Date of Hearing: June 19, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
SB 7 (Blakespear) – As Amended June 10, 2024

SENATE VOTE: 32-0

SUBJECT: Regional housing need: determination

SUMMARY: Makes a number of technical changes to the regional housing needs determination (RHND) process conducted by the Department of Housing and Community Development (HCD) and the regional housing needs allocation (RHNA) process conducted by HCD or Councils of Governments (COGs). Specifically, **this bill**:

1) Prohibits a city or county from filing an objection to the RHND in regions in which HCD is required to act as the COG and distribute the RHND.

2) Repeals provisions that allow HCD to use an alternative process to determine the existing and projected need for housing for a region.

3) Requires a COG or delegate subregion to solicit participation by household with special housing needs, as defined, in the development of the proposed methodology for distributing the RHNA.

4) Allows HCD to review a COG or delegate subregion's adopted methodology for distributing the RHNA and report its findings to the COG or delegate subregion within 45 days of adoption, rather than 90 days in existing law.

5) Allows a COG to distribute a draft RHNA allocation plan to each local government in the region or subregion and to HCD, and to publish the draft allocation on its website, upon adoption of the final methodology reviewed and adopted by HCD.

6) Requires HCD, in regions without a COG where HCD must distribute the RHND, to act in accordance with the process for determining the existing and projected need for housing for regions with a COG.

7) Requires, for purposes of RHND, the date of the next scheduled revision of the housing element to be deemed to be the estimated adoption date of the regional transportation plan (RTP) update described in the notice provided to the Department of Transportation plus 18 months, provided that the date is no more than eight years later than the deadline for adoption of the previous eight-year housing element.

8) Applies the provisions of this bill to all cities, including charter cities.

EXISTING LAW:

1) Provides that each community's fair share of housing be determined through the RHND/RHNA process. Sets out the process as follows: (a) Department of Finance (DOF) and HCD develop regional housing needs estimates; (b) COGs allocate housing within each region based on these determinations, and where a COG does not exist, HCD conducts the

allocations; and (c) cities and counties incorporate these allocations into their housing elements. (Government Code (GC) Section 65584 and 65584.01)

2) Requires HCD, in consultation with each COG, to determine the RHND for each region using population projections produced by DOF and regional population forecasts used in preparing RTP updates, in consultation with each COG. (GC 65584.01(a))

3) Requires HCD, at least 26 months prior to the housing element adoption deadline for the region and prior to developing the existing and projected housing need for a region, to meet and consult with the COG regarding the assumptions and methodology to be used by HCD to determine the RHND. Requires the COG to provide data assumptions from their projections, including, if available, the following data for the region:

    a) Anticipated household growth associated with projected population increases;

    b) Household size data and trends in household size;

    c) The percentage of households that are overcrowded, as defined, and the overcrowding rate for a comparable housing market, as defined;

    d) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures;

    e) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs, as specified;

    f) Other characteristics of the composition of the projected population;

    g) The relationship between jobs and housing, including any imbalance between jobs and housing;

    h) The percentage of households that are cost burdened and the rate of housing cost burden for a healthy housing market, as defined; and

    i) The loss of units during a declared state of emergency during the planning period immediately preceding the relevant housing element cycle that have yet to be rebuilt or replaced at the time of the data request. (GC 65584.01(b)(1))

4) Requires HCD, after consultation with the COG, to make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined in 3). Requires the RHND to reflect the achievement of a feasible balance between jobs and housing within the region using the regional employment projections in the applicable regional transportation plan. (GC 65584.01(c)(1))

5) Requires HCD to determine the RHND for each region at least two years prior to the scheduled revision of the housing element, and requires the appropriate COG, or HCD for cities and counties without a COG, to adopt a final RHNA that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region. (GC 65584(b))

6) Requires each COG or delegate subregion, at least two years before a scheduled revision of the housing element, to develop, in consultation with HCD, a proposed methodology for distributing the RHNA to cities, counties, and cities and counties within the region or subregion. (GC 65584.04(a))

7) Requires each COG or delegate subregion, at least one and one-half years before a scheduled revision of the housing element, to distribute a draft RHNA allocation plan to each local government in the region or subregion, and HCD, based on the methodology in 6) above, and publish the draft allocation on its website. (GC 65584.05(a))

8) Requires each city and county to adopt a housing element, which must contain specified information, programs, and objectives, including:

    a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs, including a quantification of the locality's existing and projected housing needs for all income levels; an inventory of land suitable and available for residential development; an analysis of potential and actual governmental and nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels; and a demonstration of local efforts to remove constraints that hinder the locality from meeting its share of the regional housing need, among other things;

    b) A statement of the community's goals, quantified objectives, and policies relative to affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing; and

    c) A program that sets forth a schedule of actions during the planning period, and timelines for implementation, that the local government is undertaking to implement the policies and achieve the goals and objectives of the housing element, including actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the local government's share of RHNA for each income level that could not be accommodated on sites identified in the sites inventory without rezoning, among other things. (GC 65583(a)-(c))

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "SB 7 will make minor improvements to the Regional Housing Needs Allocation (RHNA) development process. These improvements were recommended to the Legislature by the written findings of the Department of Housing and Community Development regarding its RHNA evaluation, as can be found in its March 2024 report, *California's Housing Future 2040: The Next RHNA.* California is suffering from a housing shortage that has been decades in the making. Between 2010 and 2023, homelessness increased approximately 47 percent. 40 percent of Californians pay more than 30 percent of their income to their monthly housing costs. This state of affairs is the direct result of the state's failure to maintain an overall rate of housing production proportional to the growth of its economy and population. The state and Councils of Governments, with input from cities, counties, and the general public, have the responsibility to periodically determine how many

housing units local governments should plan for and permit to meet projected housing needs. This is known as the RHNA process. Local governments have the sole authority and responsibility to plan for and permit, at minimum, the housing units they are assigned by RHNA. SB 7 will create changes to RHNA statute that will increase participation of people with special housing needs in the RHNA methodology development process, make RHNA statute consistent with how it is applied, and simplify steps in the process required by statute. This will strengthen the development process of future regional allocations."

***Adoption and Implementation of Housing Elements*:** One important tool in addressing the state's housing crisis is to ensure that all of the state's 539 cities and counties appropriately plan for new housing. Such planning is required through the housing element of each community's General Plan, which outlines a long-term plan for meeting the community's existing and projected housing needs. Cities and counties are required to update their housing elements every eight years in most of the high population parts of the state, and five years in areas with smaller populations. Localities must adopt a legally valid housing element by their statutory deadline for adoption. Failure to do so can result in certain escalating penalties, including exposure to the "builder's remedy" – meaning the jurisdiction cannot use its zoning or general plan standards to disapprove any housing project that meets certain affordability requirements – as well as public or private lawsuits, financial penalties, potential loss of permitting authority, or even court receivership.

Among other things, the housing element must demonstrate how the community plans to accommodate its share of its RHNA, which is a figure determined by HCD through a demographic analysis of housing needs, existing housing stock, and population projections in consultation with DOF and the COG. HCD establishes its determination of each COG's regional housing targets across the state for the next five- or eight-year planning cycle. Each COG (or in some areas, HCD acting directly as COG) then sub-allocates the RHNA to each local government within the COG's jurisdiction, and in turn each jurisdiction uses its housing element to show how it will accommodate that number of new housing units, split out by income level and with a focus on certain special needs housing types and on affirmatively furthering fair housing.

It is critical that local jurisdictions adopt legally compliant housing elements on time in order to meet statewide housing goals and create the environment for the successful construction of desperately needed housing at all income levels. Unless communities plan for production and preservation of affordable housing, new housing will be slow or extremely difficult to build. Adequate zoning, removal of regulatory barriers, protection of existing stock and targeting of resources are essential to obtaining a sufficient permanent supply of housing affordable to all economic segments of the community. Although not requiring the community to develop the housing, housing element law requires the community to plan for housing. Recognizing that local governments may lack adequate resources to house all those in need, the law nevertheless mandates that the community do all that it can and not engage in exclusionary zoning practices.

RHND/RHNA Methodology: The RHND/RHNA process is used to determine how many new homes, and the affordability level of those homes, each local government must plan for in its housing element to cover the duration of the next eight-year planning cycle. The RHND is assigned at the COG level, while RHNA is suballocated to subregions of the COG or directly to local governments. RHNA is assigned via four income categories: very low-income (0-50% of

AMI), low-income (50-80% of AMI), moderate income (80-120% of AMI), and above moderate income (120% or more of AMI).

The cycle begins with HCD and the Department of Finance (DOF) projecting new RHND numbers every five or eight years, depending on the region. DOF produces population projections and the COG also develops projections during its RTP forecast. Then, 26 months before the housing element due date for the region, HCD must meet and consult with the COG and share the data assumptions and methodology that they will use to produce the RHND. The COG provides HCD with its own regional data on several criteria, including:

- Anticipated household growth associated with projected population increases;
- Household size data and trends in household size;
- The percentage of households that are overcrowded, as defined, and the overcrowding rate for a comparable housing market, as defined;
- The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures;
- The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs, as specified;
- Other characteristics of the composition of the projected population;
- The relationship between jobs and housing, including any imbalance between jobs and housing;
- The percentage of households that are cost burdened and the rate of housing cost burden for a healthy housing market, as defined; and
- The loss of units during a declared state of emergency during the planning period immediately preceding the relevant housing element cycle that have yet to be rebuilt or replaced at the time of the data request.

HCD can take this information and use it to modify its own methodology, if it agrees with the data the COG produced, or can reject it if there are other factors or data that HCD feels is better or more accurate. Then, after a consultation with the COG, HCD makes written determinations on the data it is using for each of the factors bulleted above, and provides that information in writing to the COG. HCD uses that data to produce the final RHND. The COG must then take the RHND and create an allocation methodology that distributes the housing need equitably amongst all the local governments in its region. The RHNA methodology is statutorily obligated to further all of the following objectives:

1) Increase the housing supply and mix of housing types, tenure, and affordability in all cities and counties within the regional in an equitable manner, which must result in each jurisdiction receiving an allocation of units for low- and very low-income households;
2) Promote infill development, socioeconomic equity, the protection of environmental and agricultural resources, and achievement of regional climate change reduction targets;
3) Promote an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction;
4) Allocate a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category; and
5) Affirmatively further fair housing.

In past housing element cycles, RHNA had been criticized as being a political rather than a methodologically sound, data-driven process. In the past, jurisdictions with a higher share of wealthier, whiter residents were more likely to have received lower allocations of moderate and lower income housing, while more diverse cities sometimes received higher allocations of those categories. The Legislature made a number of changes to the RHND, RHNA, and housing element process over the past several years to strengthen the law and restrict the ability of jurisdictions to evade their housing obligations.

This bill makes a number of technical modifications to the RHND/RHNA process, as recently recommended in HCD's April 2024 report, "California's Housing Future 2040: The Next Regional Housing Needs Allocation (RHNA)."[1]

Arguments in Support: None on file.

Arguments in Opposition: None on file.

Related Legislation:

AB 2485 (Juan Carrillo) of the current legislative session would require HCD to take certain actions in determining the existing and projected housing need for each region through the RHND process. This bill is currently pending before the Senate Housing Committee.

AB 2597 (Ward) of the current legislative session would modify future housing element due dates for the Southern California Association of Governments by creating two split phases of adoption due dates and shorten timelines for COGs to review appeals to the RHNA allocation plan. This bill is currently pending before the Senate Housing Committee.

SB 828 (Wiener), Chapter 974, Statutes of 2018: Made a number of changes to the RHND and RHNA process, including adding more specificity to certain information regarding overcrowding rates, vacancy rates, and adding a requirement to include data on the percentage of cost burdened households in the RHND.

Double Referred: This bill was also referred to the Assembly Committee on Local Government, where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

Analysis Prepared by: Nicole Restmeyer / H. & C.D. / (916) 319-2085

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[1] https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/rhna/cahf-2040-rhna-report-2024.pdf