effectuate Proposition 5’s purpose.

Recommendation:

Support / ABAG Executive Board Approval

Support / MTC Commission Approval

Discussion:

MTC and ABAG strongly supported Assemblymember Aguiar-Curry’s ACA 1, ACA 10 and AB 2813 and dedicated significant staff time to securing legislative passage, in line with our 2023 and 2024 Joint Advocacy Programs. This focus was, in part, due to polling by EMC Research indicating that establishing a 55 percent vote threshold for local bonds would be critical for passing the Bay Area Housing Finance Authority’s (BAHFA) regional housing bond. Slated for

the November 2024 ballot as Regional Measure 4 (RM 4), support for the bond polled from the high 40s to the high 50s over the past several years.

On August 14, 2024, the BAHFA Board pulled RM 4 off the ballot after hearing from advocates, funders and other supporters that they needed to focus their energy and resources on Proposition 5. Any future regional housing bond would benefit from the passage of Proposition 5, as would other local bonds for transportation, climate adaptation and resilience, and other infrastructure investment priorities that align with MTC and ABAG's work. Staff, therefore, recommends a support position.

Known Positions:

Support

See the [Yes on Prop 5 endorsement list](#)

<https://www.yesonprop5.org/coalition>

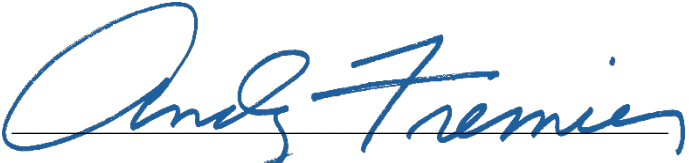
Oppose

See [Ballotpedia's opposition list](#)

[https://ballotpedia.org/California_Proposition_5,_Lower_Supermajority_Requirement_to_55%25_for_Local_Bond_Measures_to_Fund_Housing_and_Public_Infrastructure_Amendment_\(2024\)#Opposition](https://ballotpedia.org/California_Proposition_5,_Lower_Supermajority_Requirement_to_55%25_for_Local_Bond_Measures_to_Fund_Housing_and_Public_Infrastructure_Amendment_(2024)#Opposition)

Attachments:

None



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